ACTIVITIES OF FEDERAL LAW ENFORCEMENT AGENCIES TOWARD THE BRANCH DAVIDIANS (PART 3)

JOINT HEARINGS

BEFORE THE

SUBCOMMITTEE ON CRIME

OF THE

COMMITTEE ON THE JUDICIARY

HOUSE OF REPRESENTATIVES

AND THE

SUBCOMMITTEE ON NATIONAL SECURITY, INTERNATIONAL AFFAIRS, AND CRIMINAL JUSTICE

OF THE

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

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ACTIVITIES OF FEDERAL LAW ENFORCEMENT AGENCIES TOWARD THE BRANCH DAVIDIANS

(Part 3)

FRIDAY, JULY 28, 1995

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON CRIME, COMMITTEE ON THE JUDICIARY, JOINTLY WITH THE SUBCOMMITTEE ON NATIONAL SECURITY, INTERNATIONAL AFFAIRS, AND CRIMINAL JUSTICE, COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,

Washington, DC.

The subcommittees met, pursuant to notice, at 8:40 a.m., in room 2154, Rayburn House Office Building, Hon. Bill McCollum (chairman of the Subcommittee on Crime) presiding and Hon. William H. Zeliff, Jr. (chairman of the Subcommittee on National Security, International Affairs, and Criminal Justice).

Present from the Subcommittee on Crime: Representatives Bill McCollum, Steven Schiff, Stephen E. Buyer, Howard Coble, Fred Heineman, Ed Bryant of Tennessee, Steve Chabot, Bob Barr, Charles E. Schumer, Robert C. Scott, Zoe Lofgren, Sheila Jackson Lee, and Melvin L. Watt.

Present from the Subcommittee on National Security, International Affairs, and Criminal Justice: Representatives William H. Zeliff, Jr., Robert L. Ehrlich, Jr., Steven Schiff, Ileana Ros-Lehtinen, John L. Mica, Peter Blute, Mark E. Souder, John B. Shadegg, Karen L. Thurman, Tom Lantos, Louise McIntosh Slaughter, Gary A. Condit, Gene Taylor, and Bill K. Brewster.

Also present from the Committee on the Judiciary: Representatives Henry J. Hyde, Sonny Bono, and John Conyers, Jr.

Also present from the Committee on Government Reform and Oversight: Representatives William F. Clinger, Jr., Cardiss Collins of Illinois, and Gene Green.

Also present: Representative Helen Chenoweth.

Staff present from the Subcommittee on Crime: Paul J. McNulty, chief counsel; Glenn R. Schmitt, counsel; Daniel J. Bryant, assistant counsel; Audray L. Clement, clerk; Committee on the Judiciary: Alan F. Coffey, Jr., general counsel/staff director; Dan Freeman, parliamentarian; Julian Epstein, minority staff director; Perry Apelbaum, minority general counsel; Melanie Sloan, minority counsel; and Tom Diaz, minority counsel.

Staff present from the Subcommittee on National Security, International Affairs, and Criminal Justice: Robert Charles, staff director and chief counsel; T. March Bell, counsel for justice affairs; L. Stephen Vincze, defense counsel; Mashall Cobleigh, senior policy

advisor; Michele Lang, special counsel; Sean Littlefield, special assistant and clerk; Committee on Government Reform and Oversight: Kevin Sabo, general counsel; Judith McCoy, chief clerk; Jeffrey Wilmot, professional staff member; Bud Myers, minority staff director; David Schooler, minority chief counsel; Ronald Stroman, minority deputy staff director; Donald Goldberg, minority assistant to counsel; Cherri Branson, minority professional staff member; Ellen Rayner, minority chief clerk; Cecelia Morton, minority office manager; and Eddie Arnold, public affairs officer.

OPENING STATEMENT OF CHAIRMAN McCOLLUM

Mr. MCCOLLUM. This session of the joint committee hearings on the Waco matter is now convened.

Good morning. You may take your seats. For the witnesses, we have very brief opening statements this morning. We have little time to deal with for them today and really should not because we have some exigency to trying to conclude these matters.

This is a very important panel this morning. We started earlier for the convenience of our panelists as well as because our schedule today is probably affected by the fact that the House will discontinue business somewhere around 3 or 4 o'clock this afternoon.

First of all, I would just simply like to open the comments by saying that yesterday was a fruitful day in our discussions of what happened at Waco in regard to the FBI's testimony and the evidence that came in, continuing to give us the stream of what happened in the planning of the use of the CS gas and why that plan was done.

We also heard some disturbing concerns that continue to come forth with regard to whether or not the Attorney General in Washington got the kind of information on the negotiations that many of us were hearing and indeed were going on at the end.

There is no question about the sincerity of our Federal Bureau of Investigation folks negotiating, in my judgment at least, and no question about their earnestness and belief in what they were doing. But there continues to be some disturbing question as to what degree the information they had and the quality of that information in dealing with the Koresh matter at the very end of all of this was indeed passed on to Washington.

We also are left with questions about the gas itself, the insertion plan and so forth. Today, we're here for the approval part of that and we want to hear from you for that reason.

I do want to comment that part of the testimony yesterday also concerned the situation with respect to the Hostage Rescue Team. We did hear a clarification that that team probably had the ability to stay on the ground in Waco for about 2 more weeks before they would have needed to have been pulled back in order to get retrained and in order to get some time for their proficiency skills to be rebuilt because they were stretched pretty far.

We also heard one comment that I think was of some significance. I do not know what it means overall, but we did hear yesterday that Mr. Jamar had a feeling, to a 99-percent certainty, that the Davidians would fire on the vehicles as they approached to insert the gas. But apparently that was—that feeling was not conveyed to Mr. Potts and perhaps not on up the line. Whether that

would have made any difference in the judgment of the Attorney General or others on this matter of the use of gas is not at all clear but, nonetheless, that point was made yesterday.

Now, I am not going to go further in my opening statement today. Our objective is to be very brief. We want to announce the schedule. We are going to have two panels today. The panel that is before us deals with the question of the approval of the use of CS gas, and the particular plan to insert it.

Later this afternoon, hopefully early this afternoon, we will have a panel of experts to discuss the fire itself, what caused the fire, which I know has been one of those things debated and discussed and quite controversial.

We anticipate that Monday will be a session that will involve presentations of the military's role, to what degree were they involved in support and what activities and advice they gave, as well as a very comprehensive panel on the day of the insertion of the gas itself, that very fateful day where the lives were lost.

It is also anticipated now, because of the time that has been consumed in these panels, that it would be unfair to bring the Attorney General up here very late in the day on Monday, and it probably would be very, very late, and so we anticipate having the final, concluding session of this hearing set on Tuesday with Attorney General Reno, rather than on Monday as previously announced.

With that in mind, I would call on Mrs. Thurman for any opening comment she might have.

Mrs. THURMAN. Mr. Chairman, I have opening remarks, but I realize we have a time problem here with one of our witnesses today and so, therefore, I would like to just have unanimous consent to submit mine into the record because I think it's more important that we hear from these folks.

Mr. MCCOLLUM. Without objection.

[The prepared statement of Mrs. Thurman follows:]

PREPARED STATEMENT OF HON. KAREN L. THURMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Thank you Mr. Chairman. Clearly, the decision to try, after waiting 51 days, to force the David Koresh and his followers to surrender peacefully to authorities was a difficult one. Today we will begin to examine the process by which the introduction of tear gas into the compound was planned and approved.

Yesterday, we spent the morning and the afternoon listening to Mr. Zimmermann, lawyer for Steve Schneider, a resident of the Branch Davidian compound, and Dick DeGuerin, the attorney for David Koresh. I think the one thing we can all agree on is that Mr. Zimmermann and Dr. DeGuerin are very good defense attorneys, as our colleague from Houston, Ms. Shelia Jackson Lee pointed out in her introduction of her fellow Texans to the Subcommittees yesterday. The fact of the matter is that both Mr. Zimmermann and Mr. DeGuerin said yesterday that they were going to clear their calendars because they wanted to devote full-time to gathering evidence for both of their clients. Yesterday was perhaps their only chance to present their clients' cases in a public forum.

However, I would like to point out some facts they may have been blurred by Mr. Zimmermann's and Mr. DeGuerin's testimony. First, I believe it is well-documented that David Koresh was teaching his supporters to follow his final prophecy. We heard that from Kiri Jewell, Dr. Bruce Perry, Joyce Sparks, and Robert Rodriguez. The notion that Koresh would have surrendered peacefully at any time is simply not supported by either his actions or his statements. In addition, the evidence of child abuse, including sexual abuse, by Koresh is also undisputed. If Kiri Jewell's testimony wasn't enough, then surely the testimony of Joyce Sparks, who spent hour upon hour talking to the children, should convince anyone that David Koresh

was both capable and willing to commit crimes against children. Remember, even Koresh's defense attorney admitted Koresh was worried about facing child sexual abuse charges.

Before we begin to discuss the CS gas plan, we will hear more from the FBI about the negotiations process. Let me welcome our first panel this morning, who because of time constraints, we did not get to hear from yesterday. We thank you for your patience.

Last night, we began our investigation into the negotiation process and learned some new facts. We heard that the FBI consulted with a range of experts. Mr. McClure, a recognized negotiations expert from Atlanta, stated that it was necessary to use only trained negotiators in dangerous siege situations. That is what the FBI did. This is consistent with effective negotiation strategy.

Turning back to the issue of CS gas, I think we can characterize the decision to use CS gas as a way of peacefully ending the standoff as one of the many hard choices that faced the FBI during the 51 day standoff. There were no easy answers. Would additional time in the negotiation process have altered the ultimate outcome? I do not believe so. Once again, we have taken very compelling testimony that clearly demonstrates Koresh desperately needed to fulfill his own fiery destiny.

It is important to remember that negotiations with Koresh and the Davidians had broken down. No progress in negotiations had been made for two weeks prior to the decision to tear-gas the compound. The plan was for gradual insertion of the gas and the FBI even informed the Davidians that they were going to use tear gas to bring them out of the compound. Even after being warned about the impending gas, the Davidians opened fire on the FBI. The FBI did not return the fire.

We will also examine the other options available to the FBI and the Department. I think it will be useful to examine these other options within the context of the entire standoff. However, the fact is that tear gas is used routinely by law enforcement.

I would implore all the members of the joint subcommittees to listen carefully to all of the testimony we will receive over the next few days regarding the use of CS gas to end the standoff at Waco. I for one am not ready to pass judgment until I hear all the relevant facts and considerations and weigh them within the context of the situation at Waco. Once again, I remind my colleagues of our mission: proper oversight by way of all the facts. Thank you Mr. Chairman and I yield back the balance of my time.

Mr. MCCOLLUM. Mr. Zeliff.

OPENING STATEMENT OF CHAIRMAN ZELIFF

Mr. ZELIFF. Thank you, Mr. Chairman.

Today marks the eighth day of factfinding hearings of executive branch conduct in the Waco tragedy. Today, as with all other days, questioning will be vigorous. It will be pointed and motivated by our continuing twin aims of discovering the truth and then putting things right.

I am convinced, especially after reading my mail this week—and I've read almost all of it—that most Americans recognize the real importance of this constitutional oversight process. They also recognize that it sometimes takes courage to raise very probing and pointed questions.

Yesterday, again, a few of my colleagues across the aisle questioned our support of law enforcement. So before turning to the issues we face today, I want to pause and just be simple and clear. First, because someone asks hard questions about Waco and what happened there does not mean that they somehow are abandoning our law enforcement.

Second, no supporter of law enforcement enjoys scrutinizing the activities of the law enforcement community. The people at the top and the bottom in law enforcement deserve our respect and most of them know that they have it.

Many have already said that what we are doing by having these hearings is good for America and good for them in the long run.

I believe and I am committed to that process. Constitutional oversight is the bedrock of this Nation and if it falls by the wayside, if it can be run off the road by distractions, then we really have a good deal to worry about, more so than just Waco.

Third, it is not just words when people on this side of the aisle say that they know and believe in law enforcement and the men and women who daily put their lives on the line. To the White House, it is damage control, a spin game, a Cabinet Secretary calling a Member asking him to not ask embarrassing questions, a Justice Department press release explaining obstruction of Justice, an EPA denunciation of a witness who comes to testify before us, a White House spokesmen who claims that the Republicans on the panel are against law enforcement.

Well, these are all the press stories, but let me tell you, I need only say it once, that these are the kind of things that Americans are sick of, the kind of conduct that disserves the entire process.

On this side of aisle today sits more than 100 years of collective law enforcement experience. Mr. Heineman of North Carolina has been in law enforcement for 38 years. He has been a chief of police for 15 years. Mr. Barr of Georgia was a U.S. attorney for 4 years. Mr. Bryant of Tennessee was a prosecutor for 8 years. Mr. Buyer of Indiana; Mr. Shadegg of Arizona, whose father was a deputy sheriff; Mr. Schiff of New Mexico, all former prosecutors. And the rest, lifetime supporters, all of us, of law enforcement.

So we need to stop about the business of being against law enforcement. I think we are all for that. We are all for making sure that it's totally credible and we are going to do everything we can to see that it stays that way.

On the issues, I will say just this: Our aims are to find the truth 1 day at a time, to educate ourselves and those who follow these hearings, and to prevent other tragedies by understanding the many flawed decisions that produced this one. We are almost at the end of a set of events that occurred 27 months ago and ended in a deadly blaze. We have all seen it on television. We will see it again today.

Reviewing everything we learn would be impossible, but we have learned an awful lot of new information. In these final 3 days, I think we will find out still more information about three untraveled topics. First, how was the CS gas decision, the final go-ahead, really made? Did it develop over weeks, hours, or days? Was it made by Attorney General Reno alone or not?

What was the role of Mr. Hubbell, Mr. Foster, and others close to the President and the President himself? Who originated the idea? When and why was an 11th-hour offer of surrender, an offer corroborated by the Texas Rangers and also confirmed by Koresh's attorney in detail, rejected?

We will then turn to the fire itself and hear from an array of arson investigators. We will hear from the Justice Department on their pool theory of how the fire started, and we will objectively try to answer lingering questions.

We will also hear from one of the Branch Davidians who escaped, Mr. Clive Doyle. He will tell us what it was like to survive the fire and what he believes about those who did not.

Our days are full, but like all of the last 7 days, this one promises to deliver as much light as heat, as much truth as we are willing to ask for, and as much goodness for the country's sake as we can squeeze into 8 or 10 hours.

Mr. Chairman, thank you. I look forward to the testimony.

Mr. MCCOLLUM. Thank you, Mr. Zeliff.

Mr. Schumer.

Mr. SCHUMER. Thank you, Mr. Chairman.

I would like to make three points this morning. The first is, just as my colleague, Bill Zeliff, went into a long litany of how the people on the panel are good friends of law enforcement, just as every day, yesterday, just about every Member of the other side before they asked questions talked about what friends they are of law enforcement, well, I would answer with one line from Shakespeare: "Methinks the lady doth protesteth too much."

Next, I would like to talk about the two issues that are really before us today. The first involves what I call real politicization of these hearings, and that is not an effort to find out what went wrong, but somehow an effort to link what happened to the White House.

I found it very interesting that my friend, Mr. Zeliff, mentioned two people in the White House only—Mr. Hubbell, who has troubles of his own; and Mr. Foster, who had even greater troubles—the two people who might be involved. Why didn't he mention all the other people in the White House? Well, we know why.

And why is it that there is not a shred of evidence? I read the documents that many on the majority side said they had to have to see if the White House was involved. The documents by their own admission don't have one scintilla of evidence that the White House influenced this policy. Yes, they were informed, as it would be in a good chain of command, but no influence.

But the majority seeks to say, over and over and over again, was the White House involved? That, my friends, is what is ruining these hearings. Not a desire to find the truth and go over the mistakes, but an effort to politicize the hearings and bring in extraneous issues that have nothing, nothing to do with the avowed purpose of these hearings, but by smear, by innuendo, by exaggeration, to bring an untruth into credibility, the same problem of moral relativism.

So just think why in the opening statement was just Mr. Hubbell and Mr. Foster mentioned as in the White House but none of the other people. I think that shows something.

The second question that we have to answer today is—and this is a serious question, this is not like the other one, this is who set the fire that killed 80 people? And again, I would ask my colleagues here to look at the evidence, not at wild theories.

Let's remember a few things. Let's remember that the arson team chosen by the Texas Rangers, who both of the sides have praised as unbiased, capable law enforcement investigators, they conducted an exhaustive investigation and concluded deliberately—that the fire was set deliberately by one of the persons in the compound.

Let us remember that one of the majority's star witnesses, and one who has made some telling points, points I disagree with, but

his points were telling and he was an expert, Dr. Stone. Even though he had a lot of criticism as to how this thing came about and what the FBI did, said that the Davidians set the fire in the compound.

And finally, proof positive, although I'm sure we will hear innuendo and doubt from the other side: tapes. Tapes from the compound with quotes on them that are like these, quote, "They got some fuel around in here? Yeah, they even poured it already. Poured it already? Yeah, he got it poured."

More quotes: "You got to put the fuel in there, too. Got to put the fuel in there. Fuel? Is there a way to spread the fuel in there? There."

Quote: "So we only light them as soon as they tell me last chance, right? Well, that's the fuel. We should get more hay in here."

And finally, after all the fuel was poured, more quotes from these tapes. Tapes that everyone agrees are true, have veracity: "What are you going to do now? Now we're committed. I want a fire around the back. Keep that fire going."

These are tapes from inside the compound. They talk about people spreading fuel, they talk about people lighting fires. This idea that the fire came some other way, this idea that CS gas had anything to do with some kind of explosion unrelated to the fire being set is wrong.

And I would ask my colleagues on the other side of the aisle, this is the most serious charge, even more important than who shot first, to examine in their hearts what the real truth is, to step up to the plate if they really want to give law enforcement an even shot, if not even the benefit of the doubt, and come to the conclusion at the end after they hear the evidence, which I have looked at from top to bottom, that if they believe that the fire was set inside the compound by the Davidians, that they say so.

Because the worst part of the conspiracy theory that is running in parts of this country is that the fire was deliberately lit by Government agents who wanted to burn these women and children. Every reasonable person in America knows that's not the truth. Everyone who has studied this, objective people, knows that is not the truth. And we will be doing a horrible disservice to the Government and the country we all believe in and love if, at the end of these hearings when the evidence, which I believe it will, will show that is the case, that we still try to say by innuendo, by implication, that we haven't answered that very serious and very important question, because we know from the evidence from all objective observers that the fire was lit by David Koresh.

Thank you.

Mr. MCCOLLUM. Thank you, Mr. Chairman.

I now want to introduce our panel of witnesses for today. We will then have you sworn and then begin the questioning. I am going to read the introductions, but not necessarily in the order in which you are seated.

Judge William Sessions is the former Director of the Federal Bureau of Investigation; Floyd Clarke was Deputy Director of the FBI; Webster Hubbell was Associate Attorney General.

We have Mark Richard with us. He was Deputy Assistant Attorney General for the Criminal Division. He had supervisory responsibility for terrorism and violent crime at the time of the Waco happening.

Larry Potts is with us again today, and was with us yesterday. He was the Assistant Director for the Criminal Investigative Division at the FBI at the time of the Waco involvement.

And Dr. Harry Salem, who is also back again, is the Chief of Life Sciences, Department of Research and Technology and Director of the U.S. Army Edgewood Research Development Engineering Center for the Department of Defense. He briefed the Attorney General on the CS gas question.

If all of you would please stand.

[Witnesses sworn.]

Mr. ZELIFF [presiding]. Please be seated.

Let the record reflect all the witnesses answered in the affirmative.

We will begin our questioning today with Mr. Bryant. You are recognized for 5 minutes.

Mr. BRYANT of Tennessee. Thank you, Mr. Chairman.

One disturbing aspect of the fire, as already has been referenced today, that has caused my grave concern over the night was a statement made by the FBI SAC, Mr. Jamar, yesterday concerning the monitoring device, the listening device that had been secretly planted in the Davidian compound, and the fact that on the morning of the raid, beginning about 6 o'clock when the fire was—when the gas began to be inserted into the compound, that the live monitoring—the folks who sat there with earphones on to listen to what was going on in the compound—and I assume they had done that for days and days and days before—at this particular crunch time, when the chips were on the table, when it had to be determined what was going on inside that compound, when the best intelligence was needed—because Mr. Jamar has said, as I recall his testimony, that "if I had known they were spreading gasoline, I would have called off that raid that morning."

Yet at that critical time in this entire investigation or this entire siege, he candidly said yesterday that "I don't know why we didn't have that information" because, as the truth has come out in this hearing, what Mr. Schumer read from that tape was just that. They didn't know about it until they listened to the tape afterwards.

And at that critical crunch time, when they had to have this intelligence as to what was going on inside when the raid started, they didn't have it. And I hope we get some answers as to why there wasn't somebody there monitoring at that time or why they weren't able to hear, when they obviously heard at other times.

And that causes me great distress because had they heard that, according to Mr. Jamar, they would not have continued the insertion of the gas that morning. I think that's a critical question that the American public needs to have the answer to.

Mr. Salem, briefly, we talked yesterday and I think we sort of defined this issue of whether or not to insert CS gas into the compound on a children's level—whether or not it would kill them.

We've talked about studies, and there are no studies out there as to the effect on children.

And I think we've kind of overlooked that in-between area as to what effect that gas would have on debilitating, disorienting, causing these children to be dysfunctional during this critical time where there was what appeared to them to be a frontal assault on their home, at a critical time when, very likely, fire could have broken out—which I think the FBI admits was a possibility, that fire could break out, because they were aware of the local fire departments and what their arrival time would be.

And I can just imagine, and I hope the agents imagined ahead of time, if fire did break out and we had inserted this gas and these kids in there had become debilitated and disoriented and certainly panic-stricken, they were physically incapable of moving or doing what they typically would do, wouldn't that have some kind of effect on them in terms of disability, disorientation, physical incapacitation in a panic situation?

STATEMENT OF HARRY SALEM, PH.D., CHIEF SCIENTIST FOR LIFE SCIENCES, U.S. ARMY CHEMICAL BIOLOGICAL DEFENSE COMMAND

Dr. SALEM. Is this on?

Mr. BRYANT of Tennessee. It's on.

Dr. SALEM. Sir, the effects of the CS, as they—is a sensory irritant. It causes tearing, blinking, and it gives you the feeling of trying to flee from that area, and unless there is an obstruction, most people can get away from that.

Mr. BRYANT of Tennessee. We're talking children now, 5, 6, 7 years old. Would it cause them not to be debilitated, disoriented?

Dr. SALEM. According to all of the evidence that is available, there is no difference in the sensitivity for children, adults, or the elderly.

Mr. BRYANT of Tennessee. OK. Thank you.

Now, let me ask, if I might, a question concerning—I might ask Judge Sessions or Mr. Hubbell, either one could answer this question.

I understand Attorney General Reno declined, initially, to approve this gas plan. And that was on the 16th, which was a Friday.

Judge Sessions, I believe you asked for a hearing with Attorney General Reno about this and I understand she then came to Mr. Hubbell's office.

I would like to know maybe what went on there, but I also find it somewhat, not disturbing, but just a little out of protocol that the Attorney General of the United States would be summoned, if you will, to come to somebody else's office.

And I see Mr. Hubbell and maybe that relationship existed, but I didn't know the Attorney General went to other people's offices to discuss—because, in effect, she was both of your bosses; was she not?

STATEMENT OF WEBSTER HUBBELL, FORMER ASSOCIATE ATTORNEY GENERAL, DEPARTMENT OF JUSTICE

Mr. HUBBELL. She certainly was my boss.

Mr. BRYANT of Tennessee. I just wondered why she was brought down to Mr. Hubbell's office and, in essence, what convinced her to begin to consider the CS gas.

STATEMENT OF WILLIAM SESSIONS, FORMER DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

Mr. SESSIONS. Mr. Bryant, the meeting that you are discussing took place at the request of Mr. Hubbell and we came to his office, which is adjoining the Attorney General's Office. And after the discussion, he announced to us that she had decided not to approve and he said, would you like to appeal? And I said, yes, I would like to talk to the Attorney General.

Now, the reasons for that, I'm sure you're aware, I wanted to be sure that there was no political objective at all, because I knew that Mr. Hubbell was, of course, connected with the White House and the only way I could be sure of that was by telling the Attorney General.

And he asked it himself. He said, do you want to appeal? I said, I would like to talk to the Attorney General. She walked across the hall—down through the conference room, and came directly into his office.

I don't think that was an affront to the Attorney General. I think it was a practical way to deal with it. When she came in, we began those discussions which continued, of course, for a good while. That's the way it happened, as I recall.

Mr. HUBBELL. Exactly. My recollection was that we were meeting in my office, which is actually the former chief of staff's office, which is just on the other side of where the Attorney General's conference room was. After they said they wanted to talk to the Attorney General, I went down and said, they're in my office, they would like to appeal. And she just said, well, let's go talk to them.

And knowing the Attorney General's style, there was no affront. We didn't summon her to my office, I can assure you that.

Mr. MCCOLLUM [presiding]. Mrs. Thurman, you are recognized for 5 minutes.

Mrs. THURMAN. Thank you, Mr. Chairman.

Dr. Salem, in yesterday's hearing there was some comment made that you had not published any articles or books on CS gas.

Would you like to comment on that? You never got an opportunity to respond to any of the allegations there.

Dr. SALEM. Thank you.

As I mentioned yesterday, I have done original work, research work—I have done original research and published on respiratory reflexes, respiratory irritants. And as I mentioned, I'm on the editorial board of inhalation toxicology. I am the chairman of the technical committee for the inhalation specialty section for the Society of Toxicology. So I have a lot of experience in reviewing data and published literature as well as research reports on various chemicals, in many fields, in the pharmaceutical field, the pesticide field, consumer products, and this type.

Mrs. THURMAN. Dr. Salem, going one step further then, did you feel there was any misinformation that was given yesterday that you would like to straighten out for this panel?

Would you like to think about it and let me come back to you?

Dr. SALEM. Thank you very much.

Mrs. THURMAN. Judge Sessions, yesterday during the testimony, Mr. Potts was asked whether an April 14 letter from Koresh which had been called a surrender offer was passed on to you. He stated that he did pass that letter on to you. Mr. Potts was then asked whether he knew if you passed that so-called surrender offer——

Mr. SESSIONS. I'm having trouble hearing you, Mrs. Thurman.

Mrs. THURMAN. I am very sorry.

During testimony yesterday, Mr. Potts was asked whether an April 14 letter from Koresh which had been called a surrender offer was passed on to you. He stated that he did pass that letter on to you.

Mr. Potts then asked whether he knew if you passed that so-called surrender offer to President Clinton or anyone in the White House.

Can you clear up the confusion surrounding this issue and tell this committee, A, whether the April 14 letter was in fact a surrender offer, whether you forwarded the April 14 letter to any linguist or psychologist for analysis, and whether you forwarded the April 14 letter to anyone in the White House?

Mr. SESSIONS. Mrs. Thurman, it may be that Mr. Potts recalls a surrender letter of April 14. I do not recall a surrender letter from Mr. Koresh of that date.

Did Mr. Potts indicate that he passed it on to Mr. Clarke or Mr. Clarke to me?

Mrs. THURMAN. We'll ask Mr. Potts.

STATEMENT OF LARRY A. POTTS, FORMER ASSISTANT DIRECTOR, CRIMINAL INVESTIGATIVE DIVISION, FEDERAL BUREAU OF INVESTIGATION

Mr. POTTS. Actually, I don't remember saying I passed the letter on to Director Sessions either. If I did, I—I recall that the information concerning the April 14 manuscript was passed along from Waco to us, to the command center, not a surrender letter, but an indication that he was going to work on the manuscript now for the Seven Seals.

That particular document was provided by our command center in Washington to Murray Miron, Dr. Murray Miron, for an analysis, and I think Jeff Jamar testified yesterday as to the results of that were essentially that Dr. Miron said we don't—I don't see anything in this letter that would indicate that he's coming out in the near future.

I'm obviously paraphrasing here. That information about the April 14 manuscript was passed along the line, but I don't know whether the letter itself was or not.

Mr. SESSIONS. Mrs. Thurman, that is correct in terms of the—some of the contents, apparently, of the manuscript. I was aware that that manuscript was there, but I was not aware of what you term an "offer of surrender."

Mrs. THURMAN. OK.

Mr. Clarke, it's my understanding that you accompanied Mr. Potts to Waco and met with onscene Commander Jamar and other members of the Crisis Management Team.

Can you tell us about this meeting?

STATEMENT OF FLOYD CLARKE, FORMER DEPUTY DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

Mr. CLARKE. The short answer or the long answer?

Mrs. THURMAN. Well——

Mr. CLARKE. There were a series of conversations with officials of the Department of Justice and the FBI about activities in Waco. Representatives from the Department of Justice had made a prior trip down to Waco to look into a number of matters; i.e., coordination issues, prosecution issues, and they were going to be making a second trip.

The FBI was invited to go along and participate in these meetings. Larry Potts and I accompanied Mark Richard and others from the Department who went to Waco for that meeting. While we were there, we used that opportunity to also meet with FBI field commanders.

We visited all of the facilities, and talked with the people who were doing the work in the trenches. We actually got into vehicles, went to the compound, went to the observation points, developed a personal sense of what the conditions were.

It is one thing to sit in a command center or in the environs of Washington, DC, and see pictures or have things related to you. It is an entirely different thing to be sitting in a facility where people have had to operate for 51 days. You can't begin to imagine the kind of stress that was there for those professional people to endure day in and day out.

I think there was some prior testimony about how these vehicles provided protection for the agents. That protection was limited. As we pulled up in front of that compound and looked at that facility and peered out that hole of the Bradley vehicle—I have been involved in law enforcement for 30 years and I've conducted many firearms training and shooting classes. At a distance of 75 yards with a telescopic rifle, left handed, with one eye closed, most people could shoot through the observation opening in a Bradley vehicle. There is no leather upholstery. There is nothing to absorb a round coming into that vehicle. If a round entered that vehicle, it would ricochet around and everyone in that vehicle would be at jeopardy.

When you go out to these observations points 300 yards away, and you see this building with not only windows and recessed shooting positions, but areas where they had cut additional shooting ports, and you have people looking through telescopic sights for 24 hours a day, 51 days trying to observe all of the movements, you would occasionally see the glare of sunlight reflecting off the telescopic sights of rifles from that building, you begin to understand the threat and the danger to the agents that were there.

Those are the kinds of things that we wanted to understand as well as discuss with those people, not only the SAC's who were giving us this information on a daily basis, but the people who were there working, and try to understand what their thinking was.

We came back with a renewed understanding of the issues that were confronting the people. We spent two days there, came back and made our report to Mr. Sessions on the 9th.

Mrs. THURMAN. The chairman just asked me to ask what was the date of that?

Mr. CLARKE. The 7th and 8th of April. Sure.

Mrs. THURMAN. Thank you.

Mr. MCCOLLUM. Thank you very much, Mrs. Thurman.

I would like to make everybody aware of the fact who are up here asking the questions that former Director Sessions has got to leave here about 11 or a little before that this morning, so if you have questions particularly you've got burning in your pocket that you want to direct to him, either do it or let us know about it in some way so that we might reorganize the questioning in a fashion that would allow that to occur.

Everybody else I think could be with us throughout whatever the duration of this panel is.

With that in mind, Mr. Chabot, you are recognized for 5 minutes.

Mr. CHABOT. Thank you, Mr. Chairman.

Before I yield, I would just like to respond to the gentleman from New York's comment about the alleged politicization of these hearings.

Last week, Treasury Secretary Rubin called a Democrat member of this committee and asked him not to ask any questions that might be embarrassing to the Clinton administration. Now, I think that is truly politicizing these particular hearings and was uncalled for.

I would like to at this time yield the balance of my time to the gentleman from Tennessee, Mr. Bryant.

Mr. BRYANT of Tennessee. Thank you, Mr. Chabot.

Mr. Hubbell, let me ask you a question, if I could, regarding some testimony you have given in May 1993, which would have been after the standoff and after the fire at Waco.

In May of that year, you testified at your Senate confirmation hearing that you had spoken to the President, President Clinton, only about a Supreme Court nominee, and that was in regard to the question about DOJ activities, that ruled out personal contacts with him.

But the question I think was, had you spoken to him about the Department of Justice matters. And your testimony at that time was that "I have spoken to him only about a Supreme Court nomination." However, an AP story of April 3, 1993, reported you as saying you gave the President updates on the Waco situation in the early days of the crisis.

My question is, based on—I know Senator Bumpers in your confirmation hearing said you were best friends with the President and the First Lady. Based on that relationship, I'm wondering what was the accurate situation in terms of your communication with the President regarding Waco?

Mr. HUBBELL. With regard to Waco, I did not communicate with the President until after April 19 in any regard. Stuart Gerson was the contact with the White House until Attorney General Reno was confirmed. And then the contact we had with the White House would be through White House Counsel Bernie Nussbaum, Vince Foster, and occasionally Bruce Lindley.

Mr. BRYANT of Tennessee. So, in essence, what you're saying is that your testimony before the Senate committee was accurate but that the AP story, which said you had provided the President with updates in the early part of the crisis, particularly in the early part of March, that story and what it alleges in there is inaccurate?

Mr. HUBBELL. It is inaccurate. Stuart Gerson—I was not even in Washington the weekend that the initial raid occurred. Stuart is the one who talked to the President and continued to do so until Attorney General Reno was confirmed. I do believe that on the Sunday before the 19th, the Attorney General spoke to the President. I know she did because I was in the room, and that was the only contact with the President directly prior to the 19th.

Mr. BRYANT of Tennessee. And obviously you had personal contact with the President, I assume, during that period of time due to your relationship, your personal relationship.

Mr. HUBBELL. That's absolutely correct.

Mr. BRYANT of Tennessee. And the issue of Waco did not come up in any of these formats?

Mr. HUBBELL. It did not.

Mr. BRYANT of Tennessee. Let me ask another question, if I could, regarding the question that Attorney General Reno asked I think a couple of times in terms of the date of the 19th of April as to why now, and again, Director Sessions—Judge Sessions, it's good to see you again. You were the Director when I was a U.S. attorney and many of you were in the FBI, Mr. Richard, and all of you.

Mr. Sage testified yesterday from the FBI that the—their office, their decisions, the FBI's decisions were not driven by fatigue or frustration. I think that was Wednesday he actually said that.

Yet, in reading the Attorney General's statement that she gave to the FBI after this, she indicates, Mr. Hubbell, that—I'm quoting from the 302 statement—"Hubbell was convinced from his conversation with the negotiator"—I assume that's Mr. Sage—"that David Koresh was not coming out. Koresh had not fulfilled any of his promises at that point to do anything he said he would. People were getting tired. Negotiators were tired and tempers were fraying."

At that point—I'm wondering if this is the justification, the reasoning why the FBI—and I've heard child abuse, but you know those allegations have been going on for years. And I've heard now health and sanitary conditions which, while that's significant, I can't imagine that being the real reason to go in with the type of force that we did. It sounds like something we thought of afterwards.

I heard of the fact that maybe negotiations had broken down and those kinds of things, but I'm like the Attorney General: Why not wait? And I have concern about maybe it was, as you said, Mr. Clarke, and I respect your opinion and your experience and with the FBI, but things were stressful and I understand that. I appreciate that fact. I'm not criticizing it.

But when you look at all the factors together, why was that factor, the fatigue, the stress, the fraying nerves, the temper, even like you said, tempers were fraying, was that the primary driving force for that decision being made?

Mr. SESSIONS. Mr. Bryant, so far as I can tell, you've heard the earlier reference to the quality of the Hostage Rescue Team and its capabilities. There was discussion at that time about their coming to the edge and needing to go back, retrain, and to do those things which kept them in a state of preparedness. The things they do re-

quire practice and require constant attention to it and that was one of the factors.

Obviously, fatigue on all those people was very great. So there were a number of things that were discussed about what was the situation there at the time and it was discussed on a continuing basis with certainly the FBI and, so far as I know and believe, with the Attorney General. She was aware of those things.

Mr. BRYANT of Tennessee. I think I've got one other person that might answer.

Mr. Richard.

STATEMENT OF MARK RICHARD, DEPUTY ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF JUSTICE

Mr. RICHARD. Thank you, Congressman Bryant.

As I recall the question of "why now" rose subsequent to the initial briefing of the Attorney General, on, I believe, April 12, during a meeting after the briefing by the FBI which was held in the Attorney General's Office. And it was a question that we discussed: what has changed that would suggest that we must move now. I think that was a question on the table for several days.

And I can't speak for the Attorney General and her thought processes, but certainly I began to answer the question for myself after participating in the discussion with the FBI negotiator Sage, and realized that negotiations, at least as viewed by the FBI, were now fruitless. There was an anticipation that they would not be productive and this did suggest that our options were severely constricted. But those are my views, and I can't speak for the Attorney General.

Mr. BRYANT of Tennessee. Thank you.

Mr. MCCOLLUM. Thank you, Mr. Bryant.

Mr. Scott, you're recognized for 5 minutes.

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. Sessions, over the weekend Senator Bradley on a morning news show related the story about an African-American Harvard law student who was stopped and handcuffed for no apparent reason. He was released after he convinced the police officers that he was a Harvard law student and wasn't doing anything wrong.

You're aware that the exclusionary rule protects innocent people from these kinds of indignities and I'm sure you're aware of other examples, because it removes all incentives that a law enforcement officer may have to break the law, because if you stop someone without probable cause, without a warrant, he knows he can't use whatever evidence he may pick up.

Thus far in these hearings, we have heard that the exclusionary rule is the only effective tool to deal with police misconduct and virtually the only forum in which you can even discuss it. We've heard from law enforcement officers that they don't need relief from their duty to obey the law, they don't need to make illegal searches, and they don't need a watered-down exclusionary rule in order to perform their duties.

Mr. Sessions, do you see any reason that the exclusionary rule should be watered down further to excuse and encourage police misconduct?

Mr. SESSIONS. Mr. Scott, I heard the statements that were made by the Senator. And I, of course, had very direct contact for many, many years with fourth amendment rights and the exclusionary rule and the impact on law enforcement.

I can remember back in the 1960's when *Messiah* and *Escabedo* and *Miranda*, those great cases which established constitutional principles were hammered out. What we found was that law enforcement reacted positively. Law enforcement reacted in a fashion to make it even more competent and make it more professional in every respect, to be able to abide the laws and to perform their activities under the Constitution. This is critical.

Law enforcement can meet that standard and should be required to meet that standard and should be part and parcel of everything they carry with them, to not have to have a good-faith exception, to not have to have an exception in any way that would require them to lessen their standard of professionalism.

So I believe very strongly that the fourth amendment is what it says and that in fact we should not weaken it and that we should bring up our law enforcement standards to make the highest standard as is required by the Constitution and the law.

Mr. SCOTT. Thank you.

Mr. Hubbell, earlier in these hearings we heard from Mr. Noble and Mr. Magaw. It's clear from their testimony that the ATF ambush was the fault of David Koresh and some of his followers, but they also went to great lengths to point out that mistakes had been made and, if they had to do it over again, they had pinpointed mistakes they had made. And we have a level of comfort that if they had to do it again, the chances of four law enforcement officers would be killed in the process is greatly diminished.

We heard earlier that we knew that there was a chance when we went in the children would die as a result of the final invasion. You saw what happened.

What did you think would happen and can we give the American public some level of comfort that children don't have to die when you are trying to execute an arrest warrant and a search warrant?

Mr. HUBBELL. If you're talking about the 19th, I don't think there is a person on this panel that hasn't gone over what we would do again if we had to do it over again.

Mr. SCOTT. The 19th is the final with the fire.

Mr. HUBBELL. The 19th was the final. We were not involved in the initial ATF service of the warrant. I'm not that familiar with what happened. I am aware that we had great concerns because there was a leak to the press and ultimately a leak to Vernon Howell or David Koresh. But certainly if we knew what we knew was going to happen, we would try to find another way. And we think about it, I know I do, every day.

Mr. SCOTT. Dr. Salem, it's my understanding that you—if children are exposed to CS gas, they will be very much traumatized. It's also my understanding that you have no citation of any medical implications that would last more than 30 days for someone—for a child exposed to CS gas even though the gas is used on a widespread basis over many years.

Is that accurate?

Dr. SALEM. I'm sorry?

Mr. SCOTT. Is that an accurate statement?

Dr. SALEM. Yes, sir.

Mr. SCOTT. Your expertise is in physical irritation. Do you have any expertise in the psychological reaction to the gas so that——

Dr. SALEM. No, sir.

Mr. SCOTT [continuing]. You would be able to predict what someone would do?

That is not your expertise?

Dr. SALEM. No, sir.

Mr. SCOTT. Is there anything else you wanted to add in response to the question from the gentlelady from Florida in response to misstatements that were made yesterday?

Dr. SALEM. Yes. I was hoping that she would be here. Can we wait until she gets back?

Mr. SCOTT. She is probably looking at it on the monitors.

Dr. SALEM. OK. Some of the things that I would like to mention, these hearings are in search of the truth and the facts. I can't recall from yesterday's meeting about the misinformation, but some of the information that I heard from the previous evening on the effects of CS, which I would like to clarify.

First of all, I would like to say that it is the safest and most effective alternative that we do know of. And I concur completely with what the British experts said on the CS.

The reports that suggest deaths have occurred following the use of CS, on investigation the facts show that other materials were used. For example, in one case that was mentioned, CN was used in combination with CS, and we know that deaths have occurred from the use of CN. In that same case, when that case came to trial, the conclusion was that they felt that the individual who died was actually suffocated.

In another case where they talked about the deaths following CS in the West Bank in Israel, the GAO did a report to Congressman Dellums back in 1988, I believe it was, and Physicians for Human Rights went there to do the investigation and they could not find any confirmed deaths following the use due to CS nor any miscarriages that were reported. The GAO said that perhaps there were four deaths, but that was due to tear gas and they didn't specify which one it was.

And then there is another report from the director of the Palestine Human Rights Campaign who concluded that Israel used two types of riot control agents, CN and CS, but they generally used CN.

The other fact that I heard that occurred the other night was that suffocation was caused by the dust settling. These are very small particulates and, if they settle, they settle because these particles agglomerate, become bigger, and then fall to the ground. They don't hover just above the surface. The more realistic happening is probably that these particles were blown out by the wind and the circulation.

We've heard that the lungs blister following the use of CS. CS is an irritant. It causes irritation and inflammation and possibly pulmonary edema may result. However, in my experience, I have not seen where lungs actually blister internally.

The other fact I would like to clarify is that children are more likely to have a greater capacity to breathe CS. Yes; their respiratory rate is higher than it is in adults; however, as you inhale, you also exhale. And if the particles don't impact on the respiratory tract, some of them are blown out. So if you're breathing faster, you're probably breathing out more of it.

The other important factor is not the breathing rate, but it's the minute volume, which is the volume times the rate of breathing, and children have a smaller minute volume than adults do so that they would probably breathe in less.

Mr. MCCOLLUM. Thank you, Dr. Salem.

Thank you, Mr. Scott. Your time is expired.

Mr. Zeliff, you are recognized for 5 minutes.

Mr. ZELIFF. Thank you, Mr. Chairman.

Dr. Salem, just a quick yes or no answer: Is CS gas safer than waiting? Is CS gas safer than waiting? That's OK.

Dr. SALEM. Well, it depends on the definition of waiting, what would occur then.

Mr. ZELIFF. OK. Thank you.

Mr. Sessions, you were the head of the FBI for both events that took place on the 28th of February as well as the 19th of April?

Judge SESSIONS. That's correct.

Mr. ZELIFF. And tell me about your involvement with the gas plan. It was presented initially by the FBI internally from the bottom up, I guess, dated March 27. At what point did you connect and what point did you get involved and at what point did you make your decision when you thought it was a good idea?

Mr. SESSIONS. I don't recall the precise date that came to me, Mr. Zeliff, but it came as an alternative possibility. You'll recall, you were mentioning back both at the first date and the last date, you'll remember that on February 16, the World Trade Center went up and, on February 18, ATF went into the compound with the resultant deaths.

From that point on, there were constant discussions about things that could be done to bring it to a conclusion, most particularly that related to negotiation and try to find ways that it could actually be negotiated down and out. And some of those plans were labeled as ridiculous. Some of them were labeled as not practical, but we were discussing all of these things, including ultimately the use of gas.

Mr. ZELIFF. Who brought it to you?

Mr. SESSIONS. I would presume it came either through Mr. Potts or through Mr. Clarke. I don't recall precisely. We met repeatedly in the command center in the FBI daily so that where precisely it came from, where precisely it was first discussed, I don't recall.

Mr. ZELIFF. Thank you.

Mr. Sessions, FBI Agent Smerick testified here under oath that he changed his thinking, he changed his judgment in a fifth and final memo, based on a sense that he needed to please you. I believe this last memo was April 9. And he went from favoring negotiation to shifting away from negotiation to the gas plan.

Just give me your comment—I mean, is this——

Mr. SESSIONS. I would have to probably comment at length, Mr. Zeliff.

Mr. ZELIFF. I don't have a problem with that myself.

Mr. SESSIONS. I do not know that that's what he said. If he said it was to please me, that is one thing. I don't know that he said that. If he said it was to please others within the Bureau, that might well have been.

My own belief stems from back dealing with the riots at Oakdale and Atlanta and Talladega and all of these things that we've dealt with. And patience and waiting, as you mentioned, is a very important factor. I can remember Mike Quinlan, the Director of the Bureau of Prisons saying that he will wait forever, but negotiation is an important part of it.

Mr. ZELIFF. And you pushed that?

Mr. SESSIONS. I pushed it both personally, individually in discussions, every time we turned around in terms of the actual operation on the ground.

Mr. ZELIFF. To be clear, no way did you get Mr. Smerick to change his writing of his memo, to change his thinking so it agreed with yours?

Mr. SESSIONS. That could not be. If he said that he believed in continuing negotiation and working negotiations, then he would reflect my views. He did not write that memo to please me. Now there may have been others that he did, but certainly not me.

Mr. ZELIFF. Mr. Sessions, did you know that the Texas Rangers and Koresh's lawyers had brought to Mr. Jamar's attention a surrender plan that they worked out with Koresh on April 14 and don't you think you should have known about that plan? Did you know about that plan?

Mr. SESSIONS. Are you referring to the plan that relates to his writing on the Seven Seals?

Mr. ZELIFF. That is correct. And the completion of that?

Mr. SESSIONS. I was aware of that. I was not aware—somebody phrased it as a surrender plan. He had talked many times about coming out. We had brought out many, many people from the beginning, then those people stopped coming, and there was a great difficulty in relying on anything he said, but I was aware, of course, of——

Mr. ZELIFF. I am sorry, I just have a little bit of time left.

Mr. SESSIONS. But he was in the compound, that is, the lawyer was in the compound. This again was an effort to be sure that we left no stone unturned to bring those people out alive.

Mr. ZELIFF. OK. And the next day he spoke to you, Mr. Hubbell, for 2 hours. What did he tell you about the surrender plan?

Mr. HUBBELL. He who?

Mr. ZELIFF. Or whatever kind of plan you want to call it.

Mr. HUBBELL. I don't know from whom I learned the fact that Vernon Howell or David Koresh was saying that after he interpreted the seven seals and wrote about the seven seals that he was willing to come out. I don't know who told me that, whether it was first heard from Mr. Clarke, Mr. Potts, or Mr. Sage or—there were constant discussions going on. I was aware that that was the latest discussion that was being had with the people inside the camp, the compound. I can't tell you precisely when I learned it, but I was aware of it.

Mr. ZELIFF. There are three or four things that are missing that you could personally be helpful to us. We are missing some of your telephone logs, particularly April 17, 18, and 19, and our problem is that they have all been redacted. Is there any chance that we could get those?

And then there is testimony in the Whitewater hearing that you kept certain files in your basement. Additionally, the Department of Justice has told us that you kept separate Waco files. Did you ever or do you know if you have Waco files in your basement, or in your possession anywhere, that could be helpful and could we get some information on filling in these three vital days?

I mean, what has happened to us in trying to bring this information out, this is important for us, the missing tape on February 28 that ATF doesn't have is very important to us. We have all the rest but that one is missing. Some of this stuff would be vital in terms of letting us try to figure this all out. Can you be helpful in this?

Mr. HUBBELL. I can be helpful. Nobody has ever asked me, but I have a copy of these same logs and you are welcome to them as far as I am concerned, except I have to tell you the 17th and 18th were a Saturday and Sunday, and so therefore there wouldn't be any—these are basically logs of people who called and left a message for me to call them back, not necessarily everybody I talked to.

Mr. ZELIFF. Primarily, what we are looking for is any discussions you had prior to the 19th, obviously in those three days relative to anybody, whether it be the President, whether it be the FBI, or anybody else.

Mr. HUBBELL. I have no trouble giving you my logs for those days.

Mr. MCCOLLUM. Mr. Zeliff, your time has expired. Mr. Schumer, I am going to recognize you for 5 minutes.

Mr. SCHUMER. Thank you, Mr. Chairman.

I would like to direct a few questions to you, Mr. Hubbell, aimed at what I consider the, charitably, fishing expedition parts of the allegations out there, more like a witch hunt. I want to put to rest some things because there are all sorts of, again, conspiracy theories, some politically motivated to tie the President or the White House into pushing ahead the formula for going in prematurely, some for nefarious reasons, some because the President saw it was day 49, day 50, day 51, and he was anxious to get it over with, all of this in my—I have not seen one scrap of evidence, one scrap that indicates that. So I want to ask you clearly, Mr. Hubbell, did President Clinton convey to you in any way, shape, or form that he wanted the siege at the Branch Davidian compound ended and that you or Attorney General Reno should make that end happen, in other words, end it before she or the Justice Department officials thought it was appropriate? In other words, did the President impose pressure on the decisionmaking process about Waco, yes or no?

Mr. HUBBELL. No, he did not, either directly or indirectly.

Mr. SCHUMER. Any at all—anything that might even be interpreted as that?

Mr. HUBBELL. No, he did not.

Mr. SCHUMER. No wink of the eye, no shimmying of the hips, or anything like that?

Mr. HUBBELL. No, he did not, Congressman.

Mr. SCHUMER. OK. Let me ask you this—now we have talked about the President—did you convey on your own now you were at Justice, but you are a good friend of the President, so maybe that implicates him somehow. Did you convey on your own any desire to get the siege at Waco over? In other words, did you pressure the Attorney General to prematurely move up the decision?

Mr. HUBBELL. No, I did not.

Mr. SCHUMER. And are you aware of any official at the White House who would pressure the Attorney General or the Justice Department to move up that decision before it was right, before it was ready to happen?

Mr. HUBBELL. No, they did not. I am confident no one at the White House attempted in any way to influence the decision of the Attorney General.

Mr. SCHUMER. OK. Now, we have four other gentlemen here who were at the top levels of the FBI, in the high command of the decisionmaking process. I would like to ask each of the other gentlemen the same question.

Did President Clinton or any other high official in the White House pressure you, gentlemen, to make a decision to move in before you thought it was appropriate, if you would please answer yes or no. Judge Sessions.

Mr. SESSIONS. Mr. Schumer, I had no contact with the White House at all.

Mr. SCHUMER. Mr. Potts.

Mr. POTTS. No, sir.

Mr. SCHUMER. Mr. Richard.

Mr. RICHARD. I had no contact with the White House.

Mr. SCHUMER. Mr. Clarke.

Mr. CLARKE. None.

Mr. SCHUMER. OK. Now I know what is going to happen here. You are going to get lots of nitpicking, they are going to say phone logs, they are going to say this or that or the other thing, and make little implications that sort of hang out there with no factual basis, but again please search your memories, do any of you, the people at the highest levels of Justice with the exception of the Attorney General, and I will ask her the same question, have any feeling at all, even a feeling that happened to pop into your head that the White House, that President Clinton pushed you into making a decision you didn't want to make? Please just answer again.

Mr. HUBBELL. No.

Mr. SCHUMER. No says Mr. Hubbell.

Mr. SESSIONS. No.

Mr. SCHUMER. No says Judge Sessions.

No, shakes his head Mr. Potts.

Mr. RICHARD. No, sir.

Mr. SCHUMER. No says Mr. Richard.

Mr. CLARKE. Absolutely not.

Mr. SCHUMER. And absolutely not says Mr. Clarke. For one point of time I am out of questions here. Gosh.

Mr. MCCOLLUM. Do you want to yield back your time?

Mr. SCHUMER. No, it is too precious.

I think I will, in the interest of moving things ahead, I will yield back my time.

Mr. MCCOLLUM. Well, I have already recognized Mr. Zeliff. Who is next? Ileana Ros-Lehtinen.

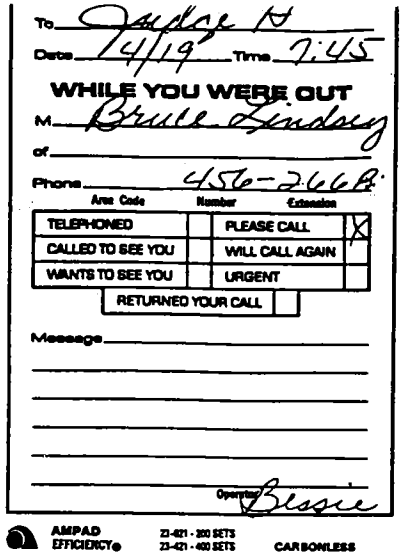
Ms. ROS-LEHTINEN. Thank you, Mr. Chairman. I would like to yield my time to Mr. Zeliff.

Mr. ZELIFF. Mr. Hubbell, I was in the process, we talked about the phone logs and we appreciate if you could get those fairly quickly, that would be helpful.

Mr. HUBBELL. Yes, if you would just have a member of your staff let me know who wants them.

Mr. ZELIFF. Thank you. Actually Bobby Charles would be good.

[The information follows:]

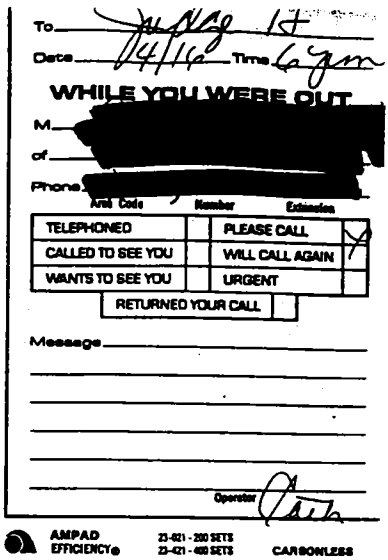


To Judge H
Date 4/19 Time 7:45
WHILE YOU WERE OUT
M Bruce Lindsey
of
Phone 456-2668
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message
Operator Bessie

AMPAD EFFICIENCY® 23-421 - 200 SETS 23-421 - 400 SETS CARBONLESS

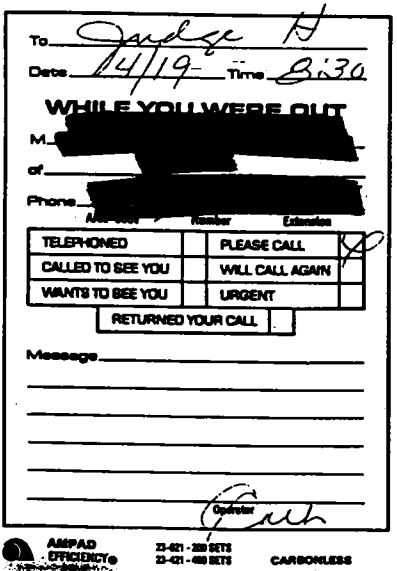


To Judge H
Date 4/19 Time 6:40pm
WHILE YOU WERE OUT
M [redacted]
of
Phone [redacted]
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message
Operator

AMPAD EFFICIENCY® 23-421 - 200 SETS 23-421 - 400 SETS CARBONLESS

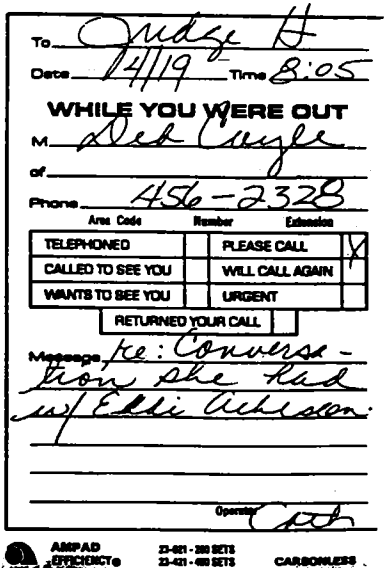


To Judge H
Date 4/19 Time 8:30
WHILE YOU WERE OUT
M [redacted]
of
Phone [redacted]
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message
Operator

AMPAD EFFICIENCY® 23-421 - 200 SETS 23-421 - 400 SETS CARBONLESS

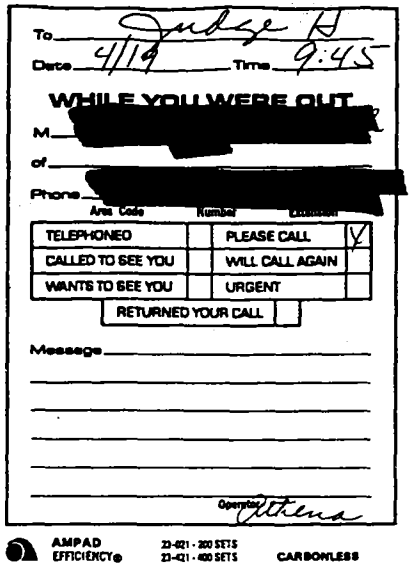


To Judge H
Date 4/19 Time 8:05
WHILE YOU WERE OUT
M Deb Gorfe
of
Phone 456-2328
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message re: Conversation she had w/ Eddie Atkinson
Operator

AMPAD EFFICIENCY® 23-421 - 200 SETS 23-421 - 400 SETS CARBONLESS



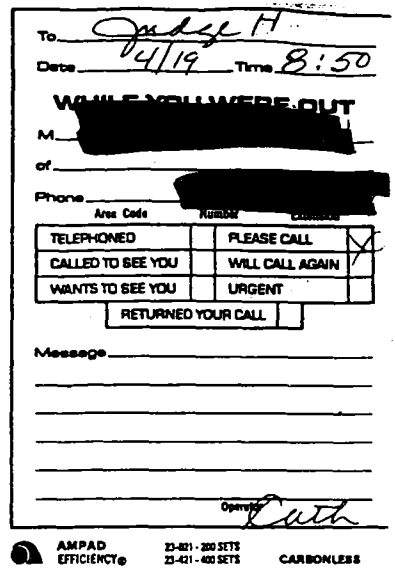
To Judge H
Date 4/19 Time 9:45
WHILE YOU WERE OUT
M. [redacted]
of [redacted]
Phone [redacted]
Area Code Number Extension

TELEPHONED		PLEASE CALL	✓
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	

RETURNED YOUR CALL

Message
Operator Athena

AMPAD EFFICIENCY® 23-821 - 200 SETS 23-421 - 400 SETS CARBONLESS



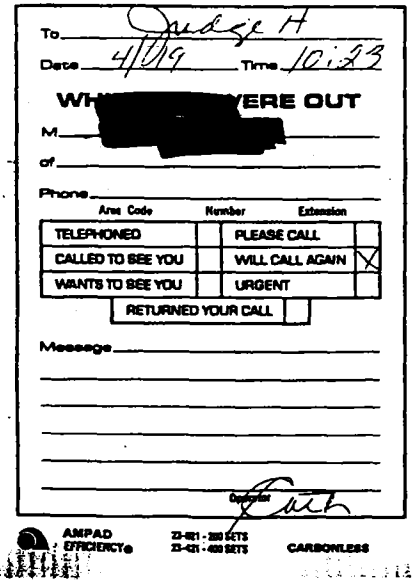
To Judge H
Date 4/19 Time 8:50
WHILE YOU WERE OUT
M. [redacted]
of [redacted]
Phone [redacted]
Area Code Number Extension

TELEPHONED		PLEASE CALL	✓
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	

RETURNED YOUR CALL

Message
Operator Ruth

AMPAD EFFICIENCY® 23-821 - 200 SETS 23-421 - 400 SETS CARBONLESS



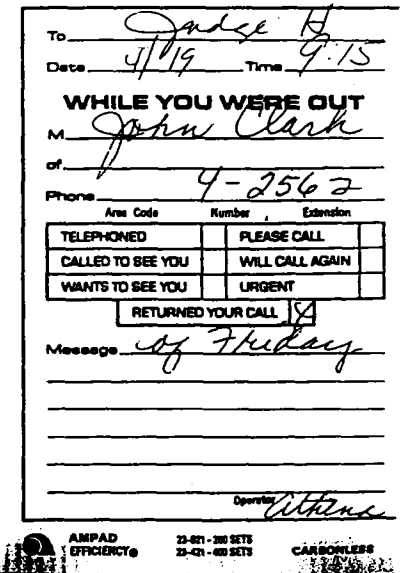
To Judge H
Date 4/19 Time 10:23
WHILE YOU WERE OUT
M. [redacted]
of
Phone
Area Code Number Extension

TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	✓
WANTS TO SEE YOU		URGENT	

RETURNED YOUR CALL

Message
Operator Ruth

AMPAD EFFICIENCY® 23-821 - 200 SETS 23-421 - 400 SETS CARBONLESS



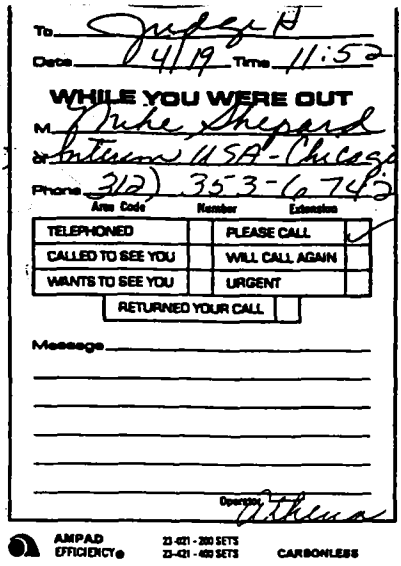
To Judge H
Date 4/19 Time 9:15
WHILE YOU WERE OUT
M. John Clark
of
Phone 4-2562
Area Code Number Extension

TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	

RETURNED YOUR CALL ✓

Message of Friday
Operator Athena

AMPAD EFFICIENCY® 23-821 - 200 SETS 23-421 - 400 SETS CARBONLESS



To Judge H
Date 4/19 Time 11:52

WHILE YOU WERE OUT

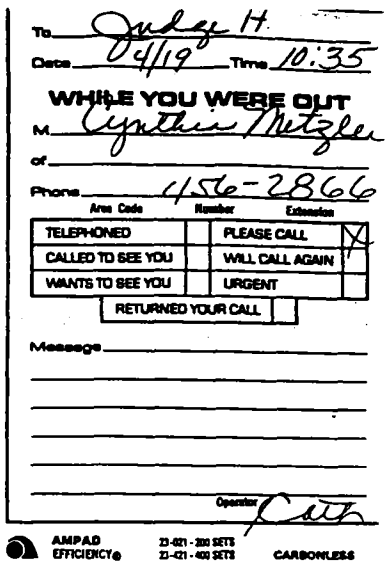
M. Duke Shepard
of Intern USA-Chicago
Phone 312) 353-6743
Area Code Number Extension

TELEPHONED		PLEASE CALL	✓
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message

Operator Athena

AMPAD EFFICIENCY® 23-421 - 200 SETS 23-421 - 400 SETS CARBONLESS



To Judge H
Date 4/19 Time 10:35

WHILE YOU WERE OUT

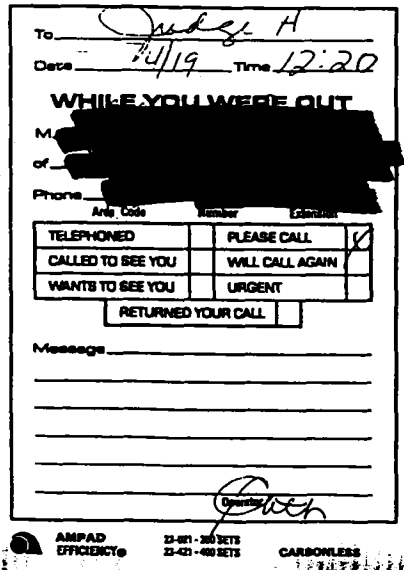
M. Cynthia Metzler
of
Phone 456-2866
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message

Operator Cath

AMPAD EFFICIENCY® 23-421 - 200 SETS 23-421 - 400 SETS CARBONLESS



To Judge H
Date 4/19 Time 12:20

WHILE YOU WERE OUT

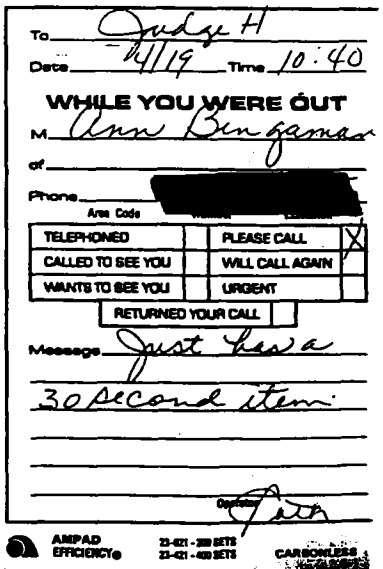
M. [redacted]
of [redacted]
Phone [redacted]
Area Code Number Extension

TELEPHONED		PLEASE CALL	✓
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message

Operator Cath

AMPAD EFFICIENCY® 23-421 - 200 SETS 23-421 - 400 SETS CARBONLESS



To Judge H
Date 4/19 Time 10:40

WHILE YOU WERE OUT

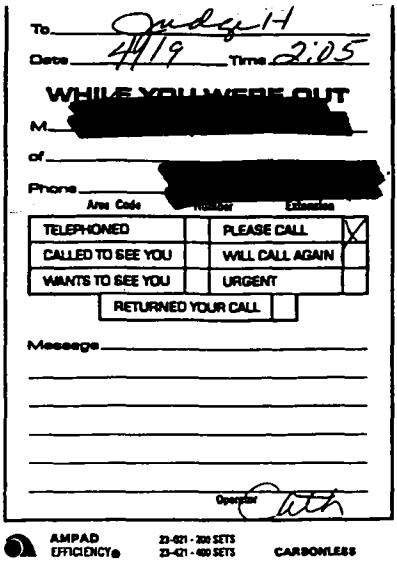
M. Ann Bingaman
of
Phone [redacted]
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message Just have a
30 second item.

Operator Cath

AMPAD EFFICIENCY® 23-421 - 200 SETS 23-421 - 400 SETS CARBONLESS



To Judge H
Date 4/19 Time 2:05

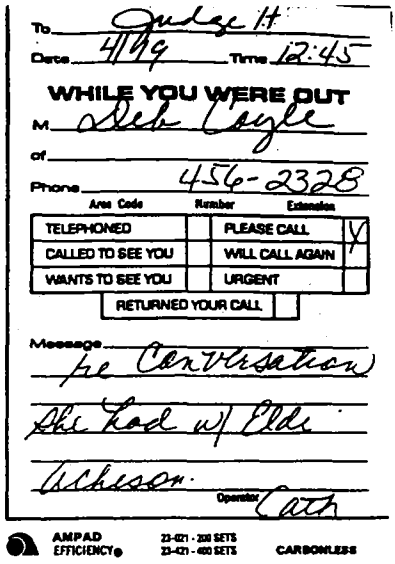
WHILE YOU WERE OUT

M. [redacted]
of
Phone [redacted]
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message
Operator Cath

AMPAD EFFICIENCY® 21-021 - 200 SETS 21-021 - 400 SETS CARBONLESS



To Judge H
Date 4/19 Time 12:45

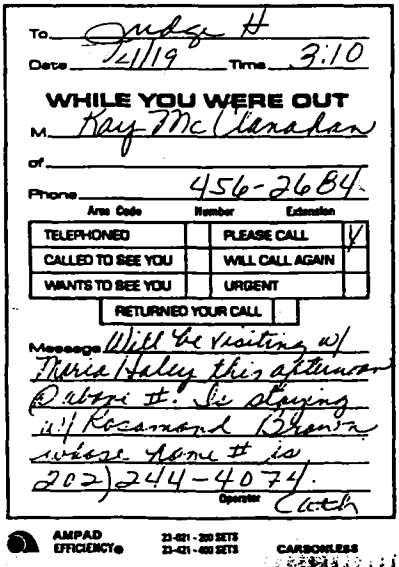
WHILE YOU WERE OUT

M. Deb Coyle
of
Phone 456-2328
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message re Conversation
She had w/ Elder
Acheson.
Operator Cath

AMPAD EFFICIENCY® 21-021 - 200 SETS 21-021 - 400 SETS CARBONLESS



To Judge H
Date 4/19 Time 3:10

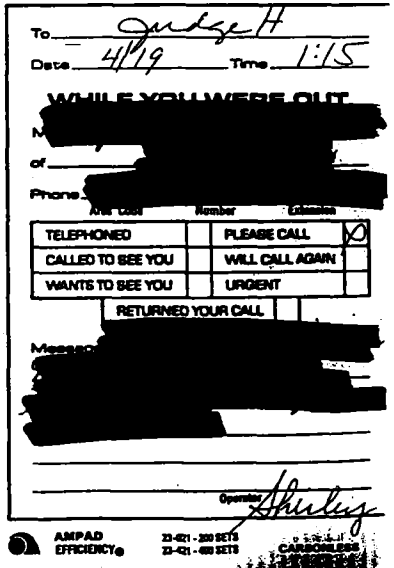
WHILE YOU WERE OUT

M. Kay McClanahan
of
Phone 456-2684
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message Will be visiting w/
Maria Haley this afternoon
@ Depot #. She staying
w/ Rosamond Brown
whose home # is
202) 244-4074.
Operator Cath

AMPAD EFFICIENCY® 21-021 - 200 SETS 21-021 - 400 SETS CARBONLESS



To Judge H
Date 4/19 Time 1:15

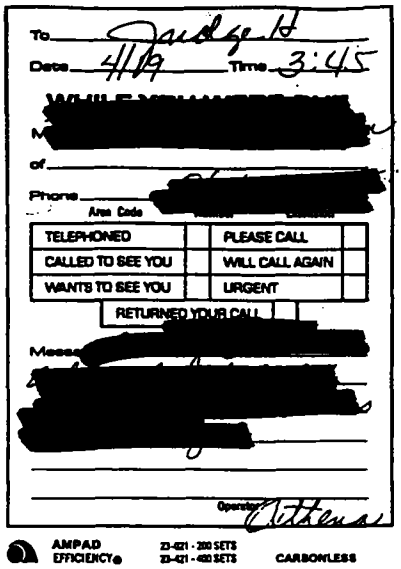
WHILE YOU WERE OUT

M. [redacted]
of
Phone [redacted]
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

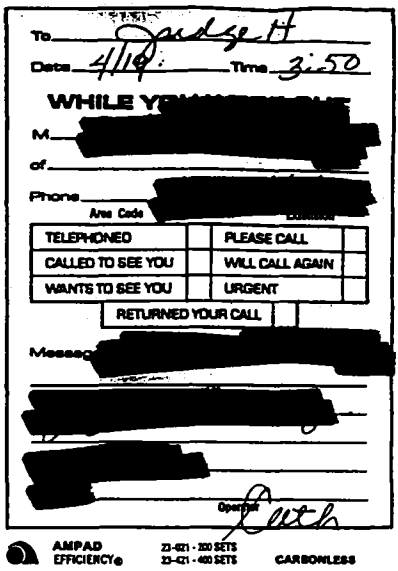
Message [redacted]
Operator

AMPAD EFFICIENCY® 21-021 - 200 SETS 21-021 - 400 SETS CARBONLESS



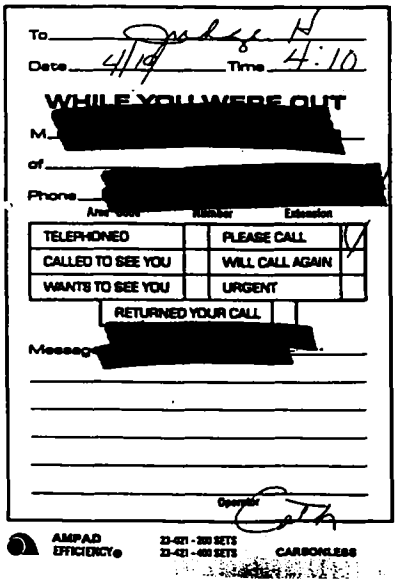
To Judge H
Date 4/19 Time 3:45
WHILE YOU WERE OUT
M [redacted]
of
Phone
Area Code
TELEPHONED | PLEASE CALL
CALLED TO SEE YOU | WILL CALL AGAIN
WANTS TO SEE YOU | URGENT
RETURNED YOUR CALL
Message [redacted]
Operator Athena

AMPAD EFFICIENCY® 23-621 - 200 SETS 23-621 - 400 SETS CARBONLESS



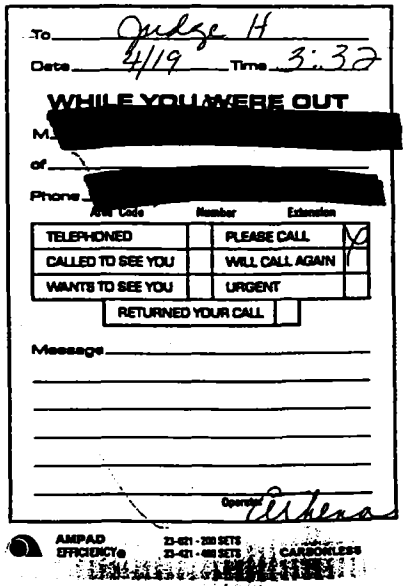
To Judge H
Date 4/19 Time 3:50
WHILE YOU WERE OUT
M [redacted]
of
Phone
Area Code
TELEPHONED | PLEASE CALL
CALLED TO SEE YOU | WILL CALL AGAIN
WANTS TO SEE YOU | URGENT
RETURNED YOUR CALL
Message [redacted]
Operator Cath

AMPAD EFFICIENCY® 23-621 - 200 SETS 23-621 - 400 SETS CARBONLESS



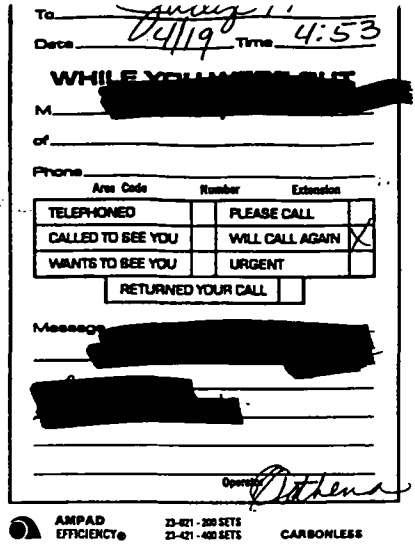
To Judge H
Date 4/19 Time 4:10
WHILE YOU WERE OUT
M [redacted]
of
Phone
Area Code Number Extension
TELEPHONED | PLEASE CALL ☑
CALLED TO SEE YOU | WILL CALL AGAIN
WANTS TO SEE YOU | URGENT
RETURNED YOUR CALL
Message [redacted]
Operator Cath

AMPAD EFFICIENCY® 23-621 - 200 SETS 23-621 - 400 SETS CARBONLESS



To Judge H
Date 4/19 Time 3:37
WHILE YOU WERE OUT
M [redacted]
of
Phone
Area Code Number Extension
TELEPHONED | PLEASE CALL ☑
CALLED TO SEE YOU | WILL CALL AGAIN
WANTS TO SEE YOU | URGENT
RETURNED YOUR CALL
Message
Operator Athena

AMPAD EFFICIENCY® 23-621 - 200 SETS 23-621 - 400 SETS CARBONLESS



To [redacted]
Date 4/19 Time 4:53

WHILE YOU WERE OUT

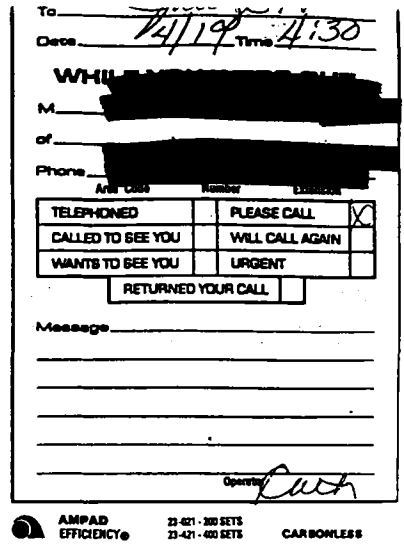
M [redacted]
of
Phone
Area Code Number Extension

TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	X
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message [redacted]

Operator Athena

AMPAD EFFICIENCY® 23-421 - 200 SETS 23-421 - 400 SETS CARBONLESS



To [redacted]
Date 4/19 Time 4:30

WHILE YOU WERE OUT

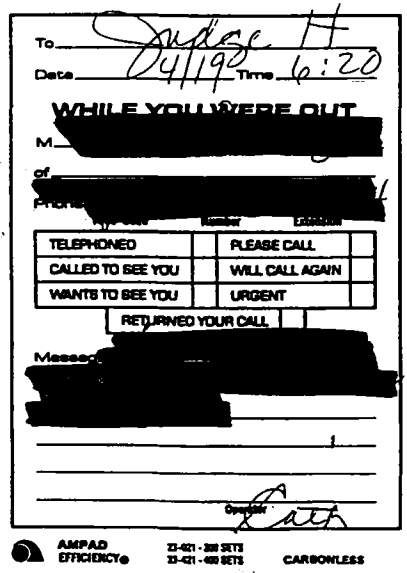
M [redacted]
of
Phone [redacted]
Area Code Number Extension

TELEPHONED		PLEASE CALL	X
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	
RETURNED YOUR CALL			

Message

Operator Cath

AMPAD EFFICIENCY® 23-421 - 200 SETS 23-421 - 400 SETS CARBONLESS



To Judge H
Date 4/19 Time 6:20

WHILE YOU WERE OUT

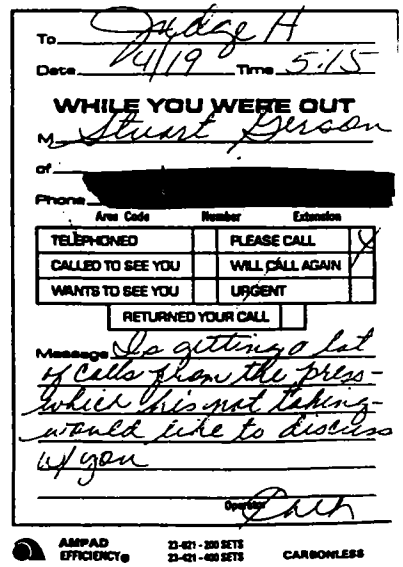
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Operator Cath

AMPAD EFFICIENCY® 23-421 - 200 SETS 23-421 - 400 SETS CARBONLESS



To Judge H
Date 4/19 Time 5:15

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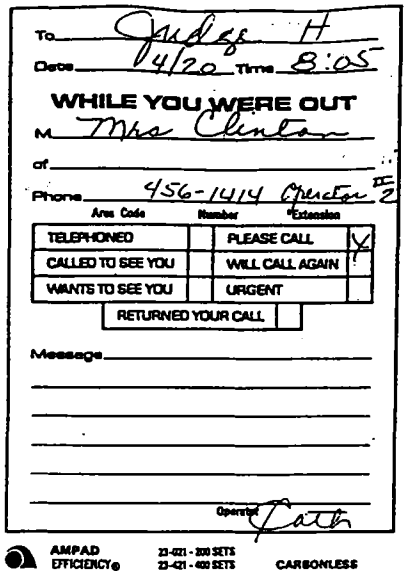
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Message He getting a lot of calls from the press - while this not taking - would like to discuss w/ you

Operator Cath

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To Judge H
Date 4/20 Time 8:05

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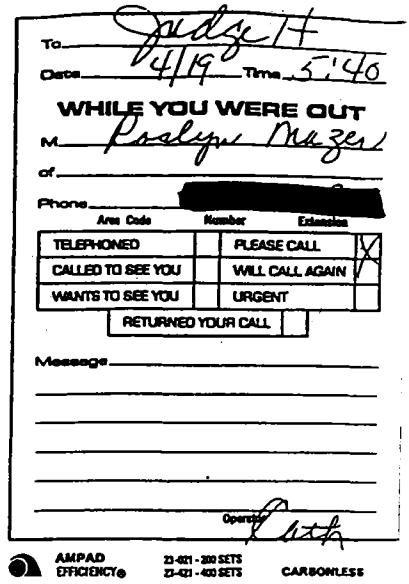
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Message

Operator Cath

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To Judge H
Date 4/19 Time 5:40

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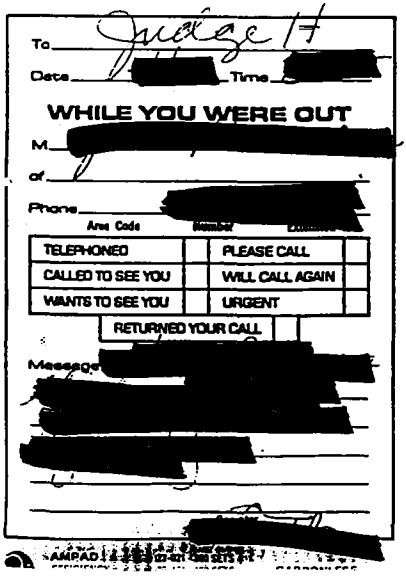
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Message

Operator Cath

AMPAD EFFICIENCY® 23-021 - 200 SETS 23-421 - 400 SETS CARBONLESS



To Judge H
Date [redacted] Time [redacted]

WHILE YOU WERE OUT

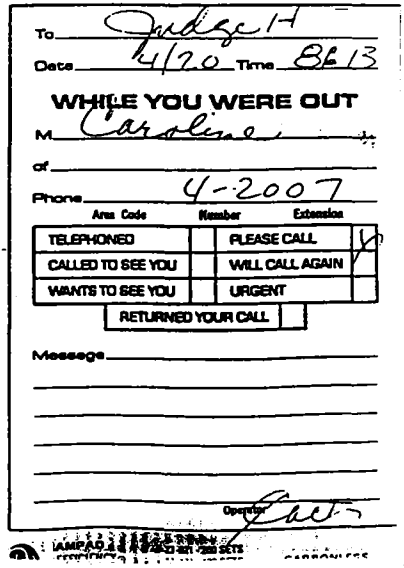
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Message [redacted]

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AMPAD



To Judge H
Date 4/20 Time 8613

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M Caroline
of
Phone 4-2007
Area Code Number Extension

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Message

Operator Cath

AMPAD

Mr. ZELIFF. And the other thing is that we talked about relative to the Whitewater hearing, you kept files in your basement and other places, additionally the Department of Justice has told us that you keep separate Waco files. Is there any chance that we could have access to some of them?

Mr. HUBBELL. You can have access to any files that I have, Congressman. I do have my own set of Waco files, and you are welcome to them or copies of them. I——

Mr. ZELIFF. Thank you. That is great.

[Information not received by time of printing.]

Mr. ZELIFF. Let me ask you, in terms of the gas plan yourself, when did you make your mind up that you felt that this was a good plan?

Mr. HUBBELL. I was—we were discussing it up until the Saturday that the Attorney General made the final decision. It was a very difficult, difficult decision to make. We went through every option imaginable, even some crazy ones that I had, so I probably made up my mind about the same time the Attorney General did on Saturday, although I admit that on that Saturday, I think it was Saturday or maybe Friday the decision was no go, even that late.

Mr. ZELIFF. What pushed you over? What made it happen in your mind?

Mr. HUBBELL. I think it is a combination of factors. I think the evaluation done by the military of the plan.

Mr. ZELIFF. What did the military say?

Mr. HUBBELL. The military evaluated the plan at length in front of the Attorney General and myself and others, and as well as Floyd and others, and Judge Sessions. They only had one slight disagreement with the plan.

Mr. ZELIFF. What was that?

Mr. HUBBELL. That was that they would go in with the gas totally at first as opposed to a partial insertion into one area. I believe they felt like that you should go in totally all at once. They also said that their experience, they weren't limited by the rules of engagement that the FBI had.

Mr. ZELIFF. Were there rules of engagement by the FBI?

Mr. HUBBELL. Yes, there were.

Mr. ZELIFF. What were they?

Mr. HUBBELL. That they would not shoot unless someone's life was in danger.

Mr. ZELIFF. The military would have done what else? They probably would have taken Koresh out?

Mr. HUBBELL. They didn't say that directly, but you certainly had that impression, if it were on foreign soil and these people were being held as hostages.

Mr. ZELIFF. So on foreign soil we would have taken them out?

Mr. HUBBELL. I think you really need to ask the military, but I think that would be something that they would certainly——

Mr. ZELIFF. They would have gone in and gotten rid of the place real quick, that is kind of a quick summation; isn't it?

Mr. HUBBELL. I think you really—that is a quick summation of a long day.

Mr. ZELIFF. I guess the problem that I have is what pushed you over? When did you make the decision? Was it the military's recommendations that pushed you over?

Mr. HUBBELL. I think it was a combination of what pushed us all over. It was not only the military saying the plan was a good plan and it would work, the military said they will come out of that building. I mean, I had a general and a colonel both look me in the eye and say, "they can't stay in that building, they will come out immediately." That was part of it. Part of it was the factor that in the near future it was likely that we would have to change the deployment of the hostage rescue team, not immediately, but in the near future. The factor that there were people trying to get, still trying to get into the compound and there was danger to the FBI agents, that was a factor.

Mr. ZELIFF. Let me ask you one other question; then I have one for Mr. Sessions. Do you know whether there was any document or conversation that would indicate that the White House and not the Attorney General would be the final entity that approved any significant decision at Waco, including the CS gas decision?

Mr. SESSIONS. I have no such document.

Mr. ZELIFF. Mr. Hubbell.

Mr. HUBBELL. I am not aware of any document like that, no.

Mr. ZELIFF. Nothing at all that said the President would have the final decision, nothing would be done, you know, without his approval? You know of no documents?

Mr. HUBBELL. No document like that at all.

Mr. ZELIFF. OK. And, Mr. Sessions, the same kind of questions, if you would. When did you make up your mind that the gas plan was a good idea and what put you over the edge, that is probably not a good phrase to use, but what made you come to grips that this was the right thing to do?

Mr. SESSIONS. The whole plan was to extract those people and have them come out safely. Everybody's mind was the same on that point. The question was how to do it and how to work it, and you know and you can see that there was a constantly tightening ring around that group, and the insertion of the gas on the ends of the compounds was perceived as a means by which you could get them constricted even further, and ultimately they would know that they were simply going to have to come out, that it was not an environment where they could actually continue to live. You will have to remember people had long since ceased coming out and Mr. Koresh no longer allowed people to come out, and that was tightening the ring.

Mr. ZELIFF. I can see the chairman is getting nervous with the flipper.

Mr. MCCOLLUM. Your time has expired. I am not getting that nervous. Mr. Watt, you are recognized for 5 minutes.

Mr. WATT. Thank you, Mr. Chairman, and I thank the members of the panel for being here today.

To the extent that I have felt these hearings have served any useful or valuable purpose, I have tried to do it in the context of what kind of prospective guidance, what has happened in the past might provide to us rather than making an effort to second-guess each and every aspect, and we have succeeded, particularly under

Mr. Scott and me, in getting some educational benefit and prospective value placed on personal and civil rights and the value of the exclusionary rule and the fourth amendment rights that are protected. And I think some concessions have been made that ATF probably stepped across some lines or were very close to lines in those areas and that there are some things that we might be able to do in the future to better safeguard individual rights and liberties.

And I spent some time asking Secretary Bentsen about the administrative supervisory chain of command guidelines and what knowledge that this incident might bring to bear on changes, and I understand that some administrative changes have been made to try to improve the supervisory lines.

I am interested particularly from Judge Sessions, and I think I may have asked this question to Mr. Potts on a prior panel, so I won't ask him to address it again, but I am especially interested in what kind of lessons, informed by what transpired at Waco, what kind of changes you think need to be made. Whether they have or have not been made in the administrative functionings, that the decisionmaking processes that lead to the decisions in these kind of settings such as Waco, and whether there are any personal rights or individual lessons, individual rights lessons that you might bring to bear and whether there are any other other than individual and administrative lessons that we might gain from Waco, my effort being to try to use this as something to inform us to be a better Nation in the future rather than simply trying to second-guess on Monday morning the plays that took place on that fateful day.

Mr. SESSIONS. Mr. Watt, in responding to Mr. Scott's question, I made it very clear about my strong feeling that is compatible with what you expressed, that is a certainty that the fourth amendment of the Constitution of the United States remain intact, and that in fact we do those things which are compatible with being sure that it does. That means training, that means professionalism, that means doing those things which will assure that all law enforcement people understand the importance of those rights and that right.

Patience is probably the greatest virtue you could have in connection with this kind of circumstance. I mentioned the circumstances at Oakdale, LA, when that prison had the riots and Atlanta when it had the riots and Talladega when it had the riots. Everywhere we have been it is important to have patience but also to negotiate and not to leave unturned any possible negotiating possibility, and there were negotiating possibilities from the beginning down in Waco. Everybody knows that I had contact directly from people associated with Mr. Koresh about the possibility of my going down and negotiating with them in the compound down there.

Now some people played that as ridiculous and ridiculed it as grandstanding, but it is indicative of what I felt and continue to feel. You can't discard any possibility that you can resolve that kind of circumstance when you can take and apply that negotiating capability, so the negotiation is obviously very important. Pressure, which is what you have seen demonstrated so repeatedly in connec-

tion with Waco, is also important, so pressure, negotiating, and patience are those three things.

Now, administratively to translate those into an active and effective function, you have to have continual discussion, and in fact we had that, day in and day out, and it went as high as the Attorney General. Where it went from there I do not know, but the point is that those elements were there. I do not believe that we were served well by discarding any of those negotiating possibilities. Acting Attorney General Gerson discarded those as being not appropriate for the Director to become involved in. I can understand why not. You don't want any person who is barricaded to know that they can trigger the arrival of the FBI Director to do that. And yet this was no normal circumstance. This had the same approximate number of people that were captive down in Atlanta, and there again the point was patience and negotiate, endlessly keep after it and patiently keep after it. It is important.

Mr. WATT. Before my time expires, Secretary Bentsen testified at the hearings here about some administrative chain of command changes that have been made to bring a closer level of supervision from the Department of the Treasury over the ATF agents. Are you familiar with those and do you care to comment on whether the chain of command was clear enough in ATF to Treasury and the changes that took place in response?

Mr. SESSIONS. Mr. Watt, I am not familiar with what Secretary Bentsen discussed on the chain of command of Bureau of Alcohol, Tobacco and Firearms. I am familiar with the chain of command on the Bureau and know that it functions and it functions well. You always have to have a clear line channel and a willingness to actually report those things that are happening, and it is very clear that you must have it, and so ATF would be well-advised to do whatever is necessary to get it if they don't have it.

Mr. WATT. Thank you, Mr. Chairman.

Mr. MCCOLLUM. Thank you, Mr. Watt. Mr. Schiff, you are recognized for 5 minutes.

Mr. SCHIFF. Thank you, Mr. Chairman. I would like to yield all of my time to Chairman Zeliff, please.

Mr. ZELIFF. Thank you.

I want to go back to you, Mr. Hubbell, if you could. We talked about written correspondence. Any conversations, written or verbal, any discussions, anything you can remember from February 28 to April 19 indicating that the President had an interest in being involved in what was going on? Any changes to the negotiation process? Anything that you can remember relative to all the things that were happening from February 28 to April 19?

Mr. HUBBELL. I was aware, Mr. Chairman, that the President wanted to be advised if there was any change in the posture in Waco from the decision to negotiate, and therefore when the decision to insert the gas, although considered by some to be continued negotiations, we felt like we needed to advise the President of the insertion of the gas.

Mr. ZELIFF. So if I understand you correctly, he wanted to be involved, he wanted to know if anything changed from the negotiation process, and whether it was you or Mr. Lindsey, Mr. Nussbaum, Mr. McLarty or others, however he got all that information,

formally or informally, he wanted to be included in the loop; am I correct?

Mr. HUBBELL. I was told by Attorney General Gerson that he wanted, the President wanted to be advised if there was going to be any change.

Mr. ZELIFF. Am I right in understanding, then, that he wanted to be involved in the decisionmaking process?

Mr. HUBBELL. I didn't consider it that. I think he wanted to be advised if there was going to be a change, and we did so.

Mr. ZELIFF. It sounds like Mr. Altman's letter to Mr. Bentsen. He wrote on April 15 that something tragic was going to happen on the 19th, and in his judgment somebody ought to stop it. Mr. Bentsen said, well, that was the FBI's problem.

Shifting over to you, Mr. Sessions, are you the guy that really, I mean, bring it on down, if Janet Reno wanted to she could just say, well, I was just following Mr. Sessions' recommendation. Well, at what point do we assign responsibility for this thing?

Mr. SESSIONS. You can assign it wherever you feel it is appropriate, Mr. Chairman, but the discussions with the Attorney General were very complete and she was very, very interested in every single phase and step of it and questioned how the decisions were made. She was particularly concerned about children, and we all know that. She was concerned that if—I think I heard it discussed somewhere that if a child was held up in a window that anything that was being done should immediately be stopped if there was any indication of a child being in danger, so she was very interested all the way along.

You can assign it where you want. My responsibility was to direct the FBI. The Attorney General, of course, is the direct, overseer of the Director of the FBI.

Mr. ZELIFF. But you were the Director of the FBI.

Mr. SESSIONS. Correct.

Mr. ZELIFF. So, certainly as far as the FBI is concerned in the plan itself, you had to be part of that responsibility?

Mr. SESSIONS. That is correct.

Mr. ZELIFF. She at her level had to be part of that responsibility.

Mr. SESSIONS. That is correct.

Mr. ZELIFF. And probably someone above her had to be part of that responsibility.

Mr. SESSIONS. I think the Attorney General has the full authority to do exactly what she did, that is, to approve and order and direct me to proceed with the plan that had been presented to her.

Mr. ZELIFF. Dr. Salem, you mentioned that the GAO report on CS gas was available long before Waco, of course, and you showed it as one example that the CS gas was not harmful.

Are you aware that the State Department disagreed with you, and let me just read and insert this in the record, if I can, Mr. Chairman, According—this is a GAO report, that is dated April 1989—According to State's human rights report to Congress, figures compiled from the press, Palestinian and Israeli Government sources indicate that 366 Palestinians were killed in 1988 as a result of the uprising. While exact figures are unavailable and estimates vary, State Department reported that at least four deaths

resulted from tear gas used by the [IDF], the Israeli Defense Forces, in enclosed areas. You are aware of that?

Dr. SALEM. Yes, sir; I stated that, I believe in my remarks, that there were four deaths attributed to tear gas, but they didn't specify that that was CS, and the other report said that the Israelis were using both CN and CS.

Mr. ZELIFF. OK. So it was inconclusive. At least I can say that there was inconclusive evidence, but there was certainly some evidence, whether it was conclusive or not, that it could be harmful?

Dr. SALEM. Yes, sir.

Mr. ZELIFF. OK. And also in the Ruby Ridge marshal's log.

And again I would like to just bring this up, maybe Mr. Potts would comment on this again. They indicated, and we inserted in the record yesterday that the use of CS gas would be harmful to children, particularly children, and I believe Mr. Potts indicated that they did not feel that this was credible. I guess my same question there, credible or not, it certainly indicates that there is a potential harm to children. Mr. Potts.

Mr. POTTS. Yes, sir.

Mr. ZELIFF. And also Dr. Salem, if you would, afterwards.

Dr. SALEM. All chemicals are potentially harmful. It depends on the amount and the way it is used, sir.

Mr. ZELIFF. OK. Mr. Potts.

Mr. POTTS. Yes, sir. A couple things. One, I understand that the marshal out in Idaho at that time has indicated that he called that back and that——

Mr. ZELIFF. That is good judgment, I guess. Do you feel that was good judgment, that he called that back?

Mr. POTTS. Yes, sir, that is fine, but he indicated that he did not indicate that it was a high risk, that that is not an accurate reflection.

Mr. ZELIFF. So he changed his mind?

Mr. POTTS. No, sir, he just indicated that he did not say it was a high risk. He did indicate that it was a risk to children.

Sir, I think it is also important to note in that log that it doesn't say CS gas. It just says gas. I understand, I was not on the site there, but I understand that there were other types of gasses that were discussed out there. Now, I can't tell you whether this comment does or does not refer to CS, but there were other types of gas that were discussed at Ruby Ridge other than CS.

Mr. MCCOLLUM. Mr. Zeliff, your time is up. Mr. Conyers, you are recognized for 5 minutes.

Mr. CONYERS. Thank you, Mr. Chairman. Gentlemen, the question has been raised more than once across the years that Alcohol, Tobacco and Firearms ought to be folded into the Federal Bureau of Investigation. Can I get a—first of all, can I find out if there is anybody that is open to that suggestion on the panel? Mr. Clarke, Mr. Richard, Mr. Potts, Mr. Hubbell, Judge Sessions? OK—two opens?

Mr. CLARKE. Yes.

Mr. CONYERS. Mr. Clarke, you are open to that. Would you give me a brief comment?

Mr. CLARKE. Well, I think it can't be simply whether you are open to it or not. I do think there are issues of coordination within

Federal law enforcement, and that is an option, but I think there are areas for viable discussion.

Mr. CONYERS. Well, what is your case for—after we open the discussion and it becomes viable then we say, let's put the firearms responsibility of ATF into the FBI. Where do you come down there?

Mr. CLARKE. Well, I think my concerns are a little bit different than just where to place the responsibility. My concerns are things like Attorney General guidelines for undercover operations, Attorney General guidelines for the use of title III's. Those kinds of things vary from law enforcement agency to law enforcement agency, and I think that there is a need for continuity in the way that the Federal Government exercises its Federal law enforcement responsibility. However that is done, I am open to discussion. Consolidating functions and responsibilities certainly is one option.

Mr. CONYERS. Well, bringing them all together, it seems to me, would increase the likelihood of continuity.

Mr. CLARKE. Yes, it would.

Mr. CONYERS. Deputy Assistant Attorney General Richard, could you give me a brief observation on this please?

Mr. RICHARD. Yes, and I will be speaking only on a personal basis because I don't necessarily reflect the views of the department.

Frankly, Congressman, I believe it is imperative that the Attorney General be recognized not just in name, but in function as the chief law enforcement officer over all law enforcement agencies, and in that capacity have the ability to ensure uniformity of procedures and adequate coordination of all functions to avoid inefficiencies, duplication, and problems with respect to processes of critical importance. So I agree that there is much that can be done. But on the other hand, to bring the entire agency within the Department in the context you are suggesting, I suspect may be inappropriate given the vast regulatory and administrative responsibilities that are also assigned to ATF.

Mr. CONYERS. Judge Sessions.

Mr. SESSIONS. Mr. Conyers, there are several aspects to that that could take us many days to discuss, but briefly two things have to be considered. First is the gathering of a great deal of law enforcement power into one agency. There was discussion almost immediately after the raid by ATF that they ought to be incorporated into the FBI.

Mr. CONYERS. I remember. I thought it was almost accomplished at one time. I was waiting for the press release.

Mr. SESSIONS. It was rife all over this town. The gathering of that power, however, is very difficult if you look at what can happen. Right now their responsibility is over an area that is highly political. The Bureau tries to maintain itself apolitically, and certainly I tried to the best of my ability to keep political considerations out of the Bureau's business.

If you actually incorporate that ATF function into the Department of Justice with all of the political concerns that it has, and you have a political Attorney General who is a member of the Cabinet, you have some problems that you might not be able to deal with effectively, and to boot you have got the problem of gathering

so much power into the FBI, and I think that needs to be looked at very, very carefully.

Mr. CONYERS. Well, I will be cautious as we continue to look at it, but, you know, examine with me the fact that the Attorney General already has 95 percent of all law enforcement power in the country anyway and is attacked politically on a very regular basis, so, you know, what is new? That is the way this business goes down.

What I want to do is stop having all of the fights that go on between law enforcement agencies. The Drug Enforcement Agency, the FBI, the Secret Service sometimes, the INS, all have legal capacities that unless they are really regulated by one central authority I think we have a problem.

Now let me go on to the question about the President's involvement, Mr. Hubbell. Was it the President's decision to leave this to the experts and that he wanted to be consulted or was he involved in making the decisions? To what extent—where does the line come down in that area?

Mr. HUBBELL. It is my understanding that the President wanted to be advised if the strategy from pure negotiation changed and the Attorney General did that in a conversation on the 18th, and I kept the White House counsels advised as the week prior to that about the possibility of a plan. I am not aware that the President ever said I want to be involved in the decision or that I have some ideas about this. He wanted to be advised.

Mr. CONYERS. Finally, how come everybody here is for the fourth amendment and the exclusionary rule and the administration isn't? Can you explain that to me? I mean, I have all of these great protestations of support for the constitutional process and then when we get to the administration and the Attorney General, we have two sets of testimony here.

You can only speak for yourselves, but we are having some serious erosions of the exclusionary rule in the antiterrorist legislation, and what does it mean? We have everybody here. There hasn't been one witness during these 5 or 6 days that wasn't for strengthening the exclusionary rule, the attorneys, the Government, all witnesses, so what does that leave us with, Mr. Richard?

Mr. RICHARD. Mr. Conyers, can I respond, and I take exception to at least a portion of your remarks, and that is this Attorney General in this Department of Justice is very much committed to the defense of the fourth amendment liberties. Our positions—as reflected in the antiterrorism bill and the like—in our judgment are consistent with fourth amendment obligations. We strongly endorse——

Mr. CONYERS. You mean eroding the exclusionary rule is consistent with supporting the fourth amendment?

Mr. RICHARD. As you know, the administration and the Department of Justice has a variety of concerns in this area and has expressed them during the course of this legislation, but I am just suggesting that with respect to other aspects that are in the antiterrorism bill and the like, we do believe that they are consistent and supportive of our concerns regarding——

Mr. CONYERS. I would like to just show you some of the testimony that we have had here that I am not putting words in any-

body's mouth or making up anything. This is a very serious problem, a division of position within this administration, that the least we should do is acknowledge the positions that are at opposition within the administration.

Mr. MCCOLLUM. Mr. Conyers, your time is up.

Mr. CONYERS. I am putting nothing in anybody's mouth. That is what I am trying to solve, as a matter of fact. Thank you, Mr. Chairman.

Mr. MCCOLLUM. Thank you, Mr. Conyers. Mr. Coble, you are recognized for 5 minutes.

Mr. COBLE. I am not going to use all my time.

Gentlemen, good to have you all here with us. I am just going to make a brief statement, Mr. Chairman. Some folks have questioned whether or not these hearings have been useful and valuable. Well, use and value may be subject to interpretation, but I think there is no doubt, Mr. Chairman, that these hearings will have been determined to have served a good and useful purpose. Now, having said that, Mr. Chairman, Mr. Chairman, I think you have questions you wanted to pursue, so having said that, I would yield the balance of my time to you.

Mr. MCCOLLUM. Thank you very much, Mr. Coble.

Mr. Hubbell, a few minutes ago you responded by saying that in the meeting with the military which I believe took place on the 14th of April with the Attorney General that they indicated or said very strongly that they believed that if the tear gas, the CS gas, was inserted that the people would come out. You made that very forceful statement; is that correct?

Mr. HUBBELL. That is correct.

Mr. MCCOLLUM. Did you know at that time, were you aware at that time that the Davidians in the compound had gas masks?

Mr. HUBBELL. I believe we were aware they had gas masks, yes. We assumed they had gas masks.

Mr. MCCOLLUM. And the military said they would come out anyway?

Mr. HUBBELL. Yes, they did.

Mr. MCCOLLUM. Were you aware of something that came up yesterday? Mr. Jamar told us in testimony yesterday that he was 99 percent certain in his own mind that if these CEV's went up with the gas to insert it that they would be fired upon and that the plan called for the acceleration of the gas and not just over a lengthy period of time at that juncture, and in response to my question to Mr. Potts about that, he indicated yesterday he was unaware of Mr. Jamar's feelings about this, unaware that this was a likelihood and that obviously the clear implication of that is that probably you would accelerate, that the idea of a long extended period of inserting this gas would not take place.

Were you aware through any source, obviously not Mr. Potts, that Mr. Jamar felt that there would be a 99-percent likelihood that these vehicles would be fired upon or that the insertion of that gas would have to come in an accelerated fashion?

Mr. HUBBELL. I was not aware that Mr. Jamar felt like there was a 99-percent chance that it would happen. I think certainly, at least I did, and I believe others did, believe that that was a pos-

sibility because they prepared for that contingency by saying that if it did happen they were going to accelerate the plan.

Mr. MCCOLLUM. I understand that, but if you knew that it was going to happen in all probability as opposed to just a possibility, would that have affected your recommendation, your thoughts, your discussions with the Attorney General or do you believe it would have affected anybody else's who met with her with regard to this in the final day or two?

Mr. HUBBELL. I believe it was being considered during that entire time that that was, I believed, a likelihood, that the vehicles would be fired upon when they attempted to insert the gas, so I believe that that was not only a likelihood but had to be taken into consideration as everybody made their individual decisions.

Mr. MCCOLLUM. Let me ask you one other question. You talked to Mr. Sage on the telephone on a 2-hour conference call on April 15, the day after this meeting with the military, according to the Justice Department report. Also, according to that report, you talked with him because the Attorney General asked you to get more information, I presume. Is that not true?

Mr. HUBBELL. That is correct. The Attorney General wanted me to talk personally with the head negotiator to go over everything that had happened, to get his opinion of whether Koresh was going to come out, and anytime soon whether he could be negotiated out and what had happened and what his prediction was going to happen.

Mr. MCCOLLUM. What did Mr. Sage in general terms in two hours say to you?

Mr. HUBBELL. In general terms that the negotiations had failed, that he could not negotiate Vernon Howell, David Koresh, out of the building or anyone else, that the only people who had left that building left because David Koresh wanted them to.

Mr. MCCOLLUM. Did Mr. Sage at any time during that conversation mention the names to you of DeGuerin, Zimmermann, or Arnold?

Mr. HUBBELL. We did discuss—I can't tell you the first time I learned. I think I knew before that about the attorneys, but we did discuss the attorneys, the seven seals with Mr. Sage, yes.

Mr. MCCOLLUM. Well, what I want to know is, did he at any time say that Mr. DeGuerin, with the help of religion experts, was working on a new approach with Koresh that might be fruitful and that that approach was one which involved the persuasion of Koresh to come out. Because DeGuerin believed that Koresh had now become convinced he was a messenger of God rather than a martyr under the seven seals and that, indeed, if given about 10 days in time, DeGuerin was absolutely convinced that Koresh would indeed come out. Did that explicitly get conveyed to you by Mr. Sage?

Mr. HUBBELL. He conveyed to me the conversations with Mr. DeGuerin. He did not convey to me that he thought the plan would work. In fact, he indicated to me that it wouldn't, that the attorneys were being manipulated by Mr. Koresh.

Mr. MCCOLLUM. He indicated they were being manipulated by Koresh. Therefore—did he convey to you, though, the concept that the attorneys presented, the idea that Koresh was now viewing himself as the messenger rather than the martyr, and that that

was a very important thing in the view of the attorneys—a big change in Koresh, their rationale for why Koresh now, they believed, would come out, because he had had a change of perspective under his interpretation of these seals? Did you get into that kind of detailed discussion?

Mr. HUBBELL. I got into a lot of detail, but I certainly didn't understand what you have just said to be the case. I understood based on my conversation with Mr. Sage, and I can't recall everything that was said, that Mr. Koresh was manipulating the attorneys to buy more time and that he wasn't going to come out. I did not ever get the impression that there had been a shift in Mr. Koresh's view of himself at all.

Mr. MCCOLLUM. Thank you very much.

Mr. Lantos, you are recognized for 5 minutes.

Mr. LANTOS. Thank you, Mr. Chairman. Most of my colleagues quite properly have been dealing with the details and the particulars of this episode. I would like to deal with the broad picture.

I would like to address you, Judge Sessions. There are few people in American public life in recent decades who have had your experience and your integrity in dealing with American society. I would like to ask you to sit back a bit and look at this episode in a broad historic and conceptual framework.

It has seemed to me all along that three approaches have emerged concerning this tragedy. The first, to which the lunatic fringe still adheres with great tenacity, is that this whole Waco tragedy was the result of a conspiratorial Government attempting to destroy the American people's right to religious freedom and the American people's right to bear arms. I would like to ask you to react to this approach.

Mr. SESSIONS. Mr. Lantos, I think you are very perceptive. In going back to the very roots of our society, from the very beginning we were a different people, we had different drummers that we marched to. The people on the *Mayflower* were in grave disagreement with their church authorities and with their Government. America became, in the whole world, the one place where people could disagree with their Government, and finally with our Constitution we nailed that down and said it was the most important factor in society in America. So it is tremendously important that the Government not be perceived as conspiring against its people, and it must not do that. It must keep an openness and it must keep the dialog going in terms of how the government performs what it does. So I think you are very perceptive and very correct.

Mr. LANTOS. Well, the second broad approach to which, in varying degrees, we all adhere is that obviously some mistakes were made at various stages, and with the benefit of 20/20 hindsight everybody would have been able to do a better job. I don't think this panel is the right one for me to explore what specific mistakes were made and by whom, but I think it is reasonably clear to assume that even the most glorious exercise in recent history—the landing at Normandy on D-Day—had mistakes. So I don't know how far we will get by dealing with the nuanced approach to mistake hunting, and I don't want to deal with that at all because my colleagues are in varying degrees doing a good job of it.

The third issue that I want to get to is the analogy with Jonestown because at Jonestown, Judge Sessions, there was no FBI, there was no Bureau of Alcohol, Tobacco and Firearms. As a matter of fact, Jonestown was basically removed from the sovereign domain of the U.S. Government. It happened elsewhere—it happened in Guyana—yet in Jonestown we have parallels to Waco which are more than striking: a criminally insane, charismatic religious cult leader bringing about the deaths by murder or self-destruction of some 900 American citizens who, for whatever reasons—misguided religious beliefs, fear, timidity, personal relationships, what have you—followed Jim Jones as a god. They did what he wanted them to do—almost identical things—and they all perished.

Is it reasonable to assume that the Koresh tragedy is most analogous to the Jim Jones Guyana tragedy, and that the deaths and the nightmare was preordained by Koresh and his determination that these people die with him?

Mr. SESSIONS. There is a strong suggestion of that and similarities. There is one factor that existed at Waco with the Branch Davidians that did not exist in Jonestown: that is, you had law enforcement officers carrying out what they perceived to be their sworn duty in connection with the gun laws of the United States, and there were 4 officers killed and 20 wounded. It was that action that prompted the FBI that, prompted me to call the ATF Director and say, "Can we be of help?" And there were other reactions, almost immediately to the tragedy that was enacted by the original raid in connection with the ATF function. So there are similarities.

And I can see that it is extremely important that the American people, out of this, understand that law enforcement is not allied against these people; quite the contrary. There are many, many law abiding sects, I am sure, in this United States. There are many, many people who think differently and march to a different drummer. But law enforcement must protect those people and neither be perceived as nor ever becoming the enemy of those people, but rather, protect them.

Mr. MCCOLLUM. Mr. Lantos, your time has expired.

Mr. LANTOS. Could one more witness respond to the question under your rules? May I call upon Mr. Hubbell to respond to the Jonestown/Waco analogy that I developed?

Mr. HUBBELL. Congressman, I think there are a lot of analogies that can be made. One of the unbelievable things to me is the hold that Vernon Howell had on these people. When the Army told me that they have seen grown men run through doors as soon as they have had—were hit with the CS gas and then to see no one come out, you realize the strong hold. I will never forget the scene of the woman who ran back into the fire and the man who was on top of the building and who wouldn't come off the roof. That he had that kind of hold on human beings is frightening, and I do think there are analogies.

Mr. LANTOS. Thank you very much, gentlemen.

Mr. MCCOLLUM. Thank you, Mr. Lantos. Mr. Mica, you are recognized for 5 minutes.

Mr. MICA. Thank you.

Just an observation, Mr. Sessions. We had witnesses from Britain who were testifying on the use of CS gas. You talked about the history of the United States and the perceptions, I don't know if you saw that, but if you did you would see why we broke off from England. Because the cold, calculated manner in which they have no compunction about using CS gas on children and women—and that is one of the reasons why in fact we broke off is a difference of opinion.

Mr. Hubbell, do you recall a meeting on or about the 14th or 15th of April that you attended with Vince Foster, Mr. Nussbaum, and I guess some others which was really a turning point? The discussions were that the FBI had changed their mind, and the change was based on two things. One, a change in the situation. They planned to insert gas, some people were saying; that is one. And, two, there was concern expressed that the FBI had only one Hostage Rescue Team, and that they were tiring. Do you recall that conversation in that meeting?

Mr. HUBBELL. I recall it. I believe I asked for that meeting, yes.

Mr. MICA. But was that the context of that meeting?

Mr. HUBBELL. I am not sure—I've wracked my brain, but I can't remember whether that meeting was after we met with the military, but I believe it was before. I believe that meeting was before, when advising them that the FBI was proposing to insert the CS gas. And they were asking me the same kind of questions the Attorney General was asking—why now and what had changed.

Mr. MICA. Basically, that kind of decision was made at that point or that was the turning point. We see all of this leading to the Attorney General's office and pointing to the responsibility up there—that she made a flawed decision based on flawed advice—so this is sort of the turning point where some of this took place.

Did you or others at that meeting recommend, or was there any discussion about, the use of military force or equipment?

Mr. HUBBELL. There was not any discussion about the use of military force. There was discussion of having the military evaluate the FBI's plan.

Mr. MICA. Dr. Salem, who asked you to brief the Attorney General specifically?

Dr. SALEM. Two of my colleagues at the Edgewood Research Development and Engineering Center.

Mr. MICA. Are you aware of any second opinion? You know this involved use of this gas where women and children—you were aware of that situation, and were you aware of any second opinion being sought by any other expert?

Dr. SALEM. There were other people at the meeting——

Mr. MICA. But were there other experts? You were the expert on CS gas that was retained. There was not a second opinion as I understand it.

Dr. SALEM. I am not aware of that, sir.

Mr. MICA. Mr. Potts, Mr. Bryant made the point earlier that your intelligence people had not told Jamar that on the morning of the 19th the Davidians were overheard as they evidently spread fuel and allegedly started the fire. Jamar has said he would not have proceeded had he known. Whose responsibility was it to get this information to Jamar?

Mr. POTTS. Yes, sir, I think that is an excellent point that Mr. Bryant made this morning.

Mr. MICA. Whose responsibility was it to get the information to Jamar?

Mr. POTTS. We had a setup where we had monitors listening to the conversations that were going on, and they did not hear those conversations. It is not on the log. So you—if the monitors didn't hear the conversation, there is no way it can then get up the chain to Jamar.

Mr. MICA. So no one is taking responsibility.

Mr. Richard, I guess you are one of the folks that are there now. This week, approximately half of a panel we had testified that some of the infants and children, since they didn't have gas masks could in fact have died from inhalation of or the effects of CS gas. At the very least, a Department of Justice department took action that in fact resulted in babies and children being tortured for at least 3 to 4 hours before—according to autopsy reports that we have—most of the two dozen women and children were suffocated or burned to death. We can't go back and change what took place, but do you believe we should adopt a Federal policy with respect to the use of CS gas where women and children, or particularly children and infants, are present?

Mr. RICHARD. I believe that you are really, in the final analysis, going to have to make a case-by-case assessment.

Mr. MICA. Should we have some policy?

Mr. RICHARD. We should certainly go very hesitantly and very thoughtfully in all such instances in the use of gas.

I would not—simply based on my understanding of the effects of gas and its lethality—I wouldn't want to suggest that we just ban its conceivable use on policy grounds without making a case-by-case assessment.

Mr. MICA. Mr. Chairman, do I still have time?

Mr. MCCOLLUM. No, you've run out of time, Mr. Mica.

I recognize for 5 minutes Ms. Jackson Lee.

Ms. JACKSON LEE. Mr. Chairman, I thank you very much, and good morning to you, and I thank you for your presence here. Please bear with me as I just offer to you two amendments in the Bill of Rights. The second amendment talks about a well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

Mr. Sessions, you had mentioned the politicizing of the ATF. But might I get you to comment on whether or not the rights of David Koresh might have been violated under the second amendment as we read this language? Are Americans still protected under the second amendment in light of the need that was perceived to go in and investigate Mr. Koresh?

Mr. SESSIONS. Your use of the word "politicizing,"—I did not say that the ATF was politicized. I said that they are involved in an issue—that is, guns—which is very political in nature by virtue of the second amendment discussion.

Ms. JACKSON LEE. Will you then get to my question on the second amendment and Mr. Koresh?

Mr. SESSIONS. With Mr. Koresh the ATF, it's my understanding, believed that he was in violation of the gun laws of the United

States and that, because he was in violation, he was answerable to a warrant for both arrest and for search. They did that under——

Ms. JACKSON LEE. So citizens lawfully keeping guns for hunting or sport are in keeping with the second amendment. Is that my understanding of what you're saying?

Mr. SESSIONS. It's clear, there is no question that where you keep weapons that are in violation of law and are listed as being prohibited that you are in violation of law and subject to warrant, either for arrest or for a search.

Ms. JACKSON LEE. And so it would be—based upon the facts that have come to you, it would be your assessment that most Americans are protected under the second amendment in the lawful manner of keeping weapons?

Mr. SESSIONS. I think all Americans are protected by the second amendment. I think that the matter of keeping weapons, as long as they are not in violation of the law, is well described and well established.

Ms. JACKSON LEE. Frankly, then, let me say what I think many Americans are thinking as these hearings are unfolding. What they are perceiving, or what their apprehension is, is the fear of militaristic domination and law enforcement domination. And so I've got to pursue, again, this whole question of the fourth amendment.

I asked you about the second amendment because, if we hold to a high standard the second amendment—the right of people to bear arms—it then seems unlikely that a government should attempt to remove from citizens the right of unreasonable search and seizure, which might be thought to be the case under the weakening of the exclusionary rule. And you being a former Federal court judge, and certainly your leadership of the FBI, I again ask you: Do we do ourselves well in this Nation, and answer the question of the fear of militaristic domination and law enforcement domination, by the weakening of the exclusionary rule?

Mr. SESSIONS. I have answered Mr. Scott's original question, and Mr. Watt's original question, and now yours very clearly. I have no question in my mind that the fourth amendment means exactly what it says and that it should be maintained and that we should, on the other side of it, insist upon, and provide for, the enhancement of professionalism in law and law enforcement, so they know the standards and they follow the standards and they are trained so that it is second nature to them; so that you do not have an infringement or impairment of the fourth amendment right.

Ms. JACKSON LEE. So you think it is certainly positive to have an independent intervener—cool heads, cool minds—to review whatever representations are being made by a law enforcement officer for a viable, verifiable search warrant.

Mr. SESSIONS. Well, what's intended is, that a warrant be issued by the authority, having been properly informed. So the answer is yes.

Ms. JACKSON LEE. And proper information is certainly a key element.

Mr. SESSIONS. Proper information is critical, and it always has been critical and always will continue to be. That's the integrity of a warrant. If it's on improper information or deceptive information, then you weaken the warrant, and you should not do that.

Ms. JACKSON LEE. I notice that some who are on the panel this morning visited the site and others did not, and, Judge Sessions, I too hold you in high respect, but let me query you on this issue, for I think, again, our apprehension is of a government in control of itself. Would you respond to the allegations that the reason why we had a Waco is because the FBI was in disarray?

Mr. SESSIONS. The reason why we had a Waco was because——

Ms. JACKSON LEE. The ultimate results of the 51-day siege and the ultimate going in is because the FBI itself, the organizational structure, was in disarray?

Mr. SESSIONS. Well——

Ms. JACKSON LEE. How would you respond to that allegation?

Mr. SESSIONS. Well, I would respond to it this way. It is obvious—from the time of the change in the administration, it was very clear that there was a great discussion about the replacement of the Director of the FBI. That discussion was well known by Mr. Hubbell, well known by the Attorney General, well known by everybody. The decisions had probably been made earlier. But I do not believe that either the discipline or the ability of the FBI was impacted at all.

Now, there may be others that disagree. I know this is a very political thing, and I agree with your observation that it could be that the FBI was impaired in its ability—certainly I was impaired in my ability—to be able to negotiate, to be able to actually go down, as we discussed with Acting Attorney General Gerson.

The idea of a Director ever becoming directly involved in a negotiation because those were hometown folk was dismissed as ridiculous and grandstanding. It was also discussed that it was not appropriate—it was not appropriate for an FBI Director to respond to a hostage-type or this type of circumstance.

So there are elements of it, and I continue, and continue to this day, in my strong belief that you must negotiate, you must be patient, and yet you must apply the appropriate pressure. And I think we did those three things, which indicates that the Government was not in disarray, nor the Bureau.

Mr. MCCOLLUM. Ms. Jackson Lee, your time has expired.

Judge Sessions is going to have to leave us as we go to these votes. We are going to have a series of three. Because he is going to leave, I am going to recognize Mr. Blute, who has a question for him, for whatever time he consumes. And he will then retain the balance of that time, because we are going to have to go vote before he could use up 5 minutes.

Mr. Blute.

Mr. BLUTE. Thank you, Mr. Chairman. I want to thank the panel for their testimony.

Judge Sessions, I want to get back to something that you touched on briefly earlier that I think is a very important point, and that's Mr. Smerick's testimony that he felt pressure from FBI higher-ups to change his recommendations from a passive approach to a more confrontational approach. I think this is a crucial issue—to understand how the pressure built to move toward a confrontational approach.

He mentioned you specifically a number of times in relationship to this, and I wondered if you could explain how you relayed to Mr. Smerick your displeasure with his recommendations.

Mr. SESSIONS. I cannot—I cannot ever recall having a conversation with Mr. Smerick, nor being—indicating to him my displeasure about his approach. I suggest that what you do is go down the line: that you ask Mr. Clarke if he had that conversation, that you ask Mr. Potts if he had that conversation.

I don't know where it came from, but my—I was not displeased with the idea of negotiating, ever, nor the idea of the attempt to negotiate. In fact, as I said, it subjected me to some ridicule because I felt that the negotiations down there in Waco, early on, might have yielded fruit.

I talked with Steve Higgins about it. We talked directly about the possibility of going down together and having circumstances where we could have some negotiation. There were many people who were willing, including Mr. DeGuerin and Mr. Coker, who were able to deal with that negotiation phase.

So no, it just is not a correct concept. I don't know where he got it, but he didn't get it from me.

Mr. BLUTE. So you didn't send any signals that you were concerned about his recommendations of the passive approach?

Mr. SESSIONS. Mr. Blute, I'm a direct man, and I know the King's English, and I know how to speak about what I believe. If there is anybody here who says I indicated that I had this belief, they need to stand up and say so. It just didn't happen.

Mr. BLUTE. Thank you, Judge.

I will reserve the balance of my time.

Mr. MCCOLLUM. Thank you. At this point you used 1½ minutes. We are going to be in recess until 5 minutes after the last of the series of three votes.

Mr. Sessions, we know you won't be back. We want to thank you for coming. For this rest of the panel, we will reconvene. I do not expect to break for lunch for this panel, so we will come back and go through the lunch period.

Thank you.

[Recess.]

Mr. MCCOLLUM. These joint hearings on the Waco matter will convene—reconvene, I should say. We just had a break for votes. There were three votes on the floor of the House. The Members have come back.

When we took our break, Mr. Blute had consumed 1½ minutes of 5 minutes of time which he had in order to ask Judge Sessions a question before Mr. Sessions had to leave, which he knew and we knew in advance he would have to do at around 11 o'clock.

Now I will recognize Mr. Blute for the remaining 3½ minutes of time that he has.

Mr. Blute.

Mr. BLUTE. Thank you, Mr. Chairman.

I would like to ask the FBI representatives some of the questions I asked Judge Sessions about—Mr. Smerick's recommendations and whether there was pressure generated from above to change his recommendation to conform with some type of preordained outcome, which I think is very troubling and indicates where the pres-

sure built for the final confrontation. Perhaps not in Waco, TX, but perhaps in Washington, DC.

Now, Judge Sessions said that he knew nothing about that. I tend to believe him, but I also believe Mr. Smerick is sincere in testifying that although he thought it was Judge Sessions, there were some pressure on him—that there was some pressure on him to change his recommendation.

I wonder if Mr. Clarke would comment on that. Did you know of any or did you engage in any pressure, sending signals down the line, that this recommendation was not the proper recommendation?

Mr. CLARKE. I'm unaware of any pressure, and I did not see or hear or read all of Mr. Smerick's testimony. But one piece that I did catch indicated to me that he believed the pressure was more self-imposed as opposed to somebody overtly imposing upon him.

Mr. BLUTE. But he did say that he—when asked where that pressure was coming from, he didn't refer to it as pressure, but I think we can assume it was a form of pressure. He mentioned Judge Sessions in particular.

Mr. CLARKE. I'm not aware of any discussions that Mr. Sessions ever had with Pete Smerick. I know I never had any, so I'm at a loss to explain that.

Mr. BLUTE. Mr. Potts.

Mr. POTTS. Yes, sir. When I first became aware that there was concern over one of Pete Smerick's memos, and I think it was—I'm not sure of the exact date. I think it was the 5th or somewhere around there, March 5—Jeff Jamar expressed to me some concern that he thought we were trying to go forward with something tactically at that time and that, because of the tone of the memo, would leave them with no flexibility at all down there.

And I said, well, look, that's one opinion and I think what you do is—what we have to do is listen to that, evaluate that opinion. And you also have to get other opinions and see what—how they feel about that.

Someone in Washington at the command center contacted John Douglas just to say—John Douglas was Pete Smerick's supervisor—to say we want you to sit down and evaluate this and we also want you to sit down with Pete and go through his assessment and see if you concur with his assessment.

We actually—I believe Pete's assessment early on, especially with regard to "pull everything back and get away from them, don't show the vehicles the way they are"—I think that memo also said to only do that if they will bring the children out if, they'll agree to bring some of the children out and if, at the same time, Koresh will agree to come out—not at that time, but that he will say that he will eventually surrender.

And it was probably a day or so thereafter that Jeff Jamar made that offer to Koresh that said we'll pull everything back, we'll pull all the Bradleys back, we will pull everything back away if you'll just send—he didn't even limit it to children—if you'll send four people out, we'll pull everything out.

Mr. MCCOLLUM. Mr. Blute, you have 20 seconds.

Mr. POTTS. And that was disregarded.

Mr. BLUTE. Let me just quickly ask Mr. Hubbell: You said the military was to review the plan. Did the military pass judgment on the plan? What was their opinion of the final plan?

Mr. HUBBELL. We wanted them to critique the plan and give us any opinion they had that—of how it could be improved.

Now, I didn't sit in on the meetings that maybe the FBI had with the military before they both jointly briefed the Attorney General and myself and others. And so there may have been other suggestions made prior to that, I just don't know. I know what we discussed. But they critiqued the plan, and they said they believed it would work.

Mr. MCCOLLUM. Mr. Blute, your time has expired.

Ms. Lofgren, you are recognized for 5 minutes.

Ms. LOFGREN. Thank you, Mr. Chairman.

You know, one of the interesting aspects of this hearing is that it's gone on long enough that our constituents back home have realized that there are hearings, and they are calling in with questions and advice.

It's amazing to me how many people in America have been tear gassed. I guess every soldier who went through basic training was tear gassed. I've heard from a lot of them. Now grownups who were undergraduates who had their dorms tear gassed in the late sixties and seventies, and even people who were celebrating the Fourth of July on the Capitol Mall in 1971 during the Nixon administration, when I guess there are some antiwar demonstrators, and tear gas was applied on not only the demonstrators but all the families with kids who were picnicking on the Fourth of July.

One of the inputs I've had is from someone—I've never served in the military, but from someone who did—who suggested that if this had been a military endeavor rather than a law enforcement endeavor, what probably would have occurred would be not a gradual insertion of gas, but massive gassing that would then have brought the people out.

I don't know if that's true or not, but I'm wondering, Dr. Salem, had that happened, would the risk to the people inside have been greater? Were there constraints in terms of their safety that would have prevented the FBI from taking a more military assault gas approach than was taken in this case?

Dr. SALEM. According to the evidence, after you reach the irritating point, if you increase the concentration, it does not really increase the symptoms. You get your profuse symptoms that occur, and the use of tear gas—any type of tear gas and CS entails some degree of risk.

But in my opinion, CS does not cause permanent injury to adults or to children, and this is based on the best available information. And, based on that, CS is the best riot control agent.

Now, the Attorney General was extremely sensitive to the risks and obviously had to balance them. In the final analysis, the question of the use of CS came down to balancing the risks against the consequences, even the consequences of waiting, and that was a very tough decision to make.

Ms. LOFGREN. Mr. Potts, was there consideration of not a gradual insertion but a more voluminous insertion of gas, and why was that—was it really just hesitation, or why was the decision made?

Mr. POTTS. There absolutely was a recommendation. The Hostage Rescue Team and most of the SAC's felt very strongly that it would be better to have a full insertion as well as, you know, the military said if they were doing a military operation, that's the way they'd do it.

Our concern about doing that was we thought that we significantly reduced the risk to the children. We also significantly reduced the chance of them having a violent reaction if we did it in a measured way. We increased the risk to our agents, but we decreased the risk of a violent response, we believed, as well as to the children.

Ms. LOFGREN. Let me ask you this. I have some constituents who are here in the Capitol today, really on a vacation, and they sort of—well, they asked me, why are we doing this? I mean, didn't this happen 2½ years ago? And finally they said, well, the only real value of this in their view—I'm quoting them—was if we could learn something for the future that would make our country better prepared to deal with such an issue. And that has been very much a concern of mine.

Now, I've read through the Treasury report as well as the Justice Department reports, not just on what happened, but about how could we do a better job in the future. And I'm particularly interested in how we are organized to understand groups of people that might be operating on a world view that is different than average.

Now I was frankly very impressed by what I heard the other day about the number of experts and the like.

The question is to Mr. Potts: Are you satisfied that we have done all we could? What if the next group—and that may happen as the millennium approaches—there is a group that is, say, animism, that the average officer really doesn't know much about? Do we have experts set up, and do we have training for our law enforcement people to really understand the information they are getting and incorporate it so that they can make prudent decisions?

Are you satisfied with the recommendations that have been made so far?

Mr. POTTS. I'm satisfied with the recommendations, and I think we've made good progress on those. I think we'll have better coordination. I think we have people who are better trained, and I think that the component of our crisis intervention response group now that puts our negotiators and our Hostage Rescue Team together within one unit—I think that one component of that element is set up to really reach out to places like the University of Michigan that have behavioral science understandings and to develop a real core of people that we can call on in these kinds of crises who can give us the best advice possible.

Ms. LOFGREN. If you could real quickly answer my question, have we trained the people within the FBI to really understand the information that is being given to them by the experts?

Mr. POTTS. I think we're in the process of doing that. I think that that's under way.

Ms. LOFGREN. Thank you, Mr. Chairman.

Mr. MCCOLLUM. Mr. Heineman, you're recognized for 5 minutes.

Mr. HEINEMAN. Thank you, Mr. Chairman.

I'm going to have to say for the past 8 days I've felt some degree of discomfort sitting here on the opposite side of the law enforcement officials as it relates to that table, and that table only, and certainly you folks being in a high-ranking administrative position.

But that discomfort is rather easy for me to take because I know that what we are doing here is not really second-guessing but critiquing what happened on two issues that really need to be critiqued so that we can understand what happened, we can place responsibility—and I don't want to say blame because I think the people at the operating levels really thought that they were doing the right thing, and certainly I wasn't there.

But as I see this information having filtered up the line of responsibility, it gets fuzzy, it gets hazy, as to the Attorney General, who did initially feel a great deal of discomfort with what happened. And I believe Mr. Langdon in the Treasury Department, or someone of his rank, felt discomfort too with the February 28 raid.

But those feelings of discomfort really didn't last long. And I would just like, if I can—and I don't have enough time, 5 minutes—to find out what really changed people's minds, what changed the Attorney General's mind from a feeling of discomfort, and what changed Mr. Langdon—if it was him—his mind. I know Mr. Higgins did prevail upon him to accept the plan, and of course we know what happened after that.

But I think being a Member of Congress, I have, as we all do, a strong obligation to let the people in this country know that they are getting a fair deal—that there is no coverup, that there was no coverup. Or if that's the perception that's out there, then I think we need to—I think we need to throw cold water on that fire, because as it grows we can see militias grow because of a strong feeling against government and law enforcement. And I'm not going to say there's a direct relationship, but I believe that there's an indirect relationship to what happened in Oklahoma City by a mindset in this country that feels Government is against them and needs to be retaliated against.

So what we're doing is extremely important, and Congress itself is on trial here, and I've said that before. So, you know, I don't make any apologies for us asking hard questions, and certainly I'm not—I'm not looking to throw cold water on witnesses as we have here, discrediting witnesses, even law enforcement, because we didn't agree with them.

But having said that, Mr. Potts, on April 14 Mr. Jamar related to you the conversation he had with the lawyers, Mr. Livingston and—Livingston, is that right?

Mr. POTTS. Mr. DeGuerin.

Mr. HEINEMAN. DeGuerin and Zimmermann, I'm sorry. And he told you that he thought that—that they thought they had a deal with Koresh to come out with that letter that he had.

Mr. POTTS. I think that's been—I think the whole plan to come out was earlier in April. The whole plan, that plan was the same as it was early in March except that they inserted the attorneys into it.

The issue of manuscript that now he has decided to pass——

Mr. HEINEMAN. Can I reclaim my time?

I may have my dates wrong, but the attorneys stated that Mr. Jamar had told him you have all the time you need, and I have a little problem with that being changed, if it was changed. Apparently the lawyers felt devastated when they found out that on the 19th there was an assault on the compound.

Did anybody have a feel that perhaps the chemistry has changed and this might be an open end to pursue, a reason not to go in? And I can certainly understand law enforcement's wanting to go in. I was part of that, and I am sympathetic with their feelings on that.

Mr. POTTS. Sir, I never got the impression from talking to anyone onsite at Waco from my position in Washington that anyone believed that there had been any substantial change in David Koresh.

In fact, it was clearly stated to me that they thought this was a continuing manipulation, a continuing delaying tactic, that he had no intention of coming out, and they believed—they continued to monitor that from the 14th up through the morning of the 19th, and saw nothing to convince them any differently in between.

Mr. HEINEMAN. OK. Could it not have been handled differently as it related to relieving your HRT teams? And they certainly should have been relieved, replacing them with perhaps DPS—Department of Public Safety—or another agency, unless you can tell us here that there was some imperative for the FBI being able to handle that alone.

Mr. POTTS. Well, I believe that the Hostage Rescue Team, by its nature and by its training, is the finest law enforcement team of its type in the Nation, so I do believe that they are different from the other teams. They are a team that trains every day. They are a team that is full-time tactical as opposed to our SWAT teams or most other SWAT teams around the country.

But more importantly than that to me in terms of waiting, we had a lot of behavioralists at that time who were looking at letters that were—that Koresh was sending out and who had been evaluating him throughout—some of them throughout the course of this standoff, who said that they didn't believe that Koresh was going to commit suicide, they didn't believe that there was necessarily going to be a mass suicide, but they think that if there is a suicide effort, that it would be suicide—as they call it, suicide by cop, and that there might be some kind of breakout plan, and that Koresh had his own time frame. The Government has their timeframe that they are working under, and David had his own separate one, so he might decide at any time to come out.

Obviously——

Mr. HEINEMAN. Thank you.

Mr. MCCOLLUM. Thank you very much, Mr. Heineman.

Mrs. Collins, you are recognized for 5 minutes.

Mrs. COLLINS of Illinois. Thank you, Mr. Chairman.

During these hearings we've listened to exhaustive academic discussion about CS tear gas, and these issues will continue to be debated, as they should. But for the American public, the basic question is how carefully the FBI and the Department of Justice considered the effect of CS tear gas on children, pregnant women, and the elderly before it was inserted into the Davidian compound.

The testimony we have heard has made it clear that the decision to use tear gas had to be balanced with the risk to these individuals against the risk of allowing the standoff to continue.

So Mr. Clarke, I'm going to ask you, what was your involvement in the decision to use the tear gas in the compound, A; what meetings you personally participated in, B; and who you consulted with about the possible effects on the children, C.

Mr. CLARKE. That's a very long question, and I have to tell you before I get started, I would have a long answer to it, because there's a number of factors, and I know that you're trying to condense time.

The issue of tear gas came up fairly early on because if there were a problem inside that we had to respond to, how would we respond? And so the issue of tear gas came up fairly early on, and the experts in the Criminal Investigative Division and on the Hostage Rescue Team almost at the outset began to do research on a number of different alternatives.

Sometime in late March the other options had been tried and failed. And the recommendations were coming in from Waco that they wanted to develop a plan to use gas, and a plan was submitted. It was deemed by most of us at headquarters that it was not the time yet to do that; there were other things that we were still exploring.

Those discussions were ongoing when Mr. Potts and I accompanied Mr. Richard to Waco, and that was on the 7th and 8th of April. At that point I still did not believe that the use of gas was appropriate.

After the discussions we had in Waco, when we had the opportunity to talk to our negotiators, the HRT people, the SAC's, all of the people, all of the components that were involved, that on the night of April 8, after consulting with the four SAC's, the Hostage Rescue Team leader, Mr. Potts, and myself, I became convinced that there was an option that could bring about a safe resolution to this problem.

We returned to Washington and briefed the Director. That was done on the 9th. Concluding that briefing, the Director also agreed and contacted the Attorney General. So I would say that my decision supporting it occurred on the evening of the 8th and I discussed that on the 9th with the Director.

Mrs. COLLINS of Illinois. Did you specifically consult with anyone about the possible effects on children of the CS gas?

Mr. CLARKE. Extensively.

Mrs. COLLINS of Illinois. Extensively?

Mr. CLARKE. Extensively.

Mrs. COLLINS of Illinois. With the people you've already talked about.

Mr. CLARKE. And Tony Betz, who I understand has already been a witness here. I at that time had not had direct conversation with Dr. Salem, but I was aware that the people who were actually doing the research here had talked to a number of experts.

We had had an ongoing program for some time under Director Webster, wherein the Bureau began exploring various less-than-lethal weapons. We had held symposia at Quantico examining different options. There was extensive research that had been con-

ducted and a number of people within the Bureau and outside the Bureau were consulted.

Mrs. COLLINS of Illinois. I don't want to cut you off, but I want to hear what Dr. Salem has to say about the use of CS tear gas on children and whatever he thought about this.

Dr. SALEM. When I was contacted, I reviewed all the available literature of the effects of the toxicology and safety of CS, in particular its effect on children and pregnant women, and based on all the available literature that was—there were a lot of experiments done on adults and older people. No experiments were done on children.

However, there were several cases reported in the literature: The one case of that young infant, that 4-month-old infant who survived after 28 days of hospitalization following a massive dose that it was exposed to. The other is the actual occurrence in Northern Ireland when CS was used at that time, and the reports show they investigated it. There were children that were exposed. None of the children required hospitalization. They don't know what the dose was, but it was much less than the other one.

Those are the only published literature on the effects of CS on children. And, based on that, as a scientist we look at what the facts are rather than anecdotal, and even though these were anecdotal, they were followed up by epidemiological studies. There were animal studies using young animals, and they did not find a difference. And it was concluded by many researchers, very competent researchers, that there was no difference in sensitivity to the CS by young people, older people, and the infirm.

And "tear gas" is really a generic term. CS has been available—it is not a military-unique chemical; it has been available to law enforcement officers and even to the public. As you know, you can buy CS in combination with other deterrents in the grocery store.

Mrs. COLLINS of Illinois. Well, let me ask you something before you go any further. If you had been in a position of making a decision whether or not to put CS gas into the Davidian compound, knowing that there were children there, would you have done that?

Dr. SALEM. I was not asked to make that decision——

Mrs. COLLINS of Illinois. I said "if." It's a hypothetical.

Dr. SALEM. If a——

Mrs. COLLINS of Illinois. Based on your scientific knowledge.

Dr. SALEM. If chemicals have to be used, that would be the chemical of choice.

Mrs. COLLINS of Illinois. Why?

Dr. SALEM. Pardon?

Mrs. COLLINS of Illinois. Why?

Dr. SALEM. Because it is the most extensively studied agent of that type and it is the safest. There are no authenticated deaths following its use.

Mrs. COLLINS of Illinois. Thank you.

Mr. MCCOLLUM. Thank you, Mrs. Collins.

Mr. Souder, you are recognized for 5 minutes.

Mr. SOUDER. I just want to make sure that the record shows that in fact Mr. Betz said that he was only a tactical expert yesterday. And he referred to Dr. Salem, that the extent of the research consists of, in Ireland we don't know the dose, we don't know whether

they were necessarily confined, but there was this one child who recovered, and that, based on this extensive research, a decision was made that—Dr. Salem himself just said that, if you had to use a chemical, apparently because at least there was no evidence of deaths, he would have used this chemical.

Hardly a compelling argument. Not one that proves that any deaths occurred or anything like that happened, but not exactly a compelling argument.

I earlier heard Judge Sessions say that the Attorney General was kept briefed in detail because of her concerns about the children. And yet we heard yesterday when I asked Mr. Jamar, he said 99-percent likelihood that they would be fired upon, which seemed pretty logical actually, but that didn't get up the system.

I wanted to ask Mr. Hubbell whether he and the Attorney General—did you know that the FBI didn't know where the children would be located in the compound when they gassed it?

Mr. HUBBELL. They did not. We were advised—we asked where the children would be located, the likely place that they would be located, and were told by the FBI where the likely place they would be located was based on interviews with people who had left the compound. So we did ask those questions and were given those answers.

Mr. SOUDER. OK. Because Mr. Jamar said yesterday when I asked him that he didn't know, and in fact they had hoped they would be in the bus but they weren't there.

So I just wanted to make sure that they didn't—they did express to you that they didn't exactly know, but they made their best guess.

Mr. HUBBELL. They did not precisely know. I think they had hoped that if the children didn't come out that they would be put in the bus. I don't think I was told that that's where they would sleep that night. I think they were more than likely supposed to be sleeping with their parents in the compound.

Mr. SOUDER. One other question, then I'm going to yield to Mr. Bryant.

In a similar vein, when I asked Mr. Jamar about the—where they were pouring the fuel and he said that they couldn't hear back that they were pouring the fuel, did the Attorney General and you understand that there wouldn't be a way to hear what was going on in the compound? Because he said if he had known that, he would have adjusted.

Did you understand that there was an equipment problem, that there wasn't going to be that exchange?

Mr. HUBBELL. We were aware that there were surveillance devices in the compound. We weren't totally—my understanding was—and then on the day some of them were not working—that there was some suspicion that the people within the compound knew there were surveillance devices and were using that as part of the manipulation and that they could, you know, terminate their usefulness or destroy them at will.

So we knew that we had surveillance devices within the compound, but we weren't confident that they would be available during the insertion of gas the day before, and then certainly we

were aware of some of the problems that occurred while we—while the scene unfolded on the 19th.

Mr. SOUDER. Thank you very much.

I yield the rest of my time to Mr. Bryant.

Mr. BRYANT of Tennessee. Thank you.

Let me ask, in that time, just about one question here. Mr. Hubbell, putting things into context at the White House at this point, you were appointed by the President—again, you're, some say, the best friend—to head the transition team, the administration into the Department of Justice, and they had people in the other departments also.

But you were the one that headed the transition team in Justice, and we have just been through, in the context of that timeframe, the failures of, I guess, Ms. Baird, Ms. Woods, I don't know if Ms. Guinier had come along at that point, but certainly there were some failures with the White House and the Department of Justice.

Then you've got the Waco standoff, the siege certainly applying some pressure there, and I'm still having some difficulty in accepting the statement that you were not dealing directly with the White House, and maybe I'm—maybe I didn't make my questions clear about the President, but certainly you had lots of other friends over there—Mr. Lindsay, Mr. Foster, McCleary, all from Arkansas—and heading the transition team you had Mr. Gerson who was the Acting Attorney General, but he was a Bush holdover.

I can imagine your contact, especially with the President indicating that he wanted to be made aware of any change, any shift in strategy. I find it difficult, and I found a couple of phone calls when the President called you during that timeframe on the list here.

The article that I quoted you from the paper said—and, again, you deny making this—a statement that you had talked business with Clinton only when the President sought updates in the early days of the cult crisis in Waco, and that's certainly consistent with the telephone calls from the President to you during March, which is documented on the log.

Again, weren't you, in fact, communicating with the President because he wanted to know what was going on, and, if there was a change in strategies, ultimately he could have approved that or ultimately he could have even disapproved that?

I understand that he relied a lot on his new Attorney General, Ms. Reno, at that time, but in the end he did have that ultimate authority as the President, as Ms. Reno's boss, as your boss, to say, "No, let's don't do that."

I understand he relied on her, but, again, under the context of the situation, weren't you, in fact, dealing with the President some and other members, other friends, over there and keeping them apprised as to what was going on at Waco?

Mr. HUBBELL. I did. I think I did testify, Congressman—if I didn't, I want to make clear—the beginning when the FBI advised me of their plan and the possibility of the insertion of gas, I did notify the White House counsel and kept in contact through the White House counsel. I'm sure the White House counsel advised the President.

But that's the way I kept the White House advised of the plan and what we were doing, the evaluation that was going on. So I

don't mean to say I never talked to the White House. I did not talk to the President of the United States about this issue prior to the 19th.

Mr. MCCOLLUM. Mr. Bryant, your time has expired.

Ms. Slaughter, you are recognized for 5 minutes.

Ms. SLAUGHTER. Thank you, Mr. Chairman.

I'm sure you gentlemen are familiar enough with the way the Government and Congress operates to know that you were damned if you did and damned if you didn't, and if you followed some of the advice you are getting here now and built a fence or stayed there for 2 years, everybody would be yelling every day, "Look how much it costs. These are supposed to be the best in the world. What is going on down there?"

One of the things that I have learned is that before Waco, the Department, ATF—and I guess Mr. Potts can verify this—really didn't have very much connection to the top echelon of the Treasury Department, and before Secretary Bentsen made some changes it was not really a normal thing for the Secretary of the Treasury to know at all times what BATF was doing.

Is that correct, Mr. Potts?

Mr. POTTS. I'm afraid I'm not your good expert on that. I'm not sure how ATF operated within Treasury in terms——

Ms. SLAUGHTER. You came in with the Clinton administration, or were you already there?

Mr. POTTS. I came in over 21 years ago as a civil servant, FBI agent.

Ms. SLAUGHTER. I see.

Mr. POTTS. I'm just an FBI agent.

Ms. SLAUGHTER. That had been testified to here before, and I think probably the one thing that I've learned is that there have been massive changes at Treasury to make sure that the kinds of breaches that happened won't happen again.

For example, I'm absolutely persuaded from what I've heard that the reason four agents died and the Branch Davidians on February 28 is because there was no security, and a postman who heard it from a television man, who learned it from a woman, who had rented ambulances to the ATF talked, and that steps had been taken to make sure that that doesn't happen again.

But one of the things that was the saddest to me—and I don't know if you've heard the testimony; I hope you've been busy since we all work for the same company here—was from Ms. Sparks. It would seem to me, when she walked into that compound, knowing that her visit had been compromised, she was only allowed to see certain children in certain areas, and yet she said by her testimony that there was one running—one sink with running water, there were no sanitation facilities, the children were obviously shell-shocked to some degree, that conditions were so bad there I've often wondered why the State of Texas did not remove the children from that compound at that time.

Has that occurred to any of you, that under child protective laws they would have done that normally and what a change that might have made?

It hasn't. I see that. All right.

One of the things that I wanted to point out as well is that because of the deteriorating conditions—and, as a former bacteriologist, I understand this very well, and I think that everybody on the scene has explained the deteriorating sanitary conditions taking place in that compound—there was no electricity, correct? There was no way to heat food, no way to heat anything up to kill bacteria, there was no way to dispose of sewage. Is that not correct?

Mr. POTTS. That's correct.

Ms. SLAUGHTER. I think that also you have seemed to have heard from every behavioral psychologist in America and all kind of negotiators. I don't hear of anybody talking to any medical personnel. I assume they would have said to you, "Those children have got to come out of there or they are going to be seriously ill from the conditions under which they live."

Is it true, not a single soul could leave that compound without Koresh's permission? There seems to be an implication here from time to time, if you waited, people would have come out.

Mr. POTTS. I think the general way that he told us from the beginning, anybody who wants to come out can come out. However, the problem with that is, we found the process, in order to come out, you have to first have, I think, as one of the negotiators described it, an exit interview with David, and it's that point which we believed they talked about their salvation and their soul, and so a lot who may be wanting to come out were—had their mind changed as a result of those talks.

Ms. SLAUGHTER. The people who did come out, there were some 34, I believe, that were saved, that did leave the compound.

Mr. POTTS. Thirty-five total before the fire.

Ms. SLAUGHTER. He started out first with children—correct?—small.

Mr. POTTS. That's true; in the first few days a lot of children came out.

Ms. SLAUGHTER. Not his own biological children, of which I think there was some 15; is that correct?

Mr. POTTS. I don't know the number of his biological children except that on March 5 or—rather, I think March 5 was the last day that any child came out. March 7, or in that area, he told our negotiators when we were talking to him about more children, sending more children out, he said, "You're talking about my biological children now," and pretty much indicated that there wouldn't be any more children coming out.

Ms. SLAUGHTER. Did you have any reason to believe that there was a special category of persons coming out, perhaps somebody he was uncertain of, somebody who caused him trouble? Did he get rid of any people that he thought might want to cause an uprising among his other followers, or something, as things got more and more tense and conditions got worse?

Mr. POTTS. I think our negotiators believed and they believed onsite that those—you have just described very thoroughly those who came out.

Ms. SLAUGHTER. As far as I'm concerned, I think these hearings have shown what I had said before, that I think changes have been

made. Other than that, it's taken an awful lot of man and woman hours of Federal employees for us to go over this one more time.

I can appreciate what it has been like for you. I'm sitting here watching people, grown men, burst into tears and the pain people have had of reliving this. Hindsight is so easy for us to talk about. But, once again, I think that law enforcement and the people who were there facing death on a daily basis and who walked up to those doors really deserve not aggravation but the fact that we are grateful that they will do that when the Government asks them to.

Mr. MCCOLLUM. Thank you, Ms. Slaughter.

Mr. Shadegg, you are recognized for 5 minutes.

Mr. SHADEGG. Thank you, Mr. Chairman.

Mr. Potts, I'd like to begin with you. First of all, I have no sympathy for the Davidians who participated in the murder of the agents. Clearly you were dealing with some coldblooded people. The problem is, we had women in there and we had children in there as well.

Your goal and the FBI's goal was to avoid further loss of life, was it not?

Mr. POTTS. Yes, sir, it was.

Mr. SHADEGG. OK. And this, while not a classic hostage situation, you had to presume the children were innocent and perhaps some of the women inside were innocent, did you not?

Mr. POTTS. Well, we certainly believed that there were people in there who—we considered it a barricaded situation, but they were kind of a hostage of the circumstance.

Mr. SHADEGG. And the children certainly were not guilty of any criminal conduct?

Mr. POTTS. That's right.

Mr. SHADEGG. OK. The goal of the gas insertion plan was, as I understand it, to force the Davidians out, hopefully without harm to them and without harm particularly to the children; correct?

Mr. POTTS. Yes, sir.

Mr. SHADEGG. OK. Indeed, not injuring the children was an extremely important goal for the Attorney General, it appears, from her discussions.

Mr. POTTS. Yes, sir.

Mr. SHADEGG. And for the President. Is that what you understood?

Mr. POTTS. I certainly understood that no one wanted any harm to come to anyone there.

Mr. SHADEGG. You would agree with that, would you not, Mr. Hubbell?

Mr. HUBBELL. Yes, I would.

Mr. SHADEGG. As a matter of fact, we have had extensive testimony about the selection of CS gas as nonlethal or nontoxic, and we have great debates about whether it was or wasn't, but the whole idea here was not to hurt people; right?

Mr. HUBBELL. That is correct.

Mr. SHADEGG. I want to go into a series of pictures that I wish I had a video, because if I had a video, which I have watched but I can't show here, it shows this sequence rather dramatically.

You see these pictures over here. You will see at the back of the building right there where the gentleman is pointing is a room that

is differently called—sometimes the FBI calls it a shooting range, sometimes it's called a gymnasium, sometimes it's called an auditorium.

I believe it is some 65—Sean, how long is it? Sixty-five feet long. And how deep? OK.

I want to focus on that building right there and on that corner. You see it is structurally sound now. This is while the compound is going on.

Would you go to the next photo?

In the next photo—and, unfortunately, we don't have these very well, but we are now looking kind of from the front corner. These are taken from the airplanes. You will see that where he is pointing, that section of the building is gone. Indeed, a great portion of the building is gone.

The diagram which shows the insertion shows—when you watch the videotape—shows this tank. Can you show the tank, because the tank is visible in that picture. That tank right there goes into that portion of the building, and, unfortunately, we don't have these photos in a very good sequence. I've got to deal with what I'm given.

But it goes into the building so far that the back of the tank disappears. You can't see it. Indeed, it goes so far into the building that it appears it goes all the way to the opposite wall, and it goes in and out and in and out and in and out and in and out. I couldn't count the number of times.

But you will see in this particular picture—Sean, you can show the left slope—the right slope of the roof is still there. Is the left slope of the roof still there in that photograph? Both slopes of the roof are there.

Go to the next picture, if you would, Sean.

The next picture shows that the tank goes in and back out, and that portion of the building then is gone. Here's the tank going in.

Go to the next picture, if you would, Sean.

Here it shows—can you see the roof line? Show the roof line of that part of the gym, Sean. Right there is the peak line. You will see now both the left and the right sides of the back of that gym are gone. Indeed, the entire roof of that one-half of the gym is crushed. So we are talking a space of 50 feet by 50 feet is crushed, and the entire part has fallen, and the video shows the tank going in and out and in and out.

If you would go to the next photo. Now we have that from the back, and we see the tank from a different angle. This is the tank that has gone in and out repeatedly over and over and over again, and now we can see from that side that that part of the building is completely crushed.

I guess I find that somewhat inconsistent, and I'm trying to find out—I understand the theory of puncturing escape holes. Some were in the building. Indeed, on the front there are two or three escape holes that were punched.

If you will show, Sean, on the left side of the back, that building, there is an escape hole further to the left, right there. This is an escape hole. I'm having some difficulty with that entire section of roof, some 50 feet by 50 feet or 45 feet by 45 feet, being crushed by a tank going in and out, and while you can't see in it a still

photo, there is a picture of the tank literally going up on top of the roof once the roof collapsed and hit the ground. In the video you can see that very clearly, and it hits the ground.

In a later sequence, the tank—at one point it falls on the tank. The tank comes out; it falls the rest of the way. The tank goes up on the roof and crushes the right side and goes back out and goes back in and crushes the left side of it to where, as you can see in this final paragraph, that entire section of the building is gone.

I am having great difficulty with understanding, if the insertion of gas is to be nonlethal, why we are crushing an entire section of the building, and if the Attorney General was told—and I am running out of time, so let me just posit these questions.

If the Attorney General was told that a part of the strategy this early was going to be to crush significant sections of the structure, was the Attorney General warned that, while we've been very cautious about selecting what your experts say was a nonlethal gas, we might still crush sections of the building?

Did she understand that people might be killed if sections of the building were crushed?

Was she or the President advised that if sections of the building were crushed, that might itself cause a fire because there was a Coleman—it was known they'd been using Coleman lanterns for days to light the building?

I find an inconsistency between the gas insertion plan to save life and the actions of this tank repeatedly going in and out, crushing that section of the building, and my specific question is: Was the Attorney General warned of this part of the plan and what was its purpose?

Mr. MCCOLLUM. A couple of you may respond. I don't know who is best. Mr. Potts, Mr. Clarke, whoever has the best response to that.

Mr. POTTS. Well, I believe that there was a discussion that there would—there may come a point in this where we would try to poke holes in the building. My understand——

Mr. SHADEGG. I understood that. This I don't see as a hole.

Mr. POTTS. I understand that, yes, sir. But I believe the CEV, according to what the HRT drivers said about it that day, was trying to get around to get gas into the back of that compound which they could not get to any other way, and I do not believe that there were any bodies found in that area.

Mr. SHADEGG. The closest bodies were found a little further in. Each one of those five bodies, it's reported, had extensive—according to the autopsy report, extensive body mutilation. Now, I don't know.

Mr. MCCOLLUM. Mr. Shadegg, your time has expired. They can respond. I think Mr. Clarke—you have a right to have two responses here under some kind of ground rules.

Mr. Clarke, would you be appropriate, the one to respond in addition to that? I believe the question in part was, was the Attorney General informed of the prospect of this type of damage? Did you all anticipate any—that type of question.

Mr. CLARKE. Have you all been made aware of the briefing book that we prepared for the Attorney General dated April 12?

Mr. MCCOLLUM. Yes, we have it.

Mr. CLARKE. Did you read it?
Mr. SHADEGG. It is not this report?
Mr. MCCOLLUM. No, no, there's a briefing book.
Mr. CLARKE. There's a briefing book for the Attorney General.
Mr. SHADEGG. No, sir.
Mr. CLARKE. Well, I suggest you read it.
Mr. SHADEGG. Thank you, sir.
Mr. CLARKE. Let me explain. The briefing book explains part of the plan giving expanded authority to the onscene commander as this siege extended on. After 48 hours, if there were no people coming out, they were authorized to initiate a systematic dismantling of the building.

The authority delegated to the onscene commander was that, if at any time the Davidians responded in such a manner that the lives of the agents were placed in danger, the onscene commander had full authority to escalate the plan.

The judgment for that kind of decision was left to the discretion of the person on the scene—that would have been Mr. Jamar—and the dismantling of the building was part of that overall plan which was contained in that book.

Mr. SHADEGG. So the Attorney General was aware they could begin to crush the building 6 hours in rather than 48 hours?
Mr. CLARKE. I don't think I said that.
Mr. SHADEGG. There was a question——
Mr. MCCOLLUM. Mr. Shadegg, your time has expired. I cannot let you pursue that.

Mr. Barr, I believe we are reserving on the right side over here. We only have Mr. Taylor left.
Mr. TAYLOR. Mr. McCollum—Mr. Chairman.
Mr. BARR. Thank you.
Mr. TAYLOR. Mr. Chairman.
Mr. MCCOLLUM. Mr. Taylor does want to go?
Mr. TAYLOR. Mr. Chairman, with the Chair's approval, I would give 30 seconds of my time to Mr. Conyers and reserve the rest.
Mr. MCCOLLUM. You may do that.

Mr. Conyers, you are recognized for 30 seconds of Mr. Taylor's time, and I will clock it here.
Mr. CONYERS. All right. I know you will, Mr. Chairman. Thank you very much.

I wanted to return to Mr. Richard, because we had a discussion about the administration's position on the exclusionary rule, and I wanted to agree with you that the administration joined us in opposing, early on, a contract item, H.R. 666, that provides that any evidence discovered as a result of a good faith search is admissible in evidence, which in essence does away with the warrant requirement, because I doubt if anybody is going to come forward and say they weren't in good faith when they found illegal evidence.

But in the antiterrorism bill they had a—there's a section there that deals with search through a wiretap. The bill allows law enforcement agents to obtain a wiretap without a warrant under emergency circumstances if an act of terrorism is involved, and it is gone on to be defined.

Mr. MCCOLLUM. Let me warn everybody here that I cannot say you have 30 seconds to ask a question like at the end. The clock is running for the whole time.

Mr. CONYERS. I'm not asking a question.

Mr. TAYLOR. I'm also aware of that, Mr. Conyers. I did give you 30 seconds.

Mr. MCCOLLUM. We are over a minute now.

Mr. CONYERS. Are you aware of the point that I am making here on antiterrorism, Mr. Richard?

Mr. RICHARD. I am to this extent, Congressman, that our position with respect to the terrorism bill is, as I tried to indicate before, we believe consistent with the mandate of the fourth amendment. We do believe——

Mr. CONYERS. It allows wiretaps where terrorism is involved without a warrant.

Mr. RICHARD. Congressman, the current title III, which is the wiretap—the general wiretap statute, does have an exigent circumstance requirement in it already, at this point, which permits when there are exigent circumstances the utilization of wiretaps.

Mr. CONYERS. I'm aware of that.

Mr. RICHARD. Followed by, within I think 24 hours or 48 hours, notice to the court and submission of documents. I think it is that approach which we believe is consistent with the fourth amendment that is embodied in the terrorism bill.

Mr. CONYERS. So you just said that you are supporting a weakening of the exclusionary rule by allowing terrorism now to be involved in wiretapping.

Mr. RICHARD. No, no. On the contrary, the administration's position has been——

Mr. CONYERS. Well, look. Stop, please. We'll do this on somebody else's time. You're available when we're not here having hearings on Waco, and I would like to pursue this discussion with you.

Mr. RICHARD. I look forward to it.

Mr. MCCOLLUM. The gentleman consumed 3 minutes of Mr. Taylor's time. He has 2 minutes remaining. I presume he wishes to reserve it.

Do you want it now?

Mr. CONYERS. Mr. Chairman, the point——

Mr. TAYLOR. I'm going to hold on to my 2 minutes.

Mr. MCCOLLUM. I will yield now down here to Mr. Barr 5 minutes.

You are recognized for 5 minutes, Mr. Barr.

Mr. BARR. Thank you, Mr. Chairman.

Mr. Clarke, very briefly, you mentioned some briefing book. It is true, is it not, that the Attorney General has admitted publicly that she didn't read that briefing book?

Mr. CLARKE. I am not aware of that.

Mr. BARR. I can't hear you. You need to use the microphone.

Mr. CLARKE. I'm not aware of that.

Mr. BARR. OK. Well, it is true. It is contained in the Deputy Attorney General's report at page 272. So you know, my only point is, don't kind of, you know, lecture us about it. She didn't read it either.

Mr. CLARKE. I think the question——

Mr. BARR. It's not a question. I don't want to make a big deal out of it. Your implication I don't think was appropriate.

I would like, if I could, please, to Mr. Bush, if you could——

Mr. RICHARD. Mr. Chairman, may I——

Mr. BARR [continuing]. Take this photograph—probably Mr. Potts, I'd like to follow on some testimony of yesterday. This is a picture taken immediately after the fire, with the rubble still smoldering in the background, showing the entry to the bus, the underground bus. And, Mr. Bush, if you could show me the photograph that was up there and point out the area right here.

Mr. Potts, is the area that Mr. Bush is pointing to the area where that goes into the bus?

Mr. POTTS. I believe so, sir. Yes.

Mr. BARR. OK. I mean you're welcome to it also. I think that's the area there.

Mr. POTTS. That's fine.

Mr. BARR. The area that Mr. Bush is pointing to is the entry into the bus, and the picture that you have is after the—immediately after the fire, showing, I believe—does it not?—that all but a very small corner of the bus is covered up with dirt.

Mr. POTTS. I think we may have dug that out.

Mr. BARR. I am sorry?

Mr. POTTS. We may have dug that out.

Mr. BARR. So it may have been completely covered up?

Mr. POTTS. I think it may have been. I just don't know for sure.

Mr. BARR. OK. There is testimony that I am going to refer to from the court case, the criminal action number W93CR046 et cetera, which is the case out of the U.S. District Court for the Western District of Texas, and what I am going to refer to is testimony by one of the Government's witnesses, Mr. R.J. Craig, who was driving one of the vehicles that day, and his testimony, for example, after this—this was during extensive cross-examination, was that, "we received instructions to knock the hole in the wall after about 10:30," and then he goes on, the question to him is, "but the tunnel," this is the tunnel into the bus from the inside, "the tunnel that you were trying to get the CS gas into was lower than the area than where you were dispersing it." And then a further question, "Well, you went in to try to stop people from getting into the tunnel area or the bus area to get into that area outside. You have already described that, have you not?"

And then his answer is, "Yes, sir." Then there is further discussion, that one was at page 5599, and then at page 5600 and the question is "So at the end of that building this is where you expected there would be an entryway into the bus," and then he says "Yes, sir," and then a further question, "and that is why you were directed to shoot the CS gas there, right?" And he says "that is correct," and then a final question, and a final answer, "to put gas in the hallway of the building to prevent people from coming down the hall and getting into the bus."

The question is that, to me, seems absolutely directly at odds with testimony yesterday, and I don't think it was yours, correct me if I am wrong, but testimony directly from witnesses yesterday that one of the purposes to allow especially the kids to get out was knowing the bus was at least somewhat separated from the build-

ing. There was a trapdoor from the building into the bus, and that every effort was made to hopefully sort of herd the kids toward that location so they could go through the trapdoor into the bus, and then the agent said one of the first places they went to afterward was going into the bus, which it appears from that is completely covered up with dirt so that you couldn't get into the bus.

So the question is really twofold. Can you explain the inconsistency? I mean, it just seems to me that this Government witness in the court case that was driving one of the vehicles inserting the gas says very clearly several times that his instructions were to gas that part of the building first by the trapdoor to prevent people from going through the trapdoor to get into the bus. Was that—is his testimony correct and why is there this seeming direct inconsistency?

Mr. POTTS. I am not sure there is a consistency, and I will do my best to answer your question, Mr. Barr. I am not sure I am the best one to do it because the people onsite would be a lot more effective at knowing where the tunnel was and how they could get into it. I think that it is true that that was one of the first places that was gassed, and it was——

Mr. BARR. Excuse me, while you are answering that, if Mr. Bush, if you could put up the schematic which shows the trapdoor itself right by the underground bus and point that out. I am sorry, Mr. Potts.

Mr. POTTS. I think it is true that it was one of the first places that was gassed, and part of that thinking was to prevent people, to move people toward the center of the compound. We are going to do this on an incremental basis, and just move them toward the center.

We still held out a lot of hope even because of the length of time. You are talking about 6 hours from the time that this operation began until the fire started. We still held out a lot of hope that even though that area had been gassed that they would go through that area, put the children through that area and down into the bus, which did have clean air.

Mr. BARR. But his testimony is that he was instructed to insert gas there by the trapdoor to prevent people from going into the bus.

Mr. POTTS. It would move them toward the middle, yes, sir, but it is not going to prevent them on a long-term basis—that is 6 hours later—with that kind of ventilation from going back there.

Mr. BARR. How would you get people to escape by herding them to the center of the compound?

Mr. POTTS. As I said, we hoped the immediate reaction might be that some people would come out, but this was not an operation where we expected to put some CS gas into a room right away and have a lot of people come out. We were trying to shrink the size of the compound.

The other thing we were hoping to do was to force some serious negotiation, force David to get back on the phone and start talking to us seriously and working toward a final conclusion that would have all of them come out without any more gassing at all, if possible. That was the hope.

Mr. MCCOLLUM. Mr. Barr, your time has expired.

Mr. BARR. Thank you.

Mr. MCCOLLUM. Mr. Buyer, you are recognized for 5 minutes.

Mr. BUYER. Thank you, Mr. Chairman. Mr. Hubbell, on the end of April 15, I mean, you were painting quite a picture here from a phone conversation that you had had with the men on the ground at Waco with regard to people getting tired, tempers are fraying. I mean, all this leads to the funneling effect toward, gee, some decision must be made here. We have got the military advisors telling Janet Reno that you should pull the team off.

I also noted by some of the interviews, FBI really appears to be applying a lot of implicit pressures and explicit pressures into the equations by saying around April 12, advising the Attorney General that he, Koresh, is beating the babies. I mean, there is a lot of things here that are being put into a decisionmaking equation that is placing a lot of stress on an Attorney General who is not necessarily too happy about the plan.

As a matter of fact, on April 16 in your conversations here, according to Richard and Hubbell, Hubbell advised him that the Attorney General had disapproved the plan to end the FBI standoff. There have got to be some people that are really ticked off here. You are smiling. It must be true.

Mr. HUBBELL. No, I wouldn't say that, Congressman. What I would say is that the FBI and every—it was unanimous—believed that this was the only way to get the children out safely, and believed in their plan, and they were certainly going to give us every reason they believed it would work. I believe that it was my job and other people's jobs to understand that in evaluating the decision.

Mr. BUYER. Richard's response to you is the FBI would not be pleased. So I think we can read a lot into that. Let me make one other comment, then I will yield to Mr. Bryant of Tennessee. And that is, we all understand whether we are here in the political world, it doesn't make any difference in what world we are in here in the United States, we understand about the aspects of responsibility and authority. I will submit there is one thing that has become very bothersome to me, and that is I have great respect for those who are in the field.

Someone referred to it as a thin blue line the other day. We have tremendous respect. What bothers me tremendously are the politicos in this one, the political appointees, saying, gee, I didn't have the authority. I was only acting at the time or it was outside my jurisdiction or, gee, if someone had given me better data or information, I could have made a great intelligent decision, so that briefing might not have been there. It was almost like, gee, I wasn't in control at the time, but I sure am now and it will never happen again.

Mr. HUBBELL. Congressman, I am not aware of any political employee involved in this other than myself and the Attorney General, and I believe we both take responsibility for what happened.

Mr. BUYER. Right, I think that is important. The other thing that is important is when Janet Reno says I assume all full responsibility, the buck stops with me, I think that is absolutely wrong because she works for somebody, and we know who that is, and it is

the Chief Executive Officer of the land. I yield the balance of my time to the gentleman from Tennessee.

Mr. BRYANT of Tennessee. Very quickly, I want to follow up, if I could. I think Mr. Clarke raises a very good point with regard to the question Mr. Shadegg raised and I want to follow up on that.

What I understand happened, General Reno had given approval for the gas plan on the 17th after changing her mind. She said that as a part of this plan that if the gas didn't work for 48 hours, then the vehicles, the tanks could begin a systematic opening up or disassembly of the building, and that she did, in fact, give the onsite commander, Mr. Jamar, authority to make decisions on that if something happened, and I accept that. I think that is legitimate.

There is no question about it that 6 hours into this 48 hours, in fact, around 10:30 their time, 11:30 this time, the FBI did begin to move to disassemble the building as Mr. Shadegg so clearly pointed out.

My question, though, is that this is a major shift. You have jumped ahead 42 hours in your strategic plan. This is a major change. You are tearing down the building at that point, at least parts of it. Ms. Reno, I think, had left the strategy session at that point. She had a commitment to go to Maryland to give a speech.

Now, she is in route up there or giving a speech. My question is what efforts—and she retained, by the way throughout this the authority to stop at any point, stop this plan at any point, did she not? She did? She did?

Mr. CLARKE. Sure.

Mr. BRYANT of Tennessee. Was she advised of this major change 42 hours in advance that you all were now going in to tear this building down or at least parts of it? Was she notified? Did she have a car phone? I am sure there were ways to contact her. Did anyone contact her to let her know this?

Mr. HUBBELL. I believe she—I may be wrong timing wise, somebody may help me. I believe some of the destruction of the building had occurred before she left to go to give that speech. The decision was made. She didn't want to go make that speech, but the decision was made that they thought that if she didn't go give that speech that would be some indication, but I wanted to tell you that I believe that——

Mr. BRYANT of Tennessee. I am not being critical. I didn't mean to be critical that she was giving a speech. I am just saying she had the authority to call off that raid at any point.

Mr. HUBBELL. Yes, she did.

Mr. BRYANT of Tennessee. I am wondering was she aware that you all were advancing the plan very, very quickly?

Mr. HUBBELL. I believe that there had been destruction of the building before she left. Floyd or Larry, you might know better than I.

Mr. MCCOLLUM. Mr. Clarke, you may respond, but the time has expired for Mr. Bryant.

Mr. CLARKE. Mr. Bryant, I don't recall the exact sequence of events and the timing of them, but in terms of this being a major shift, I would probably characterize it a little bit differently because it was part of the overall plan with Mr. Jamar having the authority to move that up, and Mr. Hubbell points out that almost

from the beginning when the tanks came under fire they were making holes in the front of the building.

Our monitoring of this was via television which was available to all of the public. We could see that there was some destruction occurring throughout this process, so, to me, was not a major shift from the natural progression of the plan.

Mr. MCCOLLUM. Thank you, Mr. Bryant. Mr. Condit, you are recognized for 5 minutes.

Mr. CONDIT. Yes, I have a quick question for Mr. Potts. I appreciate the panel. I know most things have been asked here already, but yesterday or a couple days ago, all these hearings are kind of running into each other, but I asked the FBI about the possibility of a fire plan, and I think in your bio you said that they would not sign off on the fire plan or sign off on the raid had there not been a fire plan. Was the fire plan followed?

Mr. POTTS. The fire plan, as written up, did not—they notified the fire departments, they had gotten a list of the fire departments, they had checked on their availability, they had checked on the amount of time that it would take for them to get to the scene, and so I think in that respect that it was. Of course, the problem was even once the fire trucks arrived they couldn't be allowed to go to the scene to fight it.

Mr. CONDIT. There was any anticipation, and forgive me if you have said this in your bio, any anticipation because of the prophecy of Mr. Koresh that there would be fire and blood and explosion, that maybe we ought to have had something that would anticipate that so we could have stopped the fire?

Mr. POTTS. You know, sir, we talked extensively about what was available. We even had our liaison officer with the Department of Defense check with them to see if there was some kind of armored vehicle that could be used as a firefighting—we talked about planes that could drop water, and we were afraid if we tried—if there was a fire and there was water that was dropped it would crash the roof, and so I mean the best we could do was the fire departments that were available.

Mr. CONDIT. I am going to yield to my good friend from Mississippi, but maybe I can get a yes or no on this. So the fire plan was not followed or was it followed?

Mr. POTTS. Yes, sir, it was followed.

Mr. CONDIT. It was followed. I have come down here to yield to my good friend from Mississippi the rest of my time and I do appreciate your response. Thank you.

Mr. TAYLOR. Thank you, Mr. Condit.

Mr. Potts, I had the opportunity last night to read your testimony, and I was at another hearing yesterday, so please forgive me if I am being redundant, but I would like to clarify on the day of the second raid, the day of the last raid did the FBI fire one shot, even one shot?

Mr. POTTS. No, sir, we did not, not throughout the entire standoff.

Mr. TAYLOR. The vehicles, the heavy-armored vehicles that are shown, were they armed with anything other than tear gas grenades?

Mr. POTTS. No, sir. As a matter of fact, when they first arrived we had the barrels taken off and told David that these were not offensive weapons that we were bringing in.

Mr. TAYLOR. How about—who was driving them? Were they military people driving them?

Mr. POTTS. No, sir, we had no military people driving them. We had to put our hostage rescue team people through a crash course on learning to drive those vehicles.

Mr. TAYLOR. OK. Mr. Chairman, I would like to submit for the record a DOD memo that outlines that the vehicles were going to be transferred, maintenance would be paid for by the FBI, there would be FBI people driving them, and that they would not be altered.

Mr. MCCOLLUM. Without objection.

Mr. TAYLOR. I am further interested in a statement you made that is a pretty strong statement so I want you to repeat it if you feel comfortable repeating it. The autopsies revealed that no one was harmed by the tear gas or had toxic levels of any component of tear gas in their systems. Who were you referring to, sir?

Mr. POTTS. Pardon me, I am sorry?

Mr. TAYLOR. This is from your statement. Who are you referring to in that statement? It is on page 11 of your statement?

Mr. POTTS. That no one inside the compound.

Mr. TAYLOR. So you are talking about the Davidians?

Mr. POTTS. Yes, sir.

Mr. TAYLOR. I am perplexed by something you said a little bit earlier because we keep hearing about 20 children, but you said something to the effect that Koresh implied that they were all at this point, these were all his biological children?

Mr. POTTS. On March 5 we got our last child out, even though we continued throughout to get more out, on March, I believe it was the 7th or 8th somewhere in there, he indicated when we were talking to him about sending more children out, he said no, you are talking about my biological children now, that is different.

Mr. TAYLOR. So in addition to everything else he did, he used his own biological children as human shields to keep law enforcement from serving a legal warrant on him and arresting him for firearms violations, compiling a hit list of former members, possibility of illegal aliens there, child molestation that could go under statutory rape, holding people there against their will, am I correct?

Mr. POTTS. Yes, sir, you are.

Mr. TAYLOR. I have asked, I believe this is the same panel we have had before, right, everyone has been at the table? I am going to ask you the same question I have asked everybody else. Is there anything you have seen or heard or read that would justify the murder of those four ATF agents at the hands of David Koresh and his followers or in any way absolve David Koresh from direct responsibility for the deaths of those 80 people who died at his compound?

Mr. CLARKE. No.

Mr. RICHARD. No, sir.

Mr. TAYLOR. Would you state your names for the record?

Mr. CLARKE. Floyd Clarke. The answer is, no.

Mr. RICHARD. Mark Richard. The answer is resoundingly no.

Mr. TAYLOR. Thank you, sir.

Mr. Chairman, I reserve still my 2 minutes.

Mr. MCCOLLUM. It is so noted. Mr. Ehrlich, you are recognized for 5 minutes.

Mr. EHRLICH. Thank you, Mr. Chairman.

Mr. Hubbell, I have just one quick general question for you, sir. You have been—you have watched these hearings. You are certainly familiar with what has been going on. You have seen the give-and-take with respect to the issue of the propriety of these hearings.

My question to you is, is it your opinion that these proceedings, these hearings constitute a legitimate exercise of this body's oversight authority?

Mr. HUBBELL. I do believe that it is a legitimate exercise and if anything comes out of these hearings that will help prevent what happened, that is worthwhile, prevent it from happening again is the way I would like to put it. The Attorney General has always said the only thing we can do, we can't engage in recrimination, though we can engage in trying to determine what we could do to prevent this from happening again.

Mr. EHRLICH. Sir, I appreciate your forthright answer, and with that I will yield to Mr. Chabot.

Mr. CHABOT. I thank the gentleman. Mr. Clarke, before when Mr. Shadegg was asking you some questions, you referred to the briefing book relative to the tank going in and tearing off the back of that building. Is this the briefing book that you were talking about here?

Mr. CLARKE. No, it is not.

Mr. CHABOT. April 19 briefing book. That is not it?

Mr. CLARKE. That is not it.

Mr. CHABOT. Mr. Hubbell, let me ask you some questions, sir. Mr. Hubbell, in the scraps of paper that are being referred to as the Vincent Foster suicide note, is this sentence, "FBI lied in their report to the AG," I assume meaning Attorney General.

Now, there has been some speculation in the press that this sentence may have been related to the Travelgate affair as originally thought, but not to the Travelgate affair, but perhaps to Waco, and you knew Mr. Foster well.

Do you have any sense of what Mr. Foster was referring to there?

Mr. HUBBELL. Yes, I do. Mr. Foster believed that the FBI had not been truthful in reporting to the Attorney General about a conversation the FBI had with Mr. Kennedy relating to the travel office. It had nothing to do with Waco, Congressman.

Mr. CHABOT. Thank you, sir. Mr. Potts, as Mr. Condit referred to a little bit ago, you were aware that there was not going to be any firefighting equipment actually at the compound prior to the final assault; is that right?

Mr. POTTS. That would have been obviously the preference. The decision by the onscene commander——

Mr. CHABOT. There wasn't any firefighting equipment?

Mr. POTTS. There was not, that is right.

Mr. CHABOT. Time is kind of short so I have to keep them relatively short. Now, this was basically because of concern, the FBI

being concerned that the people driving firefighting equipment might be fired upon; is that right?

Mr. POTTS. You mean as to why they were not there before, as the operation started?

Mr. CHABOT. The FBI didn't have firefighting equipment prior to the attack because they were concerned that the Davidians might shoot at the people in the firefighting trucks, correct?

Mr. POTTS. That is correct, yes, sir.

Mr. CHABOT. All right. Yet yesterday it is my recollection that you said that you were not expecting any gunfire in that assault; isn't that right?

Mr. POTTS. I indicated that I thought that the plan we had come up with significantly reduced the likelihood of us being fired on immediately when we started the operation.

Mr. CHABOT. So I think the answer is, yes?

Mr. POTTS. Yes.

Mr. CHABOT. OK. Now, in planning very large actions of this sort, like going in at the building, you do a lot of planning like if this happens, then we will do this; if this happens, we will do this; correct?

Mr. POTTS. Yes, sir.

Mr. CHABOT. Now, didn't you consider or did you consider that fire might well occur in this instance, and if it does, we do this?

Mr. POTTS. Yes, sir. We did.

Mr. CHABOT. But it obviously didn't work.

Mr. POTTS. Sir, I think that the information we have from the fire commanders is that they, even if they had gotten in there much, much earlier there is nothing they could have done.

First of all, we couldn't put them in there earlier because shots were still coming out of the compound and the safety of the firemen, they would not have been safe, and secondly, even if——

Mr. CHABOT. OK, my time is relatively short. Let me get to Mr. Hubbell. Thank you.

Mr. Hubbell, relative—I think you said before you expected the Davidians, particularly the mothers who had kids in there to come out when the CS gas was pumped in there, correct?

Mr. HUBBELL. That is correct.

Mr. CHABOT. Now, had you—were you familiar with Ms. Sparks, who she was, the lady, the child protective service lady who had been in and talked to Koresh a number of times?

Mr. HUBBELL. I believe I had read a report from her.

Mr. CHABOT. Did you know before that happened, before the assault?

Mr. HUBBELL. Read the report?

Mr. CHABOT. Did you know of her existence and what she had to say?

Mr. HUBBELL. I knew of her existence in a report.

Mr. CHABOT. Prior to the assault?

Mr. HUBBELL. Yes.

Mr. CHABOT. OK. And you are aware that her view—were you aware, sir, Mr. Potts, were you aware?

Mr. POTTS. Which view? I am sorry.

Mr. CHABOT. Were you aware of Ms. Sparks, the child protective, and what her view was of Koresh and the folks in there?

[Witness nods.]

Mr. CHABOT. Were you both aware of the fact that she—in her opinion, the Davidians had this—it was a very unusual religion, I think we all agree with that, that they were basically, they thought, they had this apocalyptic view of things, and that we, meaning the U.S. Government, I wasn't in Congress at the time, so I wasn't part of the Government at that time, but the Babylonian U.S. Government was going to come after them sometime and they were all going to die and either go to heaven or whatever, and you all were aware they basically had a different mind set than that, yet we thought that when we pumped the CS gas in there they would just come walking out with their kids.

Mr. HUBBELL. I didn't think they would come walking out. I think if you had listened like I did and others to the Defense Department talking about the effects that the gas would have on adult males and what would happen, they were quite convincing to me that the women and the children and some of the males would come running out of that compound, it was such a——

Mr. CHABOT. Because the gas was so bad? On the one hand, it was so bad that it did these things to men, but then on the other hand, we always are downplaying what it would have done to the kids. You can't have it both ways.

Mr. HUBBELL. Mr. Chabot, I believe the assumption was that it would have the same effect, that the children and the women and the men would come out of the compound as a result of the insertion of the gas. We wouldn't have inserted the gas if we didn't think it would work.

Mr. MCCOLLUM. Mr. Chabot, your time has expired.

Mr. Clinger, you are recognized for 5 minutes.

Mr. CLINGER. Thank you very much, Mr. Chairman. I would like to yield back my time to you.

Mr. MCCOLLUM. Thank you very much.

Mr. Clarke, I have examined what appears to be your post-event interview by the normal investigative internal processes that were done over at the agency, the FBI in July 1993, and it appears to me that you had some early misgivings about the gas insertion plan, that you later became convinced of it, but in that process, trying not to read the whole statement here, you seemed to be willing to accept it based primarily on your concern or desire to see this as a go slow process; that is, the extended 48-hour plan rather than the let's go do it all at one time like the military may have suggested they would have done it in a military operation. Ultimately that was obviously accepted.

You also expressed some concern about the firing of projectiles at one point into the compound. Could you tell us why you were concerned about the do-it-fast plan, why you preferred this extended plan, why you eventually accepted the extended plan but were hesitant on the other?

Mr. CLARKE. I think, Mr. Chairman, that the FBI's position on this from day one was to be very deliberate, very careful, and not to do anything that would be provocative or would cause some unexpected reaction. We wanted to be careful to do anything that might be misinterpreted by those inside. I think you probably heard testimony that before there would be movement of the

CEV's, the negotiators would call in and tell the people inside ahead of time before they were moved so that we didn't do anything that would send a signal that could be interpreted or misinterpreted as any kind of aggressive action on our part or that may cause them to react in a way which might escalate the situation. The plan all along was consistent with that thinking, and as we developed the plan for using the CS, we wanted it to follow that same kind of thinking. We wanted the procedures to be incremental, deliberate, giving advance notice, giving ample opportunity without any unnecessary provocation, which would bring about a peaceful resolution.

Mr. MCCOLLUM. You were afraid that with the provocation, if it occurred, if it were interpreted that way, as aggressive, they might either try to break out and have some confrontation that would result in death or suicide or whatever, you didn't know a fire might be started obviously, but it was that—I mean, I am just trying to get a reason why you didn't want to provoke them.

Mr. CLARKE. Well, I mean, we had already, the February 28 as an example, and it was very difficult to predict with any degree of accuracy what they might do.

Mr. MCCOLLUM. Suicide was considered remote at the final point in time according to all the reports, but that was a consideration, was it not?

Mr. CLARKE. I think we tried to consider every possible option or alternative that they——

Mr. MCCOLLUM. Again, that is part of why you didn't want to act aggressively, why you wanted to delay the implementing of the plan. But in the end you accepted a plan which had an acceleration feature in it, and obviously we all know it was accelerated and these projectiles were fired and it was condensed, and that is something I gather that was done reluctantly, but what I guess I am getting at is at the time that this whole thing occurred and the projectiles were fired and all of this happened, were you aware that Mr. Jamar had expressed, at least he felt that he expressed it to us here the other day an opinion that it was a 99-percent likelihood that the vehicles that were going to insert this gas would, in fact, be fired upon and that if they were fired upon as part of the plan there would have been an acceleration, and therefore were you aware that Jamar thought that? Mr. Potts said yesterday he wasn't aware of that.

Mr. CLARKE. I haven't had a chance to talk to Mr. Jamar about that, and I am not sure that that feeling or position is a retrospective or prospective assessment. I can tell you that in our conversations with Mr. Jamar on the 7th and 8th that he did not voice that, and I think that the caution and concern that I was outlining for you was shared by all of the people, and I think that we—especially after the activity that had taken place on the 18th—we believed that there was a great likelihood that they would not respond with gunfire.

Mr. MCCOLLUM. Can you describe for us before my time expires your opinion about how long the Hostage Rescue Team could have remained deployed before it would need to undergo rest and retraining, after the 19th of April. That was the day obviously this happened, but how much longer?

Mr. CLARKE. I think that we probably had a couple of weeks, maybe a little bit longer. In talking with Dick Rogers as well as his people who work for him when we were in Waco I think that if you would have asked the HRT personnel themselves, I think they would have told you that they could have continued.

I think the judgment of the superiors was that it was getting to a point in time where they would need to be pulled out and to refurbish their training. We were making plans to do that. If, in fact, this was not an accepted plan, we were anticipating putting SWAT teams in to replace them. I have to also add that when you do that, you greatly reduce the ability to protect yourself and place the replacement agents and personnel in a higher level of danger for a lot of reasons.

I won't go into those, but there are some tactical reasons in terms of the familiarity with how they were monitoring what was happening, their ability to use certain weapons that were in the inventory of the HRT that were not available to SWAT teams nor were the SWAT personnel trained to use them. These types of weapons are necessary to combat the similar kinds of weapons inside, therefore you would be increasing the risk to the agents. We were formulating plans to do that if we had to do that.

Mr. MCCOLLUM. But how much time did you think they had before you would have to do that?

Mr. CLARKE. Two or three weeks probably.

Mr. MCCOLLUM. Thank you very much. I would now normally recognize Mr. Taylor. He is the only one remaining on your side and we only have me over here.

Do we know if Mr. Taylor is back there, coming back for his 2 minutes?

Ms. LOFGREN. I think he stepped out just briefly. Is it possible to reserve his time? Is there anyone on the other side?

Mr. MCCOLLUM. There is nobody else over here but me.

Ms. LOFGREN. I think he is——

Mr. MCCOLLUM. All right. Then I yield to Mr. Zeliff for 5 minutes.

Mr. ZELIFF. Thank you very much. Mr. Clarke, thank you. I think you helped solve one of our problems. We have been trying to get these briefing books. You indicated this is not the briefing book in question, am I correct?

Mr. CLARKE. Correct.

Mr. ZELIFF. And the 302's indicated there were two books. We have not been able until just now, thanks to you, to get this from your Department. We have asked for it. We haven't been able to get it. We now have it. Thank you. This is part of the problem here of trying to be able to get to the bottom of this thing.

There is so much stuff out there, you know, like on February 28, the ATF took films of every day except that day the stuff is missing, so this is very, very helpful. I guess the paragraph that I would like to read on page 26, "If all subjects fail to surrender after 48 hours of tear gas, then a CEV with a modified blade will commence a systematic opening up, disassembling of the building structure until all subjects are located," and I guess my question is, did the AG read this book and that paragraph? This seems to

be the rules of engagement, and since they were modified and we went in after 6 hours——

Mr. CLARKE. I think there is more to that, Mr. Chairman, and I can't answer your question about whether the AG read it or not.

Mr. ZELIFF. OK. So we don't know whether she read the rules of engagement. We don't know whether she was told about the change in the rules of engagement from 48 hours to 6?

Mr. CLARKE. I don't think there was any change.

Mr. ZELIFF. But, in fact, that tank and the blade and the removal of that section of the building——

Mr. CLARKE. I think there is another section in there if you look at it, I don't recall——

Mr. ZELIFF. We will read it, but could you——

Mr. CLARKE. I think you and I have a different interpretation of what that says.

Mr. ZELIFF. Do you have a page number or reference? We could have staff take a quick look at it? While you are doing that, let me ask——

Mr. CLARKE. I was just informed also, Mr. Chairman, that the book was provided to the committee some time ago.

Mr. ZELIFF. So it just disappeared maybe into 48,000 pieces of paper that we got that was unorganized.

Mr. CLARKE. I think you probably understand the dilemma that we have to go through.

Mr. ZELIFF. I am sure. That is Government at its worst, I guess. Mr. Hubbell, you are a close friend of the President; is that correct?

Mr. HUBBELL. That is correct.

Mr. ZELIFF. A golfing buddy?

Mr. HUBBELL. We play golf together, yes, Congressman.

Mr. ZELIFF. I am not asking scores or anything like that. Do you socialize with the President?

Mr. HUBBELL. I used to.

Mr. ZELIFF. I am not sure I understand. Do you spend any time, did you spend any time at all between the 15th, 16th, 17th and 18th with him?

Mr. HUBBELL. I cannot answer that.

Mr. ZELIFF. That is the month of April. You had a 2-hour conversation with Mr. Sage as far as Waco is concerned, and I guess what I am wondering is if this close relationship of yours, I mean, if you are these kind of buddies, is there any way at all that—and I look, the same thing with Mr. Altman's letter to Mr. Bentsen on April 15, here are two pieces, two major players here that are both saying, that are both involved in something that could blow up literally, and the subject never came up in any discussions, you never picked up the phone, you never talked to him, you never told him.

Mr. HUBBELL. On official business, I communicated with the President through the White House counsel.

Mr. ZELIFF. That is interesting. Didn't you feel compelled to pick up the phone?

Mr. HUBBELL. Well, I was confident that the White House counsel was telling the President what I was reporting to the White House counsel.

Mr. ZELIFF. But how did you know?

Mr. HUBBELL. I had great confidence in Mr. Nussbaum and Mr. Foster and Mr. Lindsey.

Mr. ZELIFF. I just think here is a case where we are going ahead with a plan that is going to affect almost a hundred Americans that we are going to gas the situation that ended up with disastrous results, and I just find it, a person who was as close as you are you wouldn't pick up the phone and——

Mr. HUBBELL. If you remember, it wasn't until I believe Friday or Saturday that the decision was made to go ahead, and at that point the Attorney General did call the President of the United States. I was in the room when she made that call.

Mr. ZELIFF. OK. But you spent 2 hours with Mr. Sage giving him an up-to-date briefing, including the apparent surrender plan or however you would refer to that and 2 hours on the phone on the 15th, and you didn't tell anything to the President until the 19th when you didn't, I guess you let him know that——

Mr. HUBBELL. I did not talk to the President about Waco prior to the 19th, and—on any basis. I communicated through the White House counsel, but I did brief the White House counsel about my conversations with Mr. Sage.

Mr. ZELIFF. Did the President call you back?

Mr. HUBBELL. No. I didn't call him.

Mr. ZELIFF. OK. But you briefed him through the counsel. I assume you assume that the counsel briefed him.

Mr. HUBBELL. Yes.

Mr. ZELIFF. He then did nothing?

Mr. HUBBELL. He talked to the Attorney General herself on the 18th.

Mr. ZELIFF. OK. I yield back to the chairman for the last 30 seconds.

Mr. MCCOLLUM. Well, I just have one question. I want to follow up with Mr. Clarke in that 30 seconds.

Mr. Clarke, a minute ago you indicated that in the time you had had an opportunity to think about this that you did not have any awareness of Mr. Jamar's conclusion that it was a 99-percent likelihood that the vehicles would be fired on when they put the gas in prior to it happening, and of course we both concur that is what Mr. Jamar said.

He said yesterday that the plan called for an acceleration of that gas being inserted if that eventuality occurred. Had you been aware Jamar felt that way? Had he informed you prior to the 19th? Would you have informed the Attorney General of that? Was that significant enough an opinion that you would have passed that on to her?

Mr. CLARKE. I think all through this operation, Mr. Chairman, we tried to ensure to the fullest of our abilities that the Department of Justice and the Attorney General were aware of every detail.

Mr. MCCOLLUM. My point is that would have been significant enough. You would have passed it on to her?

Mr. CLARKE. Every detail.

Mr. MCCOLLUM. Would it have caused you to have changed your opinion?

Mr. CLARKE. I would have explored that with him to try to understand his rationale, but the fact is is that we had those discussions and it did not come up in those discussions.

Mr. MCCOLLUM. I understand that. Very well. Two minutes yielded to Mr. Taylor. You have 2 minutes left, Mr. Taylor. I will time the 2 minutes; we can't run it.

Mr. TAYLOR. Mr. Chairman, it is my understanding that Mrs. Thurman was going to get the time.

Mr. MCCOLLUM. Mrs. Thurman was going to get time. Do you want the time first?

Mrs. THURMAN. Actually, Mr. Chairman——

Mr. MCCOLLUM. You have got 7 minutes on your side. Do you want me to yield you 7 minutes?

Mrs. THURMAN. Yield me 7 and I will yield to him.

Mr. MCCOLLUM. I will give you 7, and you determine how to run it. We will run our clock, we will just add 2 minutes. Before we start the clock running we will let 2 minutes go by, how about that?

Mr. TAYLOR. Mr. Chairman, she is going to give me 2, plus my 2, that gives me 4, cut me off.

Mrs. THURMAN. I was going to yield you 4 minutes.

Mr. TAYLOR. I will settle for 2.

Mrs. THURMAN. I am going to give you 4.

Mr. MCCOLLUM. I am going to start the clock running for the 2 first minutes right now.

Mr. TAYLOR. Thank you, Mr. Chairman.

I would like to go back—and, again, Mr. Potts, I apologize that Armed Services was meeting yesterday, so I might be redundant, but I don't think I am. You say in your statement, and this is, I take it, a sworn testimony that you have given to this committee, that at 12:07 p.m., the Davidians set simultaneous fires at three or more locations within the compound.

It was established by teams of independent arson experts, fire department analysis, experts from electronic surveillance over here, by videotape taken from aircraft, by observation from FBI agents, and by admissions of Davidian survivors.

Mr. POTTS. Yes, sir.

Mr. TAYLOR. Do you stand by that statement?

Mr. POTTS. Yes, sir.

Mr. TAYLOR. There was no doubt in your mind that those fires were set by anyone other than the Davidians?

Mr. POTTS. No, sir, absolutely no doubt.

Mr. TAYLOR. And that three fires were set simultaneously by the Davidians?

Mr. POTTS. Yes, sir.

Mr. TAYLOR. By obviously a prearranged plan?

Mr. POTTS. That is correct.

Mr. TAYLOR. Mr. Hubbell, since we were cut off last time, you could not answer the question I have asked every other panel. I am going to ask you as well because you obviously have studied this issue a lot. Is there anything that you have seen or read or heard to justify the murder of those four ATF agents, the wounding of 20 more, and I am taking it a step further, in any way negate the

guilt of David Koresh in the death of those 80 people, 80 people he could have said get up and leave and they would have left?

Mr. HUBBELL. No, Congressman, not at all, nothing.

Mr. TAYLOR. OK. Mrs. Thurman, thank you very much. I yield back the balance of my time to Mrs. Thurman.

Mrs. THURMAN. In that I will yield to Mr. Scott 2 minutes.

Mr. SCOTT. Thank you. Dr. Salem, I am going to be a little bit redundant just so we can nail this down on the safety of CS gas. Obviously, anybody subjected to that would be very much traumatized while they are subjected to it, but you indicate there are no documented cases of death as a result of exposure to CS gas; is that right?

Dr. SALEM. Yes.

Mr. SCOTT. Are there any citations of medical problems lasting more than 30 days for adults or children from exposure to CS gas that you are aware of?

Dr. SALEM. No, sir.

Mr. SCOTT. Does CS gas cause skin to burn?

Dr. SALEM. It causes skin irritation, which is exacerbated if it is wet.

Mr. SCOTT. And how long does that last?

Dr. SALEM. That depends on the severity of the burn.

Mr. SCOTT. Would it cause blistering?

Dr. SALEM. Not usually. In some rare cases it may. I believe there is one instance of that that has been recorded.

Mr. SCOTT. Thank you, Mr. Chairman. I yield back the balance of the time to Mrs. Thurman.

Mrs. THURMAN. At this time I would yield to Ms. Jackson Lee.

Ms. JACKSON LEE. Mrs. Thurman, I thank you very much, and I had asked a question of Director Sessions, Mr. Hubbell, and I had not got a chance to pursue with you. Let me welcome you and acknowledge that this is not a question of an indictment, this is a question for information.

I do recall, however, tragically under the leadership or under the time that President Ronald Reagan served this Nation well that 265 young men lost their lives in their sleep in Lebanon. I would imagine that there were officials that made decisions that might have augmented that tragedy, even though they were military personnel; they were asleep.

My question is that we have been confronted with a very serious question of coverup, coverup to the extent that you played golf with the President, you are a friend of the President, and I will maintain that today, but that why didn't he know or why is the blame not being placed at the door of the White House.

I do think we can fix some things in the system in terms of how many times we review a decision like that, but help me understand, if you can recount again, that process where you would not place the blame at the President and whether or not there was a coverup.

Mr. HUBBELL. Let me first say there is no coverup. I have never seen an issue examined like this Waco situation. There are reports after reports, and that is fine, but first of all, I did not talk to the President about this; the Attorney General did. I don't place the blame of what happened in Waco on these good people who are

here at this table. Who killed those people was David Koresh or Vernon Howell.

We live with those decisions that we made, we wish we had some of them back, but we were—David Koresh was a master of manipulation and I hope if people try to place the blame on the deaths of those children and women in the compound on somebody other than David Koresh, I believe they are continuing to be manipulated again by David Koresh. He is the one who murdered those people. It is sad. We live with it, we dream about it, but the blame lies at the feet of David Koresh, not the President of the United States, not the Attorney General, not the people who are at this table, but I will tell you, I take responsibility for some of those decisions that were made to go into that compound.

I was responsible. Other people at this table were responsible. The Attorney General was responsible, and we wish we had tried something else knowing what we know now, but the blame lies at the feet of David Koresh, not the President of the United States and not the Attorney General of the United States.

Ms. JACKSON LEE. Thank you.

Mrs. THURMAN. I am reclaiming my time.

Ms. JACKSON LEE. Thank you very much.

Mrs. THURMAN. Mr. Clarke, very quickly, did you get an answer or did you get a chance to answer Mr. Zeliff over what the difference in the interpretation was as he saw it as compared to what you saw?

Mr. CLARKE. Yes, the clarification is that once the people in Waco came under fire or that the lives of the people in this operation were placed in jeopardy because of actions by the people inside, the onscene commander had full authority and full discretion to do whatever in his judgment was necessary to provide for their protection in response to that action.

Mrs. THURMAN. Mr. Chairman, at this time you all have talked to a great extent about the problems with the documents and the 23,000 or 30,000 pieces. I just need to make a very quick announcement of some interns that we would like to thank on our side that helped us go through those documents as well, and this is their last day today.

So if I could thank Dean Atkins, Michael Dever, Stephanie Fried, Saverio Grazioli-Venir, Dan McElhinney, Yazmin Sanchez, and John Stevens, we just want to acknowledge the work that they did in trying to put this information together for us. Thank you.

Mr. MCCOLLUM. Thank you very much. I believe everybody else has asked all their questions, and I have 5 minutes left to yield to myself. I want to make a couple of questions that relate to the Sage conversation with you, Mr. Hubbell, on the 15th of April. I think that was a fairly decisive 2-hour discussion.

Is my understanding correct that Mr. Potts, Mr. Richard, and Mr. Clarke were all participants in that conversation, you all were listening in or was this a speaker phone? Can somebody tell me if you were——

Mr. RICHARD. I believe it was a speaker phone.

Mr. MCCOLLUM. Speaker phone, so you heard everything Mr. Hubbell heard, right?

Mr. RICHARD. That is correct. There were additional people in on that conversation.

Mr. MCCOLLUM. Mr. Keeney, I have got down was according to the Justice Department report; is that correct?

Mr. RICHARD. That is correct.

Mr. MCCOLLUM. So there were a group of you around there, but four of you who were there are sitting out there today. Do any of the other three of you, Potts, Richard or Clarke have any recollections of that conversation that would differ from the conclusions Mr. Hubbell gave us on the points we asked about, particularly pertaining to Mr. Sage's conclusions that the attorneys' efforts in negotiating in the end were really no more than additional manipulation by David Koresh and that he didn't think there was any hope for the negotiations at this point. I mean, that is the flavor we have. I am trying to summarize it fairly.

Mr. RICHARD. That is certainly the gist of my recollection of the conversation. In essence, that we haven't been able to negotiate anything during this cause, the course of efforts on the standoff to resolve the standoff, that we were in essence stymied by this, he is a manipulator and it is going nowhere.

Mr. MCCOLLUM. Mr. Clarke, is that the gist of your recollection as well?

Mr. CLARKE. Yes, and one additional piece that I think it also was brought up that this was not the first time that Mr. DeGuerin and Mr. Zimmermann had assurances from Mr. Koresh that he was going to give up. I believe there were some conversations in early April that Koresh indicated that sometime between the 2d and the 10th or something like that that he was also going to give up, so this was just more of the same.

Mr. MCCOLLUM. Mr. Potts, you have already testified to some extent yesterday about this. Was there anything else you would add to that?

Mr. POTTS. No, sir, it is the same.

Mr. MCCOLLUM. Question for you. Did any of the four of you Hubbell, Potts, Richard or Clarke, recall at any time Mr. Sage saying to you specifically that DeGuerin had indicated to him, that is DeGuerin believed that Koresh would come out within 10 to 15 days of the 14th, which was the day before when the whole discussion had taken place with Sage over the latest developments? Did any of you—do any of you remember Sage saying that to you or not saying it to you? Or is that material even——

Mr. HUBBELL. It would have been material. Everything that was said was material. I have some recollection of him talking about the DeGuerin thought that he would ultimately come out. I do that, but I don't specifically remember anything.

Mr. MCCOLLUM. A timetable, right. Mr. Potts, do you remember a timetable?

Mr. POTTS. I am the same, I can't think of that much particularity.

Mr. MCCOLLUM. Mr. Richard, do you remember?

Mr. RICHARD. I can't add anything.

Mr. MCCOLLUM. Mr. Clarke, do you?

Mr. CLARKE. I can't add anything.

Mr. MCCOLLUM. My point is had that been conveyed to you, that DeGuerin felt passionately that things had really changed. This time is really different, and that Koresh would come out in 10 to 15 days because the attitude had totally changed, that he was no longer thinking he was the martyr, but now the messenger, which is what we have been told by DeGuerin. Would that have made any difference to you in your state of mind at that point of time? Would your advice to the Attorney General have been any different, any of you?

Mr. HUBBELL. Mr. Chairman, you put a little different flavor on it when you said the attitude had changed.

Mr. MCCOLLUM. If that had been conveyed to you. I am not assuming it had. I am asking you in your state of mind at that time, based on what you knew, if that had been conveyed to you, would your advice to the attorney have been any different and would you have conveyed that fact to her?

Mr. HUBBELL. I would have explored it with Mr. Sage.

Mr. MCCOLLUM. All right. What about you, Mr. Potts?

Mr. POTTS. I would simply look to Mr. Sage who is talking to him every day for his evaluation and whether there had been an attitudinal change as opposed to just the——

Mr. MCCOLLUM. But the fact alone would not have been sufficient?

Mr. POTTS. That is right.

Mr. MCCOLLUM. Mr. Richard.

Mr. RICHARD. I would have looked, like Mr. Potts, to the assessment of the negotiators. Was this a serious change by Koresh or was it just——

Mr. MCCOLLUM. So it really wouldn't have mattered if Mr. Sage had said it wasn't, it wouldn't have made any difference? Mr. Clarke.

Mr. CLARKE. I would have reacted the same way. I would have explored that possibility with others that I would have balanced their judgment with his, maybe not just limited to Mr. Sage, but others who would be in a position to give that information.

Mr. MCCOLLUM. Let me make a comment or two here in the final conclusions of your panel. I think that you all did a very thorough evaluation. You did it honestly, you did it in your best judgment and, obviously, you gave the Attorney General your best judgment on the assault with the CS gas.

I must say that there are some things that still trouble me. One of them is the fact that Mr. Jamar's feelings about this, particularly his feelings that the 99-percent certainty that this would result in firing on the vehicles and, in turn, we all knew and you all knew that would accelerate and he knew that would accelerate the CS gas plan.

The fact that he apparently never said it to any of you and it never got back to the Attorney General and it wasn't part of the deliberation proceedings, in light of the fact that most seem to know and, Mr. Clarke, you have expressed particular concern that the more aggressive assault which did, in fact, take place as a result of the firing on these vehicles and the failure of the people to come out, would and did result in potentially what exactly hap-

pened, a reaction that was very negative. So I am disturbed by that. I think we all should be and I think you should be.

Second, in summary here today I believe that my only other thought is that I do not know the value of what Mr. DeGuerin had to say in terms of his final thing. I can understand why you wouldn't give it weight, why Mr. Sage didn't. You were only giving what weight he did, but it seemed very impassioned and obviously he genuinely believed it and it is disturbing that it was not given more weight by Mr. Sage, but maybe it is understandable.

What doesn't seem reasonable to me in all of this I have heard today though, and we are going to have more testimony, was the assumption that these parents who devoted themselves to Koresh, who were taught that the outside world was Babylon and that an FBI attack was the beginning of the apocalyptic end would pick up their infants and run out of the compound when the CS gas was fired. It seems to me that it would be more reasonable for you to have assumed that they would pick up their suffering children, put, as Mr. Hyde said yesterday, put wet rags over their mouths, hide in the most remote places they could find, and simply wait, which apparently is something like that is what they did.

I think, of course, that all goes and begs the question with respect to whether or not you got the best advice or whether you didn't, and that seems to me to summarize where we are today. We have concluded this panel, and at this point I would thank you very much for your coming today, for participating, and we will be ready now at this point to proceed with the next panel.

Mr. BRYANT of Tennessee. Mr. Chairman.

Mr. MCCOLLUM. Mr. Bryant.

Mr. BRYANT of Tennessee. Could I ask unanimous consent to attach to the record those two pages which reflect the phone calls that I referred to?

Mr. MCCOLLUM. Without objection.

Mr. BRYANT of Tennessee. And the AP article.

Mr. MCCOLLUM. Without objection.

[The information follows:]

LEVEL 1 - 50 OF 51 STORIES

The Associated Press

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April 3, 1993, Saturday, AM cycle

SECTION: Washington Dateline

LENGTH: 760 words

HEADLINE: Clintons' Pal Hubbell Gets Nod for Justice Department's No. 3 Post

BYLINE: By RON FOURNIER, Associated Press Writer

DATELINE: WASHINGTON

BODY:
Arkansan Webster Hubbell - President Clinton's golfing partner and nominee to become the new associate attorney general - says there should be no doubt who's the boss at the Justice Department.

"She's in charge," he said, flopping his huge left hand toward the office of Attorney General Janet Reno.

"If you knew this lady like I've grown to know her - and you will - you'll know ... nobody can control her. Nor would anybody want to," he said in an interview last week. "She's her own woman."

And Hubbell is Clinton's man. Actually, he's the Clintons' man.

Hubbell met them in 1973, when all three were taking the Arkansas bar exam at - of all places - the state mental hospital.

The former Little Rock, Ark., mayor and chief justice of the Arkansas Supreme Court is the man who accompanies Clinton on his last-minute Christmas Eve shopping treks. He drafted Clinton's ethics-in-government package and helped the governor get it approved by Arkansas voters in 1988.

But he is even closer to first lady Hillary Rodham Clinton, a former partner in the Rose Law Firm in Little Rock. Until recently, Hubbell was managing partner of the firm that Mrs. Clinton joined in 1977, four years after Hubbell.

Hubbell, 45, helped Clinton in his unsuccessful 1974 race for Congress and his successful bid for state attorney general two years later.

As a teen-ager, he passed up an academic scholarship at Dartmouth to accept a football scholarship at the University of Arkansas, where he was the star offensive tackle on the football team that won the 1968 Sugar Bowl.

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After earning a bachelor's degree in electrical engineering, he was drafted by the Chicago Bears, but rejected the offer to pursue a law degree, which he also got from the University of Arkansas.

He has grown into a burly but soft-spoken lawyer with a squeaky clean reputation in Arkansas. And now, he is the president's choice for the Justice Department's No. 3 post.

Ms. Reno said he's also her choice. When announcing his nomination Friday, the attorney general told a standing-room-only crowd of department employees Hubbell "is one of the great men in America. ... He has been the unsung hero of this department over these last two months."

Since the inauguration, he has served as the White House liaison at Justice, prompting speculation and rumors as he refused to speak publicly about it.

Some said he was afraid to face confirmation hearings, an accusation he denies.

"I was concerned that people would assume that I had something to hide if I wouldn't stand for confirmation. That's not true," he said. He acknowledged Friday that he thought getting confirmed was "not going to be the easiest thing in the world."

Others said Hubbell - not Acting Attorney General Stuart Gerson - was the power at Justice. Hubbell downplayed his influence, saying, "I have not made a decision."

But he concedes that Gerson, the Republican holdover who served as attorney general until Reno was confirmed, turned to him for decisions on matters that effected Justice's long-range plans such as the budget, personnel, legislation and Supreme Court cases.

Hubbell said he consulted with White House counsel Bernard Nussbaum on major matters but he has talked business with Clinton only when the president sought updates in the early days of the cult crisis in Waco, Texas.

He came under fire for the department's decision to side with Rep. Harold Ford, D-Tenn., who objected to the jury picked from a predominantly white area for his bank fraud trial. In a rare move, Justice supported Ford's request for a new jury selected from Memphis, but the judge denied his motion and blasted the Justice Department for supporting it.

Republicans questioned whether the White House influenced Gerson's decision. Gerson and the White House insisted the acting attorney general made the decision on his own, and Hubbell now affirms that, saying he never discussed the case with anyone at the White House and never gave Gerson a recommendation.

Instead, he argued both sides of the case to Gerson, and told him that he would support whatever decision was made.

He now says he agreed with Gerson's attempt to get a Memphis jury.

"There's something that really bothered me that we were saying that we couldn't get a fair trial in Memphis," Hubbell said. "We grew up with the

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Justice Department coming into Mississippi and Alabama and Tennessee and trying to KKK, and getting convictions.

"The Justice Department - when I was growing up - was the department that tried to come in and do justice."

LANGUAGE: ENGLISH

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From Justice Command Center Watch Office Log
Saturday, March 6, 1993

16 1143 RB
MR. GERSON TO TIM O'ROURKE.

17 1151 RB
WH OPERATOR #2 ([redacted] CALLED FOR WEBB HUBBELL. PRESIDENT CLINTON IS CALLING FOR HIM. PAGED MR. HUBBELL.

18 1152 JC
PAUL VAKY TO MOLLY WARLOW.

19 1206 JC
MR. GERSON TO DIR. SESSIONS.

20 1216 JC
AG BRADEN INTPOL TO MIKE SURGALLA OIA.

21 1221 RB
MIKE SURGALLA ([redacted] CALLED FOR MATT BRISTOL. LEFT A MESSAGE ON MR. BRISTOL'S ANSWERING MACHINE TO CALL THE JCC.

22 1229 RB
MIKE SURGALLA TO MR BEIGER (INS/NEW YORK/[redacted]).

23 1252 JC
TIM O'ROURKE TO MR. GERSON.

24 1301 JC
FAITH BURTON TO JOSEPH GRAUPENSPERGER.

25 1354 RB
JIM REYNOLDS TO FAITH BURTON.

26 1440 RB
MR. GERSON TO FBI SIOC.

27 1447 JC
NEIL GALLAGHER FBI TO MARY LAWTON.

28 1633 RB
NEIL GALLAGHER TO MARY LAWTON.

29 1638 RB
MARY LAWTON TO MR. GERSON.

30 1640 RB
MR.GERSON TO DIR. SESSIONS.

31 1644 JC
MARY LAWTON TO FBI SIOC.

32 1648 RB
MR. GERSON TO TIM O'ROURKE.

From Justice Command Center (with Phillie Log
Saturday, March 20, 1993

[redacted]

26 1756 LD
PETER STEENLAND TO WILLIAM BRYSON.

27 1803 SW
LAURA FROM USMS TO VIRGINIA TOWLER (CRM DIV) [redacted] NO ANSWER. LAURA ASKED IF WE COULD TRY LATER AND SHE CAN BE REACHED AT [redacted] OR THOUGH THEIR COMMAND CENTER [redacted]

28 1820 LD
WHITE HOUSE OPERATOR [redacted] TRYING TO REACH WEBB HUBBELL FOR THE PRESIDENT. SKYPAGED MR. HUBBELL.

29 1825 LD
WEBB HUBBELL TO THE WHITE HOUSE.

[redacted]

31 2020 LD
WAYNE RICH [redacted] FOR MIKE SHEPPARD. LEFT MESSAGE ON MIKE'S ANSWERING MACHINE AND PAGED HIM.

32 2150 SW
VIRGINIA TOWLER CALLED, REF THE MESSAGE I LEFT ON HER ANSWERING MACHINE. I PASSED THE PHONE NUMBERS LAURA GAVE TO ME EARLIER. VIRGINIA SAID THAT SHE WILL CALL LAURA DIRECT.

[redacted]

34 2300 SW
MIKE SHEPPARD TO WAYNE RICH.

Mr. BARR. Mr. Chairman.

Mr. MCCOLLUM. Mr. Barr.

Mr. BARR. Mr. Chairman, I would like to ask also unanimous consent, there was a photograph that I don't know whether Mr. Potts still has that, we would like to insert that in the record as well by unanimous consent. This is the photograph of the entry area into the bus immediately after the fire.

And also, Mr. Chairman, rather than introduce a lengthy transcript from the trial in, I would like the following pages entered in by unanimous consent, these are the pages that I referred to earlier of the trial transcript, pages 1425, 5562–5563, 5565–5568, 5577, 5581, and 5582, 5600–5601, and 5616.

Mr. MCCOLLUM. Without objection.

[The information follows:]

A No.
Q So, the mere possession of a firearm would not be enough, correct?
A Only in the event that it was going to be used to effect a threat.
Q And before you fired at someone, you would have to be able to identify someone, or at least to be able to see a person before you fired your weapon, correct?
A You'd have to identify the threat.
Q Right. And it couldn't be just some shadow or anything like that, right?
A If that shadow was shooting at you.
Q But you would have to be able to see specifically that shadow shooting at you, correct?
A That's correct.
Q And unless you saw that, you certainly wouldn't fire your weapon in that direction, correct?
A I would not.
Q Because you wanted to protect the women and children, right?
A That's correct.
Q Now, there are other reasons why you would not fire at a -- at a window, for example, that was not firing weapons, in that, if you fired into that particular window, even somebody who -- who had not been firing might -- it might escalate, correct?

FILED 5561
... 8 1994
... U.S. DIST. COURT
BY ... DEPUTY

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF TEXAS

WACO DIVISION

UNITED STATES OF AMERICA	*	CRIMINAL ACTION NO.
	*	W-93-CR-046(2)(3)
VS.	*	(4)(5)(6)(7)(8)(9)
	*	(10)(11)&(12)
BRAD EUGENE BRANCH,	*	
KEVIN A. WHITECLIFF,	*	
CLIVE J. DOYLE,	*	
JAIME CASTILLO,	*	
LIVINGSTON FAGAN,	*	
PAUL GORDON FATTA,	*	
WOODROW KENDRICK,	*	
A/K/A BOB KENDRICK,	*	
NORMAN WASHINGTON ALLISON,	*	
A/K/A DELROY NASH,	*	
GRAEME LEONARD CRADDOCK,	*	February 9, 1994
RENOS AVRAAM and	*	
RUTH OTTMAN RIDDLE	*	San Antonio, Texas
* * * * * * * * * * * * * * * * * *		

BEFORE THE HONORABLE WALTER S. SMITH, JR., JUDGE PRESIDING,

AND A JURY

APPEARANCES:

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Proceedings recorded by mechanical stenography, transcript produced by notereading.

FEBRUARY 9, 1994 - MORNING PROCEEDINGS

(Convened at 8:50 a.m.)

(Jury out.)

THE COURT: Be seated, everyone.

Mr. Tinker, do you have some matter we need to take up?

MR. TINKER: Yes, Your Honor. Your Honor had granted the Government's Motion In Limine concerning the Ruby Ridge matter, and this witness is --

THE COURT: The what matter?

MR. TINKER: Ruby Ridge, the Weaver -- Randy Weaver, Idaho. And the witness who is on the stand has testified concerning -- saying that that's one of the places -- in response to the Government's questions, that that was one of the places that he had seen -- it was not a non-responsive answer, the prosecutor asked him, "Where else have you done this kind of work," or something to that -- of that kind, and he said, "Well, in Ruby Ridge in Idaho." And it's my position and I think that of others that that opens the door to ask him some questions about that transaction.

THE COURT: I totally and completely disagree.

MR. TINKER: Well, I thought I would ask, Your Honor.

THE COURT: Okay. Any other matters we need to take up?

MR. JAHN: Your Honor, there was one other matter.

He's not here, but just for the record, yesterday Mr. Cogdell asked about information that we might have concerning someone other than his client starting the fire. Last night I went back and went through our records, and apparently Mr. DeGuerin and Mr. Zimmermann has spoken to some of these Defendants who gave them information indicating that people other than themselves might have started the fire. So, I'm just providing that under Brady so that if they want to contact Mr. Dick DeGuerin or Mr. Zimmermann concerning who amongst these Defendants had that information, they can -- they can get that.

MR. ROSEN: Is that from the ranger interview?

MR. JAHN: The ranger interview of Mr. DeGuerin and Mr. Zimmermann.

MR. ROSEN: Okay.

THE COURT: Any other matters? Then we've got ten minutes with nothing to do. Let's take a -- Mr. Kearney?

MR. KEARNEY: I was just going to look at some exhibits.

THE COURT: All right. Let's take a break, then.

(Recessed from 8:53 a.m. to 9:00 a.m.)

(Jury in.)

THE COURT: Be seated, everyone.

Mr. Kearney, obviously, you're first up.

R. J. CRAIG, GOVERNMENT WITNESS, (CONTINUED)

CROSS-EXAMINATION

BY MR. KEARNEY:
Q Good morning, Agent Craig. I didn't get your first name, what was it?
A Initials R. J.
Q R. J.?
A Yes, sir.
Q I believe the prosecutor asked you yesterday about your current position with the HRT unit there with the FBI, and you're stationed in Quantico?
A That's correct.
Q Is that where the head -- the main location for the FBI is?
A No, no, sir.
Q Okay.
A That's the training academy, is at Quantico, Virginia.
Q All right. The training academy is there?
A Yes, sir.
Q Okay. Is there also a Marine base close to there?
A Yes, sir.
Q Okay. Did you train at Quantico when you were a Marine?
A I did.
Q All right. Now, you're a -- something called a -- you're the head of the track vehicle program or what's your title?
A That's -- that's one of the many jobs I perform there on the team.
Q Okay. And how long have you been the head of the track

vehicle program?
A About five or six months now.
Q Okay. And is that the -- what we're talking about is tanks, right, basically?
A Anywhere from armored personnel carriers to the full tank, yes, sir.
Q And basically, you have that job because of your military background?
A Yes, sir.
Q What -- what rank were you in the military at the time you --
A I was a captain when I got out.
Q And how long were you in the military?
A Eight -- about eight months -- eight years and eight months total.
Q Who was the head of the track vehicle program before you?
A Gary Harris.
Q And how long has there been someone that's in charge of the track vehicle program with the FBI there?
A Since the birth of the team in January of 1983.
Q For about the last ten years?
A Ten years.
Q What type of -- of track vehicles did you have out there at the Mount Carmel Center from the time you arrived there up until the 19th of April? Can you give me a list of the different --

A Yes, sir. The Bradley fighting vehicle, which is an armored personnel carrier. The M-728, which is the combat engineer vehicle, "CEV," as I referred to yesterday. The M-88 tank recovery vehicle, which is a -- it's a large tow truck, basically, on tracks. And the M-1 Abrams main battle tank.
Q What is an M-1 Abrams?
A It's a main battle tank, it's just the typical tank you would see.
Q How many Bradleys were out there?
A I believe we had seven at our disposal.
Q Okay. Does that mean there were seven, from time to time, out there at Mount Carmel?
A Between the "T" area and Mount Carmel, yes, sir.
Q And the "T" area being the "T" intersection?
A Yes, sir.
Q How many CEV's?
A There were four, but at any one time, they'd only have two running.
Q Why is that?
A Well, they're pretty old vehicles and they belong to the National Guard, so I won't --
Q What about the M-88 tank recovery vehicle?
A One, sir.
Q And the M-1 Abram?
A Two.

was it more like a mist?
A It was -- it was a mist, yes, sir. And the stream only lasted for about three seconds, is all, three or four seconds, and then it was completely empty, so --
Q And it would -- but it would shoot out at a fairly good force for about 45 or 50 feet, isn't that right?
A Well, at the end of the mist stream would probably be -- I believe I said 15 yards.
Q That would be about 45 feet.
A Forty-five feet, yes, sir.
Q Okay. And you said it was a cone shape, is that right? It would start out small and then --
A Yes, sir.
Q -- and then spread out and go about 50 feet. So, if you were right in front of it, the first five or ten feet or 15 feet of it, it was coming out at a pretty good force?
A Yes, sir.
Q Okay. As to the day of the 19th --
A Uh-huh.
Q -- the first instruction you had was to go to the -- what is it, the green-white corner, is that correct?
A That's correct.
Q -- is that correct?
A That's correct.
Q And the reason for that, you told the jury yesterday, is

because your supervisors wanted to get as much gas as they could into the bus area, isn't that right?
A Into the area that led to the bus.
Q Because they didn't want the people inside to go and seek refuge inside the bus, isn't that the reason why?
A They didn't want the people inside to go into even a more barricaded mind-set and circumstances.
Q Okay. And, so, it was -- it was part of the devised plan and your instructions that that was the area that you would go to first in order to keep the people from getting inside the bus in seeking --
A In an attempt -- yes, sir.
Q -- additional protection?
A In an attempt to escape to the bus area.
Q Okay. And so, that was something that -- that was, I guess, thought out. Did you participate in the planning of that?
A No, sir.
Q Who did you get your instructions from directly as to where to start this injection of gas to cut off access to the bus area?
A The briefing in which I was provided those instructions was given by supervisor Steven McGavin.
Q And what was his position?
A He's one of the two supervisors on the HRT.

Q Okay. And you couldn't -- you didn't have a way of squirting your gas directly into that tunnel area in the vehicle you had, is that true?
A That's true.
Q And so, you were -- you were putting it in an area where, I assume, you hoped or believed the tunnel mouth might be?
A Well, again, the idea of the white-green corner insertion first, right off the bat, was to get it in that hallway of the main structure to keep people from running down the hall and getting in the bus.
Q Which would be lower than the level of that hallway, in your understanding of the way it was laid out?
A Well, the bus was underground, so, yes, it was lower.
Q Okay. And was it your understanding, though, that there was some sort of opening at the end of that hallway that would permit people to exit into the bus area there at the end of the white-green part of the building?
A Well, the information we had from -- I believe I viewed a video tape of a welfare inspection that showed a trap door there.
Q Okay. So -- so, at the end of that building there is where you expected there would be an entry way into the bus?
A Yes, sir.
Q And that's why you were directed to shoot the CS gas there first?

A That's correct.
Q To -- to close off that get-away, if we can call it that?
A To put gas in the hallway of the building to prevent people from coming down the hall and getting in the bus.
Q All right. And you -- you mentioned that one of the reasons that you wore the clothing that you had was, because you were afraid of Molotov cocktails?
A Yes, sir.
Q And would you tell the jury -- they probably know -- but what is that, generally? What are you talking about?
A That's basically a glass bottle filled with gasoline and a rag stuck in it in the top of the bottle, and when the rag is lit and the bottle is thrown. When the bottle hits a vehicle or pavement or a building, it breaks, the gasoline spills and the ignited rag catches everything on fire.
Q And did any of that occur during your running in and out of this building?
A No, sir.
Q Did -- and as far as you know, that didn't occur, as far as any of the other people who were there with you doing the same kind of work you were doing?
A No, sir.
Q You, at some time -- and you've already told us, but I want to point out one thing -- at some point in time, you changed the way you were conducting your intrusion into this building,

white corner, and when this was afire, the first thing I did, and CEV-2 eventually helped, was to push all of this wood, which some of it was burning, back way out of the way, push that propane tank back out of the way, and then started pushing the burning building back this way (indicating).

Q Some of the photographs show a tank sitting in here (indicating), is that the propane tank you're talking about?

A A silver propane tank --

Q All right.

A -- oblong.

Q Now, show us, if you would, where you understood the trap door to the bus to be.

A Well, sir, I don't know. It was somewhere in the left-hand tower, as you look at the white side, somewhere in this area here (indicating).

Q Okay. And that's the area where you initially -- and I think Mr. Kearney showed -- showed you a photograph showing the holes where you squirted this CS gas in there --

A Yes, sir.

Q -- to keep people -- keep people from running down here and going into the bus or the -- that area -- so they could get outside?

A That's correct.

Q You can have a seat.

MR. TINKER: May I approach the witness, Your Honor?

Mr. SCOTT. Mr. Chairman.

Mr. MCCOLLUM. Yes, Mr. Scott.

Mr. SCOTT. Reserving the right to object.

Mr. MCCOLLUM. You are reserving the right to object, very well.

Mr. SCOTT. Mr. Barr, could you remind us what those pages refer to.

Mr. BARR. OK, this is the trial transcript from the case in the Western District of Texas, the U.S. District Court, Waco Division, of the criminal case, and these were the pages that I specifically referred to in my questioning of Mr. Potts.

Mr. SCOTT. What was the subject matter?

Mr. BARR. The subject matter was the spraying of tear gas into the area by the bus and the trap door leading to the bus.

Mr. MCCOLLUM. Without objection, they are so admitted.

I again want to thank this panel. You are excused. We are going to introduce the next panel, but we need obviously to clear you out and have them come in. I believe that our fire experts are here, and we will commence the next panel immediately. We are not taking any lunch break other than when we get a vote because we need to be able to proceed today. I think everybody understood that.

If I could have the other panel here. I will see if everybody is here. Could I ask them, Mr. Potts and others, can you clear the area, so we can bring in our other panel? I would really like to introduce them before we have a vote.

If we could have the panel come forward, if you are here.

The first that I want to introduce is Rick Sherrow. He is an Army-trained arson investigator. After 20 years in Army ordnance, he served as a senior explosives officer with the BATF. He left that post in 1992 and has been a private arson and explosives investigator since that time.

Next we have with us on this final panel of today Paul Gray, who is an arson investigator at the Houston Fire Department and was the leader of the Justice Department Special Fire Review Team whose findings are included in the Justice Department report.

I believe Ms. Sheila Jackson Lee would like to welcome Mr. Gray as a Houstonite. Would you like to do so?

Ms. JACKSON LEE. I certainly would, Mr. Chairman.

Let me offer to Mr. Gray, Assistant Chief Gray, and the leadership that he brings to the Houston Fire Department, and I might take a moment of personal privilege just to say the best department in the world, but in any event to welcome here to Washington and to acknowledge the Houston Fire Department for its hard work both in terms of the effort made in the tragedy of Waco but as well in the efforts made on behalf of the citizens of Oklahoma City.

So I welcome you to Washington, DC, and certainly give my respects to the Houston Fire Department.

Mr. GRAY. Thank you.

Ms. JACKSON LEE. Thank you, Mr. Chairman.

Mr. MCCOLLUM. You're quite welcome.

The next witness we have is James Quintiere. Did I pronounce that right?

Mr. QUINTIERE. Yes, that's correct.

Mr. MCCOLLUM. Thank you. Who also served on the Fire Review Team for the Justice Department. He is a professor of fire protection engineering at the University of Maryland. He has served as chief of fire research at the National Institute for Standards and Technology. He is the current chairman of the International Association for Fire Safety Science.

And then our final witness is Mr. Clive Doyle. He is a Branch Davidian who survived the fire inside the compound and will be our other and last witness on this panel today. If you would, I notice you are all standing, if you would raise your right hands.

[Witnesses sworn.]

Mr. MCCOLLUM. Please be seated. Let the record reflect that all four of these panelists have answered that question in the affirmative.

I then yield for the first round of questioning to Mr. Clinger, 5 minutes.

Mr. CLINGER. Thank you, Mr. Chairman. And I would like to ask Mr. Doyle who is the only the second, I think, Branch Davidian who has appeared before the committees and is a survivor and was there on the event, if he would be able to give us a narrative from your perspective of the events that took place.

Mr. Doyle.

STATEMENT OF CLIVE DOYLE, BRANCH DAVIDIAN

Mr. DOYLE. If I may, I'd like to read a statement that I prepared which gives somewhat of a narrative.

Mr. MCCOLLUM. Mr. Doyle, you may do that, but we are under this 5-minute rule, so do the best you can to—you don't have do limit it precisely to it, but we will have a vote here in a minute, so please proceed.

Mr. DOYLE. I'd just like to thank the members of the subcommittee for this opportunity to speak at these hearings. If truth and justice are really the important concerns here, then it puzzles me that only two of the survivors have been given an opportunity to speak at these hearings, that is David Thibodeau and myself.

Several survivors I know were in the Washington area last week and were not called. And also I know that those nine survivors that are in prison would definitely have liked to add their experience to these hearings. So it is my privilege and I feel my duty to address the subcommittee members on behalf of those survivors that can't speak for themselves.

And on behalf of the 82 that died, throughout the 51 days, the first thing I'd like to say is that there was no ambush of the ATF officers. There were no 40, 50, 60 people, as is alleged, waiting for them at every window with guns. Very few of the people on February 28, inside the building knew anything about the arrival of the ATF until maybe a minute or so before the trailers drove in the gate.

I personally was in my room at the north end of the building, which if you have seen diagrams of the building, would be the third window from the left-hand end. And I recall hearing some people in the chapel—excuse me, in the cafeteria area and it puzzled me that people would be in there since breakfast was over.

I went out to see what was going on and it was at that time that there was talk that word had come in that something was coming—somebody was coming. About the time I arrived, David Koresh walked in from the opposite door from the kitchen serving area and confirmed that he had heard somebody was coming and he cautioned us and says, I want everybody to stay cool, go back to your rooms and just, you know, wait. He says, I will go to the door and talk to these individuals, whoever they are.

I went back to my room and within a minute I'd say, or less, heard David at the front door saying, hey, wait a minute. There are women and children in here. Let's talk about this. Immediately shots rang out coming from the outside in. And I although not an expert in firearms or ballistics or anything, you could definitely tell the difference between shots fired outside as opposed to shots fired indoors. It had a distinctly different sound.

I went running down the hall thinking there must have been a massacre or people hurt at least in the area of the front door and found Perry Jones laying in the hall, screaming that he'd been shot. Perry Jones was in his 60's. He was unarmed, as was David Koresh.

When they went to the front door, both were shot in the area of the front door. David was shot in the wrist. Perry Jones was shot in the stomach. I know that this is different than what the autopsies allegedly revealed. I have some contentions with the autopsy findings and the Tarrant County Medical Examiners' Office.

I don't, you might say, trust their findings inasmuch as during the trial that we had in San Antonio, Dr. Peerwani made repeated mistakes in the identification of various people and various information about these people. We could get into the details later.

Upon finding Perry screaming that he'd been shot and holding his stomach where there appeared to be blood coming through his clothes, I told him to hang on there for a minute and I rushed to the front door thinking there may be others also wounded. To my surprise, there was no one else in the foyer area and I retraced my steps back and helped Perry with the help of another individual by the name of Livingston Malcolm. We helped him to a bed on the inside of the building.

Mr. MCCOLLUM. Mr. Doyle, in all fairness to you, and I think Mrs. Thurman would agree to this, that we didn't anticipate when we started your testimony, when Mr. Clinger asked that, that we would be interrupted by this vote and it occurred almost simultaneously. Although the 5 minutes that he had has expired, we always give the witnesses the opportunity to complete the answer and you are going to have an opportunity to put your whole statement in, let us hear your description of what happened that day, but I think we should come back from the vote and let all of us have the opportunity to hear it uninterrupted by all these noises and all the hassle that's going on and you may take whatever time you need to do that when we come back.

So with that in mind, the hearings will be in recess until after this vote. We will try to return within 5 minutes of the vote's conclusion. The hearings are in recess.

[Recess.]

Mr. MCCOLLUM. These joint hearings will come back to order. When we were in recess a few minutes ago for a vote we had Mr. Clinger's time having expired in the process of Mr. Doyle giving his testimony and responding to the questions, described what happened inside the compound and whatever else he wished to with regard to the whole situation for the Davidians that day.

Mr. Doyle, as I told you before, you may proceed and you are not being clocked because you are responding to a question of Mr. Clinger's. So please tell your story.

Mr. SCHUMER. Mr. Chairman.

Mr. MCCOLLUM. Yes, Mr. Schumer.

Mr. SCHUMER. Thank you. I understand that Mr. Doyle will get as much time as he needs to do his opening statement, which I have no problem with.

Mr. MCCOLLUM. On Mr. Clinger's time post that Mr. Clinger took the time to ask him that question.

Mr. SCHUMER. He had 5 minutes, but he will get more.

Mr. MCCOLLUM. That's right.

Mr. SCHUMER. We have two people who would like to do the same. Mr. Quintiere has a presentation to make that may go beyond 5 minutes in terms of the film and Mr. Gray had wanted to——

Mr. MCCOLLUM. I have no problem with that provided that they begin their presentation——

Mr. SCHUMER. With someone yielding to them.

Mr. MCCOLLUM. So that we consume somebody's 5 minutes, then we can go on.

Mr. SCHUMER. Great, I think that is fair.

Mr. MCCOLLUM. That's the orderly and appropriate way to do this.

Mr. SCHUMER. That's fair. Thank you, I appreciate it.

Mr. MCCOLLUM. Mr. Doyle, you may continue until you are finished. You are recognized.

Mr. DOYLE. As I was stating prior to the break, I helped Perry Jones. With the help of another individual, we helped him back into the men's dormitory area at the north end of the building and placed him in a bunk bed.

We put him on an inside room rather than in his own room because there were bullets still coming through the walls and we were—I was afraid that if we put him in his own bed, he would receive other wounds, you know, as a result of these shots coming into the building. It turned out that the bed we put him in belonged to Kevin Whitecliff.

I went from placing Perry Jones in the bed. I commandeered three people that were basically in shock and kind of milling around. I told them to stay with——

Mr. MCCOLLUM. Excuse me, Mr. Doyle. I know you are all having a conversation, if you could take them in the back room if need be.

Thank you. Please proceed.

Mr. DOYLE. I asked these three individuals to take care of Perry, comfort him, and do whatever they could for him and I rushed across the hall to my room in order to get him some Tylenol. I had a couple of Tylenol tablets that had been given to me and I brought

them back and gave them to him to alleviate the pain. He was screaming. It was very unnerving to hear his screams of pain.

After giving him the Tylenol, somebody came up to me and said Winston Blake was dead. I said, where is he. They said he's in his room. So I made my way further up the hall to the north. He was the last room on the inside.

And as I approached his bedroom doorway, I could hear water running and it kind of puzzled me. I couldn't make out what was creating that sound until I rounded the doorway and found Winston laying in a pool of blood and water on the floor.

The reason for the water pouring into the room was the fact that the outside of Winston's room—his was the only room on the inside or, I should say, on the back side of the hallway that ran the length of the building that had a window in it. The other three rooms on that side of the hall butted up to the cafeteria area and therefore they only had sheetrock walls. But his room had a window, but you wouldn't see out of the window.

There were three huge plastic water tanks on a foundation outside the window which totally blocked the window from either seeing in or out. And the water was coming from dozens of bullet holes that had—coming out of this water tank on a downward angle. In other words, on the outside of the tank, the bullet holes were high up and coming down into the room, which led me to believe the helicopters had been firing, contrary to what ATF and other officials have stated.

Other witnesses have confirmed, such as Marjorie Thomas who gave a video deposition for our trial in San Antonio. Catherine Matteson also testified that bullets were fired. And for those that were upstairs and toward the back of the building, most of the survivors that I have talked to will testify that's the first shots that they heard was from the helicopters, as opposed to those of us that were in the front and on the first floor, we were hearing them at the front door. So they were probably fairly simultaneous.

So I believe that Winston Blake was shot from these helicopters, therefore I disagree with the Tarrant County Medical Examiners' Office which is a point in my opening remarks that Tarrant County testified that Winston Blake was shot by somebody inside, that he was supposed to have gunpowder burns in the wound.

But from what I've read, new autopsies were done when his body was returned to England and it was decided there that there were no powder burns in the wound and his wounds went along with the concept of being shot from above.

I understand Jim Cavanaugh indicated in some answers that he gave or in some statements he gave the other day that he was the one that initiated calls into the Mount Carmel building during the initial raid. I think just about everybody who's read anything knows that it was Wayne Martin, Harvard graduate, lawyer, that initiated the 911 calls to the sheriff's department in Waco.

And any delay, any suffering caused by agents that were shot has to fall to some extent on the fact that Larry Lynch, the sheriff's deputy who was answering the calls, monitoring the calls, was not able to reach the ATF and arrange for any help or ambulances or whatever.

We were calling for cease-fire right from the start. This is not conducive or does not go along with the concept that we were all just waiting to massacre them.

There was no murder of Federal agents. I am in sympathy with the families of those that lost—the families of the four agents that died, but I don't call it murder when people are trying to defend themselves believing that you are being attacked by a military force using helicopters and so on who come racing into your house or trying to race into your house using grenades and various different kinds of weapons, shooting into your building. If those agents were shot from inside, I would at least give us the benefit of the doubt that it was self-defense.

The prosecutors during our trial tried to prove conspiracy and murder and all 11 defendants were found by a jury to be not guilty of those two charges and I think that, to me, is for the President and for any media or anybody in this committee to continue to refer to us as murderers, I feel that's unjust.

If the killing of Federal agents, which was never proven as to who shot them, if the killing of them constitutes murder, then those who shot and killed our people inside must also bear that label of murderers. As I say, I sympathize with the families. I know what they are going through. We lost a lot of our friends and a lot of our families. I lost a daughter inside Mount Carmel.

There was a lot of fear after the ATF retreated, after we finally got the cease-fire set up, allowed them to come and get the wounded and those that were killed. There was a lot of fear that there would be retaliation. There were people who began grabbing guns after the fact.

The Government tried to say that everybody—they could put a gun in everybody's hand at the beginning and during the raid and that's not true. Most people were unarmed. There were a few that had guns and I admit that and there were probably those that reacted to seeing David and Perry and others gunned down who responded by firing back but it was not a general ambush as they would like you to believe.

As I said, after they had retreated, and I might just add that in the course of their retreat where you—where the agents were helping each other leave the property, that was the first time that I actually got to see an agent and was totally shocked by the number of individuals involved because I had in the course of the morning tried to—you know, I would ask people who's out there and where are they and they said, well, they are hiding behind the vehicles and so on. I couldn't see anybody, so it wasn't until they got up and began to leave and my mouth dropped open. I was totally surprised at how many there were.

As I said, after they'd left, we figured retaliation. We figured with agents wounded and dead that they'd want to get even. There was a lot of fear inside on the part of the residents that they would come back perhaps at night and try to get revenge on us.

So some began to grab weapons or to pass out weapons to others that didn't have weapons and so on. Some that already had weapons were getting extra magazines or whatever with ammunition in it and so forth. David Koresh had been wounded twice that morning, once at the front door and having been wounded there, he

slammed the door and ran upstairs where he ended up being shot again.

During that first day, he was laying in a little hallway that went back to the central tower feeling that he was about to die. He was bleeding profusely. He thought his hip was shattered.

But word got to him that people were grabbing weapons, weapons were being brought out of where they'd been stored. And even though I didn't hear it personally, the word came down to us who were in the chapel area that we were to put our faith in God. We were not to feel that the guns were going to be our protection. Anybody that didn't have a weapon prior to the raid itself or people who had weapons who were getting extra weapons or extra ammunition were to put them all back where they came from.

And not everybody apparently knew where they went, so a lot of them were just dropping them where they, you know, happened to be when the message came around. And so I picked up several weapons and took them back. I asked where they were supposed to be kept and was told that they were kept in the concrete vault area, which was basically behind the cooking area of the kitchen, which is the base of the central tower.

And that was the first time I even knew there were weapons stored in there. Like the ATF, I thought that whatever weapons were out there were stored in the upstairs room that the ATF were breaking into. I found out that that was stale information, they hadn't been there for several months.

So in taking the guns back and putting them back in the room was the first time I was aware of where they'd been moved to. What a lot of people don't understand is that there were areas of Mount Carmel that were off limits to most of the people.

People didn't just go up to the rooms that were David Koresh's that were over the chapel or near the gymnasium. Probably one or two people had access to the machine shop. No one else was permitted in there. Other areas were off limits for various reasons. So the fact that, you know, everybody knew things is an assumption.

For the next 50 days—and I might add before that, that during the course of the morning word had come to us—you know, the word was getting around how many wounded and who was wounded and so on, we learned that Peter Gents had been shot up on top of the water tower. Peter had been working in there—well, he built some scaffolding in there and some platforms so that he could scrub the rust off of our big metal water tower.

He was shot when he put his head out the top of the water tower. That's all I know about that. Peter Gibson was also shot in there; Scott Cynoby. Jaydean Wendel was shot laying in her bed on the second floor. She was the mother of four.

Unbeknownst for us for several weeks, David Jones had been shot. I guess he was embarrassed about his shot because it was in his buttocks or buttocks and it wasn't until the nurses came into the chapel one day and said, well, she just removed a bullet from David Jones that we even knew he'd been shot. His children didn't even know that were in there with him.

Steve Schneider's wife had been shot. The bullet had split her finger up. It had skipped up her arm and had lodged in her shoul-

der. There was a lot of people that were very upset to see this carnage, to see people killed, your friends killed and wounded.

And I'm not going to justify everything that perhaps been done, but I do think that they had a right to self-defense and try to defend the women and children. Under the circumstances, I think anybody would have done the same if they'd been in our position, not knowing what all was going on and what it was all about but just being caught in the crossfire and so forth.

For the next 50 days, we basically went through varying degrees of hell. I remember the night that I was sitting in the chapel when it began to get dark, and I don't remember the date but it was when they first brought the tanks, the FBI brought the tanks into play in the siege and we were sitting in the chapel. And you couldn't see out of the windows of the chapel.

They were like opaque, kind of that rippled glass that they put in bathroom windows and so on. But all of a sudden the whole building began to shake like an earthquake and so we went over to the south wall of the chapel and cracked a window in order to look out.

And half a mile away on the farm road that leads from Elk down to the Bellmead area was this big convoy of trailers with the tanks mounted on the top of these trailers and the ground for half a mile was shaking and the building was shaking and yet we were hearing on the radio that we had a fortified compound. And we kind of said to ourselves if only they could be in here and realize how flimsy this place is.

One of the girls, Lisa Farris by name, went into the foyer about the time we saw the tanks being brought and picked out a World Book encyclopedia and began to read up what they had written in there about the various—the Bradleys and the various tanks that were—we were being told were being brought down.

I can remember in the chapel area where I was there was a lot of fear. People were making remarks like, well, if they have got this kind of firepower, if they open up on us, this place is going to look like swiss cheese. People were very concerned that they'd either be shot by the tanks or if the tanks made incursions into the building that we would be crushed by falling timbers and so on.

We were trying to cooperate. I believe David was sincere in his cooperation with the ATF—excuse me, with the FBI negotiators. He had originally been talking with the ATF and I believe he felt he had a very good rapport with Jim Cavanaugh or whoever he talked to on the 28th. So much so that I believe after the FBI took over the operation, David demanded that Jim still be allowed to talk to him on the phone because he felt this closeness to him.

At no time was there any hatred toward the ATF or toward the FBI agents that were there for the things that were going on. David had a very deep concern for people's souls. As far as the negotiations were concerned, I believe they were trying to wear him out, trying to—of course, in their doing their job, trying to get as many out alive as possible and that's commendable.

But this whole situation should never have happened in the first place. It could have been handled so many different ways and at different times to where no agents would have died and no residents of Mount Carmel would have died. But having gone through

the initial raid and people being killed, we were trying to make the best of it.

And children were being sent out. We were cooperating. It was my understanding that we were being told that we couldn't all just come out at anyplace at any time en masse. It was to be orderly. It had to be arranged over the negotiating phones.

And so people like myself who was occupied with various jobs of taking care of garbage, taking care of human waste and so on, throughout the 50 days felt that in all likelihood the women, the children, the elderly would be the first ones out and those of us who were able-bodied and able to take care of necessary chores would probably be the last, but we were sincerely expecting to come out.

Everybody I know in there had their bags packed, but as the 50 days wore on, as the tactical team and the tanks began to do things on a more and more—you know, more and more pressure was expended by them, which seemed to work at cross-purposes with what the negotiators were promising and so on, people began to balk.

We observed what we considered immoral acts. FBI agents were mooning people from the tanks. A number of individuals have testified to that and told me that. We had the electricity turned off, of course, and most of our fresh or frozen foods were destroyed or spoiled. So as I say, we went through varying degrees of hell with noise, music, bright lights.

The children were suffering along with the adults. We were without water. Having had our water tanks shot up, we were living on rainwater. Whenever it would rain people would put buckets out the window and collect rainwater. It was rationed. I doubt whether anybody got more than eight ounces a day, if that. I lost 25 pounds by April 19. I know others that lost about the same amount.

You say why didn't the people come out. There's two reasons. One is fear. One is distrust. I take it back. There's more than one reason.

One is fear of what's going to happen to you if you come out. One is distrust because you're being told certain things that aren't taking place.

The negotiators had promised that if certain people come out, they could keep their Bibles when they were taken to jail. I'd been told if I came out I could go and live with my daughter in California, but everybody that came out we saw was being handcuffed and carted off to jail. We were hearing their Bibles were being taken away from them, their bags and whatever they brought out with them were being confiscated and held as evidence and things like this.

So even though we all had our bags packed, as time went on, people began to maybe not even take them with them when they exited. One of those was Kevin Whitecliff, who was in the chapel with me. He had a bag packed and when he came out, he just gave all his clothes away. He says I'm not going to get to keep these, so if you want them, you know, go ahead and use them.

And as a result of the lack of water, we were starting to wear anything we could find, you know. We even got into the supplies that—David and the guys that went to gun shows, they had bought

up large supplies of camouflage clothing. We got into that because our clothes were dirty and we couldn't wash them, we didn't have any water.

We didn't wear them as a statement. We didn't wear them to hide in amongst the bushes or anything like that. It was simply a matter of necessity in order to have some element of cleanliness.

There were people that came out of the building, especially in the last week or two before April 19, that had grenades thrown at them or fired at them. Steve Schneider was one of them and he was the one—one of the ones that was doing the negotiations with the FBI. He was going out at various times and picking up batteries or milk or whatever that the tanks would bring in, a lot of which was bugged as you've probably learned in these hearings. We found a lot of them we probably—there was others we didn't find. But even Steve Schneider in coming out to pick up something one day had two of these flashbang grenades lobbed at him; scared the daylights out of him.

So on the 19th of April, I was in the chapel. It was still dark and I was using the lights from the floodlights that they had on us at night. These sleep deprivation methods that they were using somewhat backfired in a sense because I was using the light to try to transcribe one of David's studies that was on tape. I was listening to it and trying to write it out in longhand using this outside light.

I remember about 6 o'clock, or give or take a few minutes, we were told over the loudspeakers that tanks would be inserting holes into the building or poking holes into the building to insert gas. Since I happened to be awake and others that were awake, immediately we began to wake up everybody else and let them know, you know, to expect this attack, this gas being sent in.

Some of us had gas masks. The children didn't. Most of the women didn't. I believe it's been testified to this committee that water tends to aggravate that gas and I can testify to that.

I can't tell you exactly how the children dealt with it, but if water aggravates it, then trying to wrap wet towels and wet blankets around you to survive probably only made their suffering worse since they were in a cul-de-sac type room with no ventilation, no windows, and only one door, which at least once was the gas was fired in at point blank range into that area.

Questions have come up like why didn't you put the children in the bus where there was relatively clean air? But during our trial it was testified that the storm shelter, the underground storm shelter, as they called it, or the bunker, was one of the first things they gassed.

The northwest corner of the building had been pushed in by the CEV and when the driver was asked why he did that, he says because they'd heard there was a trap door in there and it was his job to push building material and so forth over the trap door so nobody could escape. So to me, it's a dishonest statement to say, well, why didn't you put the children in the bus.

As I say, there was a lot of concern about people if they came out whether they would be shot. Those of us in the chapel were dodging the ferret rounds. They were like rockets coming through the windows and through the walls.

When I first heard they were going to inject gas other than from the nozzle of the CEV, in my uneducated understanding, I'm thinking of Hollywood where a grenade is thrown into a room and somebody runs over picks its up and throws it back out the window if you won't want it. I mentioned that to somebody and they said, well, you can't pick them up, they're hot.

And I said, well, maybe we could use a glove. We never got to see them. They whizzed past your head so fast that, as I say, it was like a rocket. The only time you could see them at all is when they hit a wall and stuck in the sheetrock and the hissing and so on.

Anybody that was hit by them could be severely hurt. I heard Jimmy Riddle being hit in the face and happened to have his gas mask on and was only knocked down and wasn't seriously hurt by one of them. But other than that, I don't know what was going on at the other end of the building because after 6 hours of gassing and 6 hours of tanks penetrating the walls, pushing on the walls, destroying the gymnasium at the back, those of us in the chapel were virtually cut off from the rest of the building.

The roof of the gymnasium had collapsed and had blocked the back stairs that went up to David Koresh's rooms. A tank had come through the front door area on numerous occasions. The last one right into the chapel area, was spraying gas there.

They continued to push on the front of the building to where the whole first floor hall that ran the length of the building was blocked with the dividing walls in the various bedrooms being pushed back into the hallway and the sheetrock and the two-by-fours cutting off any opportunity for us to have contact with the people at the other end in the cafeteria or whatever.

We were not able to get upstairs and whether the stairs out of the cafeteria were still usable, I don't know. I was not—as I said, we were cut off to the point where we couldn't—didn't have contact with any of those people up there.

At one point, probably around there, I'm not real good with time, but I'd say around noon, somebody came into the chapel and told us the building was on fire. We instinctively—I had the feeling—I don't remember them actually saying where it was, but my recollection was the feeling of everybody in the chapel was it's upstairs in the front somewhere.

And so we moved away from the front of the building and got up on the stage and went round behind a partition that was built on the stage of the chapel. And on the south wall a tank had knocked a hole in the—from the outside in.

There was a big heap of sheetrock and lumber and so forth that the tank had pushed in. And the first ones to get to that hole were David Thibodeau and myself and we hesitated for a moment in coming out. The conversation, as I remember it, was if we come out, well, we'll be shot.

We knew there were sniper's nests—sniper positions on the south side. There was one that was sandbagged over near the fence. We knew that there were agents inside our boat shed. We knew there was a tank parked next to the boat shed under the tree. There were individuals outside of the tanks.

And I might add that all through the 51 days' siege, if all we were were a bunch of crazies that wanted to kill agents, we had endless opportunities to fire on them if we so chose and we didn't.

Mr. COBLE. Pardon me, Mr. Doyle.

Point of inquiry, Mr. Chairman. Do we have a time frame here? I don't mean to be cutting Mr. Doyle off.

Mr. MCCOLLUM. No, he is being permitted to finish his statement. He is on Mr. Clinger's time.

Mr. COBLE. I came in late and didn't know.

I apologize to you, Mr. Doyle, if I interrupted you.

Mr. DOYLE. Thank you.

So there was this moment of hesitation on the part of David Thibodeau and myself as to what would happen if we came out, out of the hole, would we be fired at. There was some concern about it.

We were surrounded by tanks. There were Bradleys. There were the CEV's. And they had been, as I say, lobbing these ferret rounds or firing these ferret rounds most of the morning, and they sounded kind of like mortars or whatever. You couldn't tell whether they were firing at us other than those or not.

If they had used silencers, we wouldn't have known. So in that just moment or so of hesitation, other people were crowding in behind us to the point where eventually 10 people were crowded in a little narrow space behind this partition. What I recall in looking out the hole and deciding whether to jump out was that all of a sudden smoke came along the outside of the building, along the south wall of the chapel heading from west to east toward the back of the building, and when it got to the hole it was like it just got sucked in where we were and the whole area that we were in just turned pitch black, and almost immediately it was like you could feel heat over your head and on both sides, and I found myself down on the floor rolling around trying to protect myself from the heat.

My hands were the only areas that were basically uncovered. I did have a gas mask on at the time, in spite of the fact that the filter had blocked up about 30 minutes after the gassing started. I had been told that earlier in the morning, that the filters wouldn't last long, and when it did block up, I had taken my mask off, only to find my face burning and stinging. It was like you had acid all over you.

So I put the mask back on. I felt I would rather suck air through the blocked filter than continue with this burning sensation. I saw other adults that had less clothing on than myself stinging and crying in pain because of the CS gas getting on their skin, and because they were uneducated in the use of gas or what it was like, some of them were trying to wipe it off with minimum amounts of their drinking water, perhaps a rag or whatever, only to find that it made it worse, so as I say what the children would be going through only God knows.

There came a point in my rolling on the floor and in trying to protect myself from the heat and being in the pitch black not able to see with the voices of those behind me screaming kind of got through to me. I recognized who they were, I could identify the voices.

That kind of galvanized me to just leap to my feet and jump or dive head first in the general direction of where I figured the hole was. I landed on the sheet rock face down and kind of slithered out on to the ground.

When I stood up, the skin was rolling off my hands, my coat was all melted on my back and smoking. I looked back over my shoulder, and the hole I had just come out was a mass of flames, and the first thought that came to me was I am the only one, I am the only one to get out.

I was in shock and pain, and I staggered away from the building, and I ran into the razor wire fence and had kind of forgotten that they had surrounded us with this razor wire and I ran slam bang into it and I tried to look, you know what do I do now, where do I go.

I looked to my left and I looked to my right, and as I did I saw David Thibodeau and some others walking up to the front gate with their hands in the air. It was the first time I realized that others had got out besides myself and not only that, but some of them had come from the same area, and I hadn't even seen them leave, everything was so pitch black, they had walked right past me and managed to get out.

So I decided to follow them, and as I rounded the corner of the drive some perhaps 60, 70 yards behind the three or four individuals ahead of me, I presume it was an FBI agent over near the tree who was dressed in camouflage yelled at me to come over to him, and I kind of staggered over there, and limped over there. I didn't realize that my left ankle was burned, the right side of my face was burned, both hands, and I was in a great deal of pain and the ground was all chewed up like it had been plowed because of the tanks.

So I hobbled over to him and he was screaming at me that he would blow my so-and-so head off if I didn't—you know, if I made a false move and keep my hands up and come over here because he wanted to know where the children were. Unfortunately, I wasn't able to tell him, I didn't know. I had been sick all day the day before, and had stayed in my bed and I was pretty sick most of the 19th, so that I had laid on the floor in the chapel between the pews most of the morning trying to keep my head out of the direct contact with these ferret rounds, and so I wasn't much help.

I made suggestions that maybe they were in the bus because I didn't know they had blocked the entrance. I said normally they were upstairs with the mothers, and I might just make this comment that on the 28th all the rooms that you see the ATF agents firing into on the second floor, all had women and children in them.

They were all where the children stayed, that whole front row and around both corners were rooms with women and children in. But anyway, since I wasn't much help to him and he ordered me to go on up to the gate, and be arrested along with the rest of them.

So I staggered away from him with his threats in my ears, you know, if I made one false move that he would blow my head off. I got up to the gate and when I got there, there were four of us that had come out of the fire, four men already laying on the ground handcuffed. I was told to start a new row behind them, get

down face down on the ground, and I was handcuffed in spite of the burns, and it was about that time that I saw the huge fireball that so many have seen on the video go off, and I pretty well wrote everybody off at that point.

I figured no one was going to get out of there after that, and then all of a sudden Ruth Riddle was brought up and laid down beside me. Ruth had jumped out of a window, I found out later, and in the process had broken her ankle, her knees and her legs were burned, not very badly, but enough to be painful, and she was put down beside me, and some agent, FBI agent, I presume, grabbed her by the hair and was jerking her head back and forth screaming at her what is your name, tell us where the children are, and Ruth, who was in shock and in pain, wasn't answering.

I didn't understand why, and I heard a voice off to my right saying you better quit that, they are taking pictures. So he let go of her hair, you know and jerking her head around and he let her go and he turned to me and said, "What is her name? She won't answer me."

I said—I had already given my name, they had already taken pictures of us laying on the ground and so forth, and I didn't understand exactly why she wasn't answering. I asked her later during the trial when I had an opportunity to talk to her, she said she was just in so much pain and shock that, you know—it isn't that she was being hardheaded or anything, but at that point when he asked me what her name was, I said, "Look, I don't know why she doesn't respond, why she is not answering, but that is her right."

We are told that you don't have to say anything unless you have your lawyer present, so I didn't know whether that was her reason or not, but I says, "If she doesn't want to answer, then I am not going to tell you her name, either, that is her privilege." I said, "I don't know the reason."

Shortly after that, I was put in a Bradley. Somebody in command made a decision that I was bad enough and they put me in a Bradley and it felt like you were being dragged down the road on your stomach, but they did take me to a medical tent where I was given morphine and it was decided by the doctors there to send me to Parkland Hospital in Dallas. I passed out on the helicopter. I don't remember when I arrived or when I woke up. But as I said, I pretty well had written off everybody in the building, including my own daughter, my 18——

Mr. MCCOLLUM. Mr. Doyle, I know it has been tough on you, you have told us your story. I think you will have an opportunity to answer questions and to do more at a later date. We have been very lenient in the time because of the circumstances, and we are going to have a couple of presentations. There will also be a little deviation from what we normally would do.

[The prepared statement of Mr. Doyle follows:]

PREPARED STATEMENT OF CLIVE DOYLE, BRANCH DAVIDIAN

I wish to thank the Sub-Committee for the opportunity to speak at these hearings. If truth and justice are really the important concerns here, then it puzzles me that only 2 of all the survivors, David Thibodeau and myself, have been permitted to address the Committee. Several survivors were in the Washington area last week, but were not called upon to testify. There are nine others incarcerated in the Federal Prison system who I know for a fact would be more than willing to tell their experience. I guess it is up to me to speak on behalf of these and other survivors. It also rests upon my shoulders to speak for the 82 people who died at Mt. Carmel, including 29 children, who are not able to be here to speak for themselves. I therefore consider it a privilege and a duty to represent them here today.

1. The first thing I want to say is there was no ambush. Any warning that most of the residents had was only minutes before the trailers containing the Agents arrived.

2. (A) The first shots fired, as far as I was aware, were at the front door area, right after David made the statement, "Hey! Wait a minute. There are women and children in here. Let's talk about this."

(B) Others in the back and upstairs would have testified that it was firing from the helicopters which they heard first.

3. I disagree with the Tarrant County Medical Examiner's finding in their autopsies of both Perry Jones and Winston Blake. Perry was shot in the stomach at the front door. Winston was shot by the people in the helicopters.

4. It was those inside who initiated the 911 calls. Any delay which took place in getting help for the wounded ATF agents was caused by the fact that it took some 45 minutes for Larry Lynch to contact those in charge of the raid.

5. The accusations against the residents of Mt. Carmel is that they murdered the 4 Federal Agents killed that day, Feb. 28. These agents were not murdered. To defend oneself when under attack by an invading army can hardly be described as murder. If the accusation holds that our people murdered the agents, then the same label of murders must be put upon those agents who shot and killed those on the inside, probably moreso in the fact that the ATF

initiated the circumstances. As much as I regret their deaths, let me say this. I have seen no evidence that proves just who shot these agents. Having gone through 7 weeks of trial in San Antonio the Government took great pains to prove murder and failed to do so. All 11 defendants were found innocent of conspiracy and murder, by a jury.

6. For the next 50 days extreme privation and suffering was endured by all inside including the children. Decisions to cut off the electricity, destroy all the fuel, cars, trees, etc. to buzz the building with helicopters and play loud music and other noises was certainly not conducive to winning our respect or cooperation. And it certainly could not have had a beneficial effect on the children over which we hear so much concern voiced. Lack of proper food, water and sleep caused many of the adults to lose as much as 25-30 pounds in weight. Just what effect do you think it had on small children?

7. During the siege we had the opportunity to see the tanks continually run over Peter Gent's grave. Agents were observed mooning the residents inside and agents were quite observed outside their vehicles at no time were shots fired during these incidents.

8. Nor were any shots fired on April 19, as far as I could hear. The question is often asked why didn't people come out? Let me just say that the treatment of those who did was not in accordance with the promises made about how certain ones would be treated. Also the lobbing of grenades at individuals, prior to the 19th, people who came out of the building -- including Steve Schneider -- was not conducive to making those on the inside trust those on the outside.

9. The words of Bryon Sage saying, "This is not an assault. We are not entering the building," were belied by the fact the CEVs were definitely entering the building -- in the gymnasium, the front door area, the kitchen area to name a few. The firing of ferret rounds through windows and walls was definitely taken as an attack by those inside.

10. For the FBI to say that, "You'd think they would have put the children in the bus where it was safe," was a complete subterfuge knowing as they did that the entrance to the bus had been blocked since early morning by the CEV pushing in the NW corner for that very purpose.

11. Suicide was not a doctrine of the Branch Davidians, nor was there a general plan to commit suicide on April 19 to my knowledge. There was concern that if we should all come out together that the FBI might open fire on us and that many would die.

12. Everyone I know of, in the area I was located, had their bags packed preparatory to coming out. Most of those I had contact with seemed relieved that we would soon see an end to the standoff when David finished writing the seven seals out, not that we really looked forward to going to jail, but we were resigned that if that was the route God chose to take us, then so be it.

13. I saw adult people suffering from the effects of the CS gas in the chapel area where there was ventilation and can only imagine what the women and children were going through in the enclosed area of the concrete vault without masks.

14. By about 11 or so in the morning those of us in the Chapel were pretty much cut off from the other areas of the building. The gymnasium was half collapsed blocking the back stairs. From the continual pushing on the front of the building, by the CEVS, the hall on the first floor was blocked by sheet rock and 2 x 4s. So we were virtually cut off from the cafeteria area.

The penetration into the front door area had also blocked or damaged the front stairs as well. Once the fire started most of those inside were trapped. The concept that all the penetrations were escape routes did not prove true. The majority of the 9 who survived escaped through windows -- 4 from the second floor and one from the chapel. Only 4 who escaped through a tank created hole on the side of the chapel made any use of the breached walls.

15. Although much speculation is made that the residents lit the fires I personally did not see where or how the fires started. Please note: I am not an expert on guns, gas or fires. But I've heard enough of these hearings to see that the Govt agents have been given ample time to justify their actions and present their theories on everything from day 1 to the end. It is my opinion and my request that in all fairness to those surviving victims of these atrocities, that Ramsey Clark, the former Attorney General, who just happens to represent a good many of the survivors and the families of these who died, be permitted to speak to the Committee at the same time as Janet Reno, on Monday the 31st.

Mr. MCCOLLUM. Mr. Scott, you are recognized for 5 minutes.

Mr. SCOTT. Thank you, Mr. Chairman. I had made several questions for Dr. Quintiere, but I understand he has a presentation and the presentation will answer my questions, so why don't I just——

Mr. MCCOLLUM. You are going to yield him the 5 minutes plus what it takes for the presentation?

Thank you.

Dr. Quintiere, if you would do that, I think that might be helpful to all of us.

STATEMENT OF JAMES G. QUINTIERE, PH.D., PROFESSOR OF FIRE PROTECTION ENGINEERING, UNIVERSITY OF MARYLAND

Dr. QUINTIERE. All right. I have a statement that I would like to read, and at some point I would like to show a video if that is all right.

Mr. MCCOLLUM. You may proceed, Dr. Quintiere.

Dr. QUINTIERE. OK. Shortly after the fire at the Branch Davidian compound at Waco, TX, on August 19, 1993, I was asked to contribute to the fire investigation. In doing so, I enlisted the support of Dr. Fred Mowrer, also of the Department of Fire Protection Engineering at the University——

Mr. SCHUMER. Excuse me, sir, would you just pull the microphone up a little more closely.

Thank you.

Dr. QUINTIERE. We visited the Waco fire site during April 22–24. At that time we joined the team under Paul Gray, who is at my left, from Houston, and that team also consisted of Thomas Hitchings of Pittsburgh, William Cass of Los Angeles, and John Ricketts of San Francisco. The group under Paul Gray would focus on the cause and origin of the fire. We would analyze the development of the fire and draw interpretations and conclusions from that analysis.

Principally we had visual data to work from.

The fire had completely leveled the compound so that no significant structural remains were available to establish the development of this fire. However, this fire was probably one of the most extensively recorded fires in history.

Not only were commercial television stations continuously recording this event, but surveillance government planes were taking still photographs and using a forward-looking infrared known as a FLIR, F-L-I-R video, that is an infrared video. These visual records became the principal source of our data for this analysis.

The video and photographic data were made available to us by the FBI. Video copies of the data we requested were given to us at the FBI headquarters in Washington, DC, on April 25.

Subsequently, the FBI video and photo laboratories supplied additional materials and support as requested during our investigation. The data included television coverage of the fire by the Canadian Broadcast Corp., and by Channel 10 Waco.

These were representative of the commercial stations that were recording. Also we had the FLIR, the IR video recording, and aerial photographs. These covered the period of the fire, approximately 12 noon central daylight time to approximately 12:30.

The principal source of the data to establish the inception of the fires and their locations is the FLIR video. Based on the calibrated clock of the FLIR, this was calibrated to the national standard time, I believe, the day before they used it. That was used as our official time.

There is a time also on the Canadian broadcast tape, it is eastern time, not central time, and it is off by 19 seconds. So we were able to use the FLIR video as the official time, if you will, in this study. From this visual data I was able to determine the point of origin of the fires, their growth rates, and estimates of the fire energy output rates at critical transition points in their development.

I also drew conclusions on the nature of the ignition sources, the role of the tear gas, the effect of the wind, and the survivability time of the occupants. I will summarize these conclusions and how they were determined. In addition to this statement, I would like our official report and a video I made for the criminal trial to be submitted for the record of this hearing.

[The prepared statement of Dr. Quintiere follows:]

PREPARED STATEMENT OF JAMES G. QUINTIERE, PH.D., PROFESSOR OF FIRE PROTECTION ENGINEERING, UNIVERSITY OF MARYLAND

BACKGROUND:

My names is James Quintiere. I am a professor of Fire Protection at the University of Maryland, College Park, MD. Before coming to the University, I was a Division Chief in charge of fire research at the Center for Fire Research of the National Institute of Standards and Technology. I have 25 years of experience in fire research, education, and in the science of fire growth. I am currently Chairman of the International Association for Fire Safety Science, a world organization of scientists and engineers for the promotion of fire research and its beneficial applications.

Shortly after the fire of the Branch Davidian compound at Waco, Texas on April 19, 1993, I was asked to contribute to the fire investigation. In doing so, I enlisted the support of Dr. Fred Mowrer, also of the Department of Fire Protection Engineering, University of Maryland. We visited the Waco fire site during April 22-24, 1993. At that time, we joined the team under Paul Gray (Houston), which also consisted of Thomas Hitchings (Pittsburgh), William Cass (Los Angeles), and John Ricketts (San Francisco). The group, under Paul Gray, would focus on the cause and origin of the fire. We would analyze the development of the fire, and draw interpretations and conclusions from that analysis.

VISUAL DATA:

The fire had completely leveled the compound, so that no significant remains were available to establish the development of this fire. However, this fire was probably one of the most extensively recorded fires in history. Not only were commercial television stations continuously recording this event, but surveillance government planes were taking still photographs and using a forward looking infrared (FLIR) video. These visual records became the principal source of data for our analysis.

The video and photographic data were made available to us by the FBI. Video copies of data we requested were given to us at the FBI Headquarters in Washington, D.C. on April 25th. Subsequently, the FBI video and photo laboratories supplied additional materials and support as requested during our investigation. The data included television coverage of the fire by the Canadian Broadcast Corporation (CBC), by Channel 10 of Waco, the FLIR video recording, and aerial photographs. These covered the time period of the fire, approximately 12:00 to 12:30 p.m. CDT.

The principal source of data to establish the inception of the fires and their locations is the FLIR video. Based on the calibrated clock of the FLIR, the other video and photographic records could be correlated, and a comprehensive visual record of this fire could be

established. From this visual data, I was able to determine the point of origin of the fires, their growth rates, and estimates of the fire energy output rates at critical transition points in their development. I also drew conclusions on the nature of the ignition sources, the role of the tear gas, the effect of the wind, and the survivability time of the occupants. I will summarize these conclusions, and how they were determined. In addition to this statement, I would like our official report and a video I made for the criminal trial to be submitted for the record of this hearing. If you wish, I can review the video as well.

IGNITIONS:

At least three separate fires began in the compound on the day of April 19, 1993.

Fire 1: The first began at 12:07:42 pm CDT in the front room of the second floor right tower. This is believed to have been a bedroom. We can expect the furnishings to be indicative of a crowded bedroom. I counted about 7 mattress box springs remains in the fire debris at this general location, presumably from this and adjoining rooms.

The precise time of the onset of this fire can be determined because of the characteristics of the FLIR camera. The FLIR camera records the intensity of light and heat radiation in the wavelength range of 8 to 12 micrometers (u.m.). This is a contrast to what our eye sees which is in the range of 0.4 to 0.7 u.m. As a result, the FLIR operated on autoranging which would set the center of its gray scale to the ground temperature (say roughly, 81 F). Then it set its range 40 degrees above and below this mid-temperature. Hence, as an object in the field of view emitted more radiation due a temperature increase, the object would appear more white on the IR video. For an 81 F midrange temperature, this would mean that a change from grey to white color would indicate a temperature increase to 120 F or higher. Reflected sun light could also cause white images, and the FLIR could penetrate smoke roughly 20 times more than the naked eye. Thus, the FLIR could see through cold light smoke; but as the smoke became hotter and thicker, it would see it as white smoke. The FLIR sensor would become saturated at 194 F, above which the image would not be distinguishable. Consequently, the FLIR could detect, by a color change to white, temperatures as low as approximately 160 F (+/-30 degrees due to autoranging). And, it could see through much of the early light smoke of the fire that would obscure the building by normal viewing. The FLIR is the definitive key to the detection of these fires.

The image of the temperature rise of the first fire is seen in Figure 1 (Report, Fig. 10). This is seen in the second floor south corner bedroom. The first sign of this temperature rise was seen at 12:07:42 in the front side of this room. The image in this photograph occurred 9 seconds later, and is due to the transport of hot gases within the room.

In a similar manner, the other fire starts were determined. It appears that they all began on the perimeter of the building.

Fire 2: The second fire began in the dining room on the first floor level, approximately one

minute after the first fire, at 12:08:48 pm CDT. This is seen on the FLIR video by a hot plume rising from the rear of the dining room. On surveying the fire debris, I counted 20 burned stacked chairs in this general location within the dining room.

Fire 3: Nearly one minute after the dining room fire began, the third fire is seen in the chapel window on the right side of the building at 12:09:45 pm CDT. This is shown in Figure 2 (Fig. 23 of our report). The dining room fire is also visible, and the bedroom fire has now affected adjoining rooms, adjacent and above.

Less than a minute later, a related or separate fire is seen to occur in the debris area behind the chapel at 12:10:23 pm CDT. This is shown in Figure 3 (Fig. 26 of our report). This could have been connected to the previous chapel fire. The time difference between the two fire observations is comparable to the time associated with flame spread on a liquid fuel poured between the two points.

Figure 4 (Fig. 27 of our report) shows an aerial view at about the time of the possible fourth fire start. By comparing this to the previous figure, it can be seen that the visible smoke is much more evident than in the FLIR image of Figure 3. This shows the advantage of the FLIR in being able to see through this smoke.

FLASHOVER:

Following ignition of these fires, the next significant event is flashover. This marks the transition point of a discrete fire in a room to a fully developed fire in which flames now fill the room and emerge from the windows. It is rapid, and can take place in seconds. It occurs after the room is sufficiently heated. It marks the difference between survivable and non-survivable conditions in that room. These events can be seen, directly and indirectly, from the video records.

The first is seen directly for Fire 1 as shown as window flames appear in the split screen images of Figure 5 (Fig. 58 of our report). This occurs at 12:09:42, two minutes after the start of that fire. Calculations show that this fire growth rate for the initial burning item would be rated as "fast" according to NFPA standard 72E. Its energy release rate would be about 2 megawatts (MW) at flashover. This is compared to an estimated 50 (k^W) that was necessary for detection by the FLIR. The detectable fire is like a 1 ft^2 gasoline fire at flashover.

Fires 2 and 3, in larger rooms, grow much more rapidly than the bedroom fire. Flashover occurs in about 2.5 minutes for the dining room (12:11:07), and in 4 minutes for the chapel (12:123:49). Figure 6 (Fig. 39 of our report) shows the effect of flashover for the chapel by black smoke which suddenly emerges from the front opening in the building. This smoke, pouring into the 25 mph wind, is due to the overpressure caused by the sudden increase of energy associated with flashover in the chapel.

FIRE CAUSE:

It is concluded that these three fires, occurring nearly at 1 minute intervals, were intentionally set from within the compound. Even if the tank battering had caused the spillage of fuel from lamps, a match would be needed to initiate the fire. An electrical spark is ruled out because the electric power was shut off in the compound. It is obvious that these three fires needed an ignition source deliberately placed in each of the three locations. Also, none of these three fires could have caused any of the others because their growth rates would not provide sufficient heating to cause such remote ignitions. Any external heat source that might have been used to start the fires would have clearly been visible on the infrared video. This was not seen. Although normal furnishings and interior construction characteristics would provide a means for fire propagation, the more than usual rapid spread of these fires, especially in the dining room and chapel areas, indicates that some form of accelerant was very likely used.

TEAR GAS:

Methylene chloride, used as a dispersal agent for CS tear gas, is flammable as a vapor at a concentration of 12 per cent in air; however, it is not easily ignited as a liquid. In fact, it will put out a match on attempting to ignite the liquid. Although fire spread was relatively rapid in the compound, these rates are not indicative of the much more rapid propagation that would be associated with a flammable mixture in the air. Those rates would be in excess of 2 ft/s, and would be seen like a fire ball moving through the atmosphere of the interior of the compound. No such characteristics were observed in this early fire growth.

Recently, I conducted additional experiments to access the role of methylene chloride as a wetting agent to available fuel types in the compound, such as wood and paper. Since methylene chloride is a liquid at normal temperatures, it could have been absorbed into the furnishings of the compound. From my experiments, I can conclude that the methylene chloride had no enhancement effect on the fire spread over room furnishings. Also, I can conclude, from the flashpoint data (197 C or 387 F) of CS itself, that its deposition on furnishings should not have had a significant effect on fire propagation either. Hence, the tear gas had no bearing on the propagation of this fire.

WIND:

Wind effects did have a profound effect on the external fire spread over the compound. An approximate 25 mph wind from the south, caused the fire plume to be bent at approximately 65 degrees from the vertical when the fire fully involved the compound. It is estimated that the fire was expending 3600 MW at this time with an observed length of approximately 240 ft.

Wind effects did not appear to have had a significant effect on the fire growth within the compound. This is seen in Fire 1 where flames and smoke emerge periodically from the

right tower windows into the wind. This could have been as a result of closed doors or windows on the downwind side of the compound. The tank-made openings on the front of the compound could have had some effect on fire growth over the first floor, but more significantly could have provided air to areas of refuge for some of the occupants.

SURVIVABILITY:

It is estimated that the occupants would have had sufficient warning of the fire to enable to escape, for at least up to five minutes from its inception, and up to nearly 20 minutes in some more protection locations. This is dramatically indicated by one occupant who jumps from the second floor 12 minutes after the start of the fire. Although smoke would have impaired visibility, exits were within 30 feet of most occupants, with additional openings made by the battering tanks.

Carbon monoxide in the smoke would have been the primary threat to the occupants. However, preliminary autopsy reports made available to me indicated that only five of 31 victims with recorded CO levels, had lethal levels of carbon monoxide (CO). The remaining 26 victims, with recorded CO data, stopped breathing before lethal CO levels were attained. Hence, if these data are correct, at least 26 victims did not die due to the fire. The autopsy report goes on to indicate that, in at least 17 of the victims, death was attributed to gunshot wounds.

CONCLUDING REMARKS:

During the weeks preceding the fire at the Branch Davidian compound, we were all bystanders to the drama of the standoff, and wondered how it would end. The eventual outcome was a horrible event. In the two years since, many theories about the fire have been proposed; some quite bizarre. I hope this presentation, our report, and the video I would like to submit, will help to explain the events of this fire.

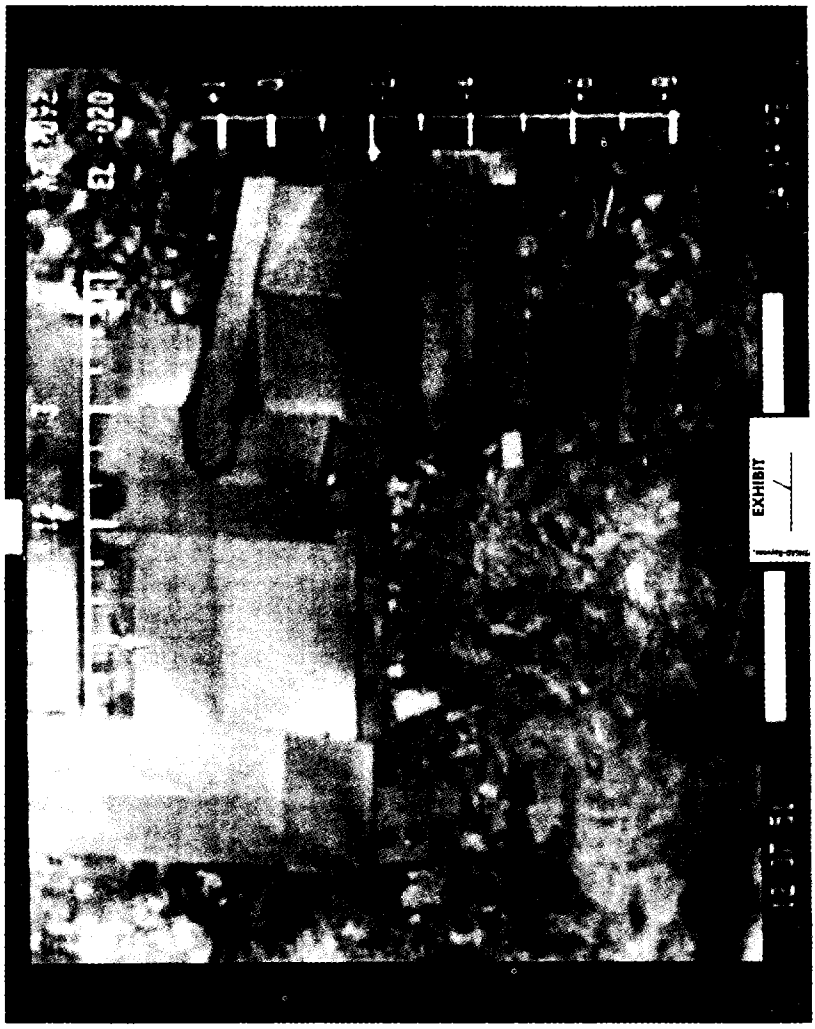
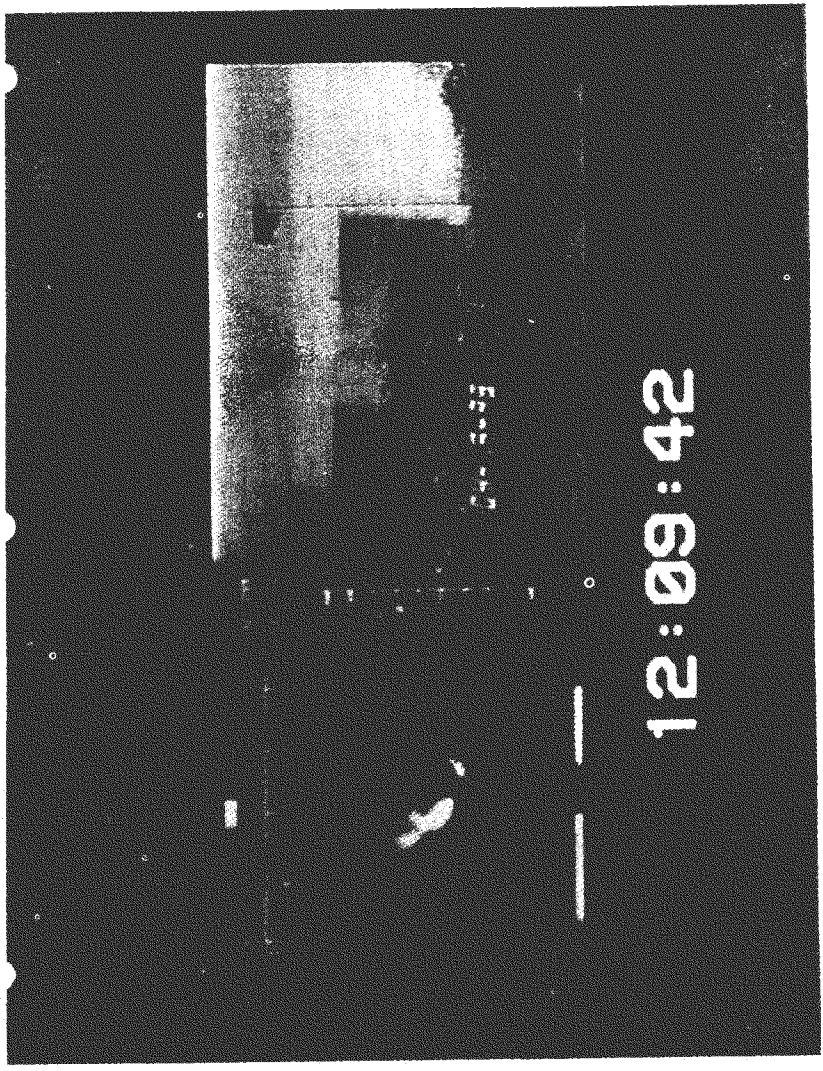
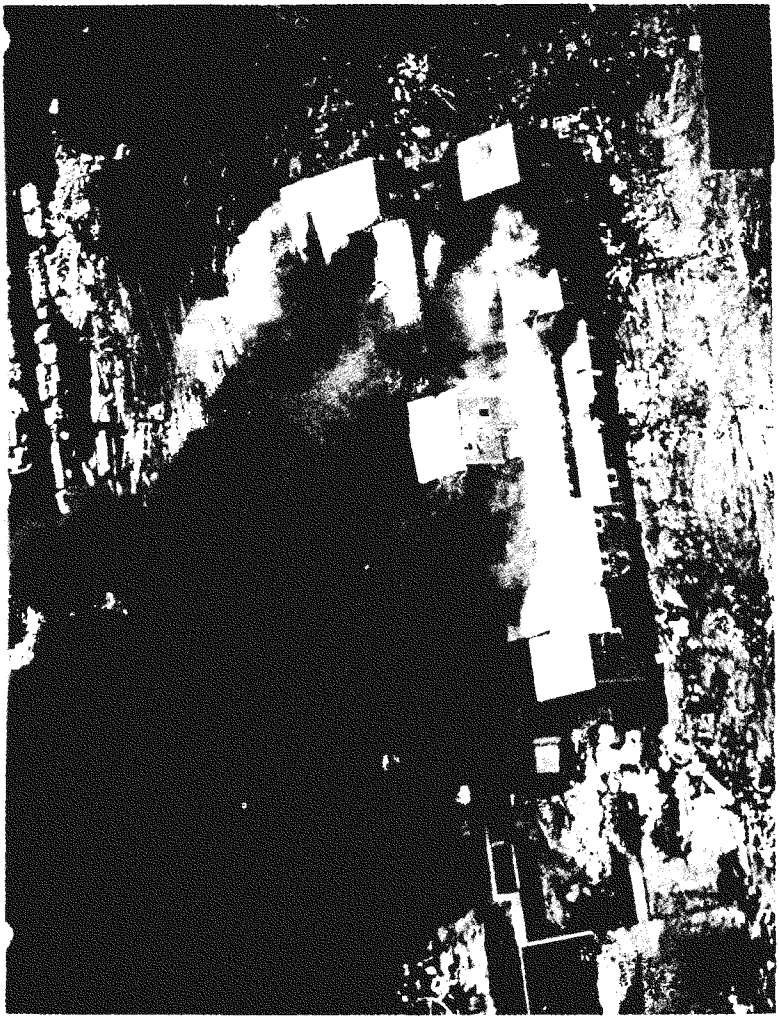

EXHIBIT


EXHIBIT
2


EXHIBIT




12:09:42



Mr. MCCOLLUM. Both will be accepted without objection.

Mr. BARR. Mr. Chairman, reserving the right to object.

Mr. MCCOLLUM. Yes, Mr. Barr.

Mr. BARR. I need a little clarification because I am not sure how this fits in with what I understand our established procedures were. This was a tape prepared by whom?

Dr. QUINTIERE. This was prepared by the FBI laboratory under my direction so that I could use it as an aid in explaining the fire development for the criminal trial of the Branch Davidians. It was used in that trial.

Mr. BARR. OK. You referred to something called a FLIR video, which is an infrared aerial video?

Dr. QUINTIERE. Yes, on the video there will be segments of the FLIR, segments of the commercial stations, and some still photographs, and they will be labeled so that I could explain more completely how we, you know, examined this fire and what we saw.

Mr. BARR. OK. Mr. Chairman, as I understand it, there is another video, the FLIR video, which is more comprehensive in terms of showing the entry and egress of the tank at different points of the fire. Will we be able to reference portions of that?

Mr. MCCOLLUM. If there is a more complete video and it goes along with this, then we would be glad to have it in here.

The objective of this set of hearings is to demonstrate as best as possible what happened to the fire and try to debunk the theories that are wrong and come to some conclusions. We cannot do this type of a hearing without video.

So if there is something you feel is not being properly presented here we will consult with the ranking members and we will be glad to augment it, but the objective is to bring everything forward here today. That is the objective.

Mr. BARR. OK. Just for clarification, then, we will be able to utilize the other video, then, if we allow this one in?

Mr. MCCOLLUM. If we have it available and we can produce it in a timely manner, we certainly would.

Mr. TAYLOR. Reserving the right to object, Mr. Chairman.

Mr. MCCOLLUM. Yes, you may reserve the right to object, Mr. Taylor.

Mr. TAYLOR. Mr. Chairman, also for clarification now since we are, by your last statement, obviously trying to get the whole truth, has the chairman changed his mind on allowing the two reporters from the Waco paper to come testify before this committee and the woman who claims she was held against her will and the woman who claims Koresh had compiled a hit list? Are you going to allow that?

Mr. MCCOLLUM. I have not—of course, your request is going predominantly to Mr. Zeliff who is your subcommittee chairman in this dual hearing, but nonetheless, I will answer you in your reservation. I have not changed my mind, as I indicated, and I join and concur in Mr. Zeliff's view.

The witnesses who you wish to call, the newspaper reporters, and those who were involved in the other aspects of what happened in Waco in terms of being participants in some fashion are redundant and duplicative. We are attempting here today to get at the fire.

We are not attempting to get in telling the broad story picture other than we presented one Davidian which was by mutual agreement earlier to tell his story, and we could have presented a whole panel of Davidians. There has to be a finite limit to how we proceed in order to go through this hearing.

Mr. TAYLOR. Mr. Chairman, there also has to be a reason for the Government to have gotten involved in the first place, and that is what I would like the people of this country to know.

Mr. MCCOLLUM. All right, the regular order is that we are at the point now where the request has been made by the witnesses to present this material in evidence. If there is objection, it will not be admitted into evidence, and this hearing at least for the moment will come to an end and we will not proceed. It is as simple as that because we cannot have this hearing without the evidence that is here, visual evidence. This will not work. We have heard Mr. Doyle, but that will be it. So at any rate is there objection?

Mr. BUYER. Mr. Chairman, reserving the right to object.

Mr. MCCOLLUM. Mr. Buyer.

Mr. BUYER. I do have a question about—he has mentioned a FLIR video. Is this a FLIR video that was shot on the day of the fire?

Dr. QUINTIERE. Yes.

Mr. BUYER. Was it by military aircraft or by FBI?

Dr. QUINTIERE. I couldn't tell you that.

Mr. BUYER. So we don't know who shot and what type of aircraft from which it was shot?

Dr. QUINTIERE. It is a Government aircraft. Paul Gray is telling me it is an FBI aircraft, and it was shot for more than just the time of this fire, and the segments that I have used are from the period of the fire, and that is the most relevant, I think, to my testimony.

Mr. BUYER. Thank you. I withdraw my reservation.

Mr. MCCOLLUM. Without objection, the data will be admitted. We will be in recess until 5 minutes after the vote that is in progress.

[Recess.]

[The information is in the subcommittees' files.]

Mr. MCCOLLUM. The joint subcommittees will come to order.

I do not believe we will have any more interruptions this afternoon because we have now completed business on the floor of the House. We do have very serious business to do here, though, and we will be here for the duration of completing that.

When we recessed for the last vote on the floor, Mr. Scott's time had expired in the process of asking Dr. Quintiere to explain the fire evidence that he had. He was in the process of giving us a statement, and we just accepted into the record some documentary evidence which you wished us to, and now you may proceed, Dr. Quintiere.

Dr. QUINTIERE. OK. And I will depart somewhat from that statement so that I can narrate the video.

As I pointed out, this video was composed through the FBI laboratory under my direction so that I could use it in the Branch Davidian criminal trial. It has on it the FLIR, excerpts from the Canadian broadcast tape, excerpts from Channel 10 Waco, and

some still photographs that were taken overhead by an aircraft. OK. Let's start the video.

Mr. MCCOLLUM. I might add that Mr. Doyle and Mr. Gray are not in their seats if somebody would notify them, not that they are testifying now, but it would be helpful. Please proceed.

Dr. QUINTIERE. OK. What we are going to see is, this is approximately at 12 noon if we could just hold it there for a second.

This is an aerial view of the compound as it existed just several moments before the start of the fire, and you can see that there is a demolished area here in the front of the building. I will call this part the front of the building. There is another demolition area here and here, so these are openings made by the tanks, significant openings, and in the back the gymnasium is partially demolished in this debris pile that we see here as well.

I should point out that there was a very strong wind, a prevailing wind that was approximately 17 to 24 miles an hour from this direction going diagonally across. This is from the south to the north. As I said, I will refer to this as the front of the building.

There were gusts in this wind, but principally we could say it was about 25 miles an hour. The building is principally of wood construction. The interior was gypsum board walls, perhaps gypsum board ceilings. The floor and roof were made of plywood.

What we are going to see, let's start the tape, we are going to see how we synchronized the three tapes. The tapes were run continuously, and as I said, we used the clock on the FLIR which was calibrated to the national standard, so we have a very good precise record of the time, and we have synchronized this with the departure of a tank from this corner of the building. This is the right front corner of the building. Now you are looking at the black and white FLIR. The FLIR image is going to respond to temperature as well as reflected sunlight.

Mr. MCCOLLUM. I think you do need to explain what a FLIR is as we go through this.

Dr. QUINTIERE. OK. Why don't we just pause there for a moment and let me explain what a FLIR is. A FLIR is, the letters stand for Forward Looking Infrared. Let's just call that, you know, the infrared video.

The way this operated, it would focus on the temperature that it would see in the field of view, and then it would set a temperature above and below that average temperature that it would see, so, for example, if the ground temperature was approximately 80 degrees Fahrenheit, it would set some limits above and below that, and that range was approximately 40 degrees above and below.

That would set the gray scales. On the low end we would see it as black, on the high end we would see it as white. So if something in this screen changed from gray or black to white, we could be sure that in the early stages of this fire it was attaining at least a temperature of 120 degrees Fahrenheit. That is how sensitive this FLIR is.

My sense is that this is used for surveillance and it is used for night vision, and it is able to see people even though there may be no sunlight or artificial light available. So it is very sensitive. At about 200 degrees Fahrenheit, it would become saturated and at that point you would just see white, so at some point in this fire

the FLIR doesn't become very valuable because the entire screen is mostly white from the heat of the fire.

Another advantage that the FLIR has is that because of its longer wavelength, it is operating between 8 and 12 micrometers, where our eye is more like .6 micrometers, much, much lower. Because of that higher wavelength, it can penetrate through smoke, sort of like an x ray, and in that sense the FLIR enables us to see through smoke about 20 times more than our naked eye.

Now, once that smoke gets very hot and very thick, then it can't see through it anymore, it becomes saturated because of its scale. The advantages in the early part of the fire, the FLIR not only is very sensitive to the small temperature rise, but it allows you to see through smoke that might have obscured parts of the building and the fire development. So this is very critical in discerning what is taking place.

OK. We will start the tape and you can simply see how we are correlating the times. You will notice the time here, this is the Canadian Broadcast time, that is not the correct time.

That is eastern time, and it is 19 seconds off, so this time should be disregarded on what we see in the future. There was actually a time recorded on the FLIR, and that could be, was obvious in reviewing carefully the tapes. What I had to do was go back and forth in looking at these independent tapes. This is Waco Channel 10, and you see the tank departing from that point.

Now, what we are going to see is the first fire is going to occur in this room, and it will occur 1½ minutes approximately after the tank leaves. All right, it is difficult sometimes to see this. You have to look at it carefully, so I will try to call your attention to it.

If you look at this point here, you will see this window begin to turn slightly grayish. It does right now. Nine seconds later, the window on the opposite side right here is going to also show an illumination which is due to this temperature rise, and in my opinion that is due to smoke being transported from the fire started at one end of the room to the other end of the room. That occurs about 9 seconds later so at 12:07:42, approximately 1½ minutes after the tank has left that location, we have the onset of the fire.

Mr. SCHUMER. Could you show us with the arrow please?

Dr. QUINTIERE. In this view right here you see it in this point, it is the second floor, this is probably a bedroom, the room is about 16 by 11 in dimensions, about 8 feet high. We might imagine that there would be beds or mattresses in that room. In this general location I think I counted about seven box springs from mattresses. OK. So that is the start of the first fire.

Now we will see the start of the second fire. This is much more difficult to discern. You have to watch the tape a few times. What we will see is some smoke rising from this point, and that will occur approximately after a minute from the first fire.

Now, if some of you just saw this flash here, that is a momentary event. In my opinion that is a reflection due to sunlight reflecting off some object in that debris. There is no thermal effect that persists there, so whatever it was, it is momentary.

At this point in this vicinity right here there was a column of faint smoke rising. I admit that it is difficult for you to see at first looking at this. One has to study this at some time, for some pe-

riod. You will notice that the back of the tank here is illuminated due to the fact that that is where the hot engine is.

So 1 minute later we have a fire now on the first floor in the rear of the dining room. In that area I did note in the debris of the fire that there were about 20 burned stacked chairs, so that could have been a possible site for the beginning of this fire.

Here you see a split screen in which we have the FLIR on the left and the Canadian Broadcast tape on the right, and from this you can see the difference between what you would see with your naked eye and what the FLIR sees, and I call your attention to the fact that sometimes you will see a large amount of smoke on the right and not that much on the left, and that is because we are able to see through that smoke with the infrared.

We are looking at the development of the fire in that bedroom area, the second floor right tower. What we are going to see here at 12:09:42, we will see an event known to people who investigate and study fire. That event is called flashover, and that is a point when we have a transition in this fire in which the fire goes from a discrete object that you could discern very readily burning in a room such as this to a point where flames now fill the room, and that transition can occur in seconds. It is known as flashover. Before that time the room might be survivable.

After that time it is definitely not, and now the fire is a threat to spreading to other rooms. We can discern flashover on this when flames come out of this window, and that is an indication of fire filling that space.

The other thing you should note is that the flames come out into that nearly 25-mile-an-hour wind, and you might ask how could that be. The only way that could be is if there are some barriers back here, closed doors or windows that don't allow the wind to blow through that area, and for that reason the wind is not having a significant effect on the fire development in that room and in that area. All right, it is acting as if there is no wind. There is basically what people call in fluid mechanics a stagnation point in that region.

Now, we are continuing on in time, and we will backtrack in a moment to pick up some of the other fires, but you definitely see the second fire here, and actually here in this debris area you will see what might be a fourth fire or connected to the third, and we will go over those in a moment.

This is the inception of the third fire. This will be on the first floor in the chapel, and the chapel was the largest space in which this—in which the three fires started. This is a space that is approximately I think 60 by 40 feet. It is a single story space with a higher ceiling, and right at that point there you see the onset of the thermal image that indicates a fire or hot gasses at that point.

Now some 45 feet away approximately from that point, that window point in the debris area here, we will see an emergence right now of some hot gasses, and that could be a separately set fire. If we look at the time duration between these two events, it is approximately 38 seconds.

That is consistent also with if someone were to put a trail of gasoline or some other liquid fuel between those two points and allow the fire to spread over that trail. It would take approximately the

same time. So it may have been connected with the starting of the third fire.

Here we are just going to see an aerial photo. This is about the same time that we were just looking at. You see the way the smoke to the naked eye would have obscured most of that building with the FLIR giving us the ability to look through it and see the onset of these fires. As I said, as the smoke becomes hotter and denser, then the FLIR would saturate and the image on the FLIR is not as valuable to us anymore.

OK. Let's go on. We will now see flashover in the dining room, and if you were observing flashover carefully for the first fire, you would have seen that the walls of that room in that area actually began to become illuminated as heat was penetrating through those walls, and shortly thereafter that event took place, flames came out of the window. Therefore, we can almost calibrate this FLIR and say when we see a heat pattern coming through the walls of a room it is likely that there is tremendous heat, hot gasses inside, and that room is ripe to go to flashover. You will see that in this area here.

You will also see the roof getting hot, and even flecks of hot—of airborne debris moving up like fire brands from this fire. Here you can see, we just sort of went by it, but you can see here in this area the thermal image coming through the walls.

In addition to that, flashover could be determined in this area by noting the smoke coming out the front left corner of the building. Previously to that, the smoke did not significantly come out.

When flashover occurred in the dining room, there was a—flashover gives us a very large rapid release of energy. That gives rise to a slight pressure increase, and that will push smoke out of areas where it wasn't coming out before, and in this case it can push it out directly into the wind. That was one of the characteristics of the dining room fire, so, therefore, flashover could be noted there, as well.

The significance of flashover is the time from ignition to flashover and the speed at which that is occurring is an indication of, you might say, perhaps how this fire was growing and how it could be related to other things we know about the way fires grow. These fires were rapidly developing fires. They could be listed in a relative way as fast to ultrafast developing fires in those two locations.

This is the CBC tape, and it just shows smoke evolving from this point, indicative of flashover.

Here you can still see flames emerging from this window into the wind. You notice the wind and the way the wind is affecting the smoke.

We will now look at the onset of flashover for the chapel. The chapel is the largest space, and it took flashover about 4 minutes to occur in that much larger space, indicating that that fire, in my opinion, was encouraged to grow rapidly. We can note flashover in the chapel by the fact that we will see a puff of black smoke come out the front door here, that large opening made by one of the tank vehicles, and you can see it there.

As we pass through flashover and we have a fully developed fire, the fire will equilibrate, this pressure pulse will die away, and now

after that we will see—we will not see smoke coming out in the same way.

If we can just pause at this point, you can see the fire here, the first fire. A minute later, a fire began in the dining room area, and a minute after that a fire began in this chapel. It has not burned through the roof yet, but the ignition in the debris area because of the wind has now propagated significantly over that debris area. These are three distinct fires.

From this information, I can conclude that these three fires that occurred nearly 1 minute apart were intentionally set from within the compound. Even if a tank battering had caused spillage of some fuel, perhaps from a lamp, a match would be needed to initiate the fire.

If the lamp were lit when the tank knocked it over, if you presume that happened, because of the sensitivity of the FLIR we would have seen that, and you saw that the only chance that a tank might have done something like that is 1½ minutes before a fire occurred in that first location, so that is not possible.

If there was a spillage, it needs at least an electric spark to ignite it. That could have happened if there was electricity available. The electricity, the power was shut off throughout the compound.

Therefore, even if there was a spillage of something due to this battering, someone would have to put a match into it to ignite it. So it is obvious to me that these three fires needed an ignition source deliberately placed in each of these three locations.

Also, you have the time periods involved and the very discrete different locations. None of these three fires could have caused any of the others because their growth rates would not provide sufficient heating to cause such remote ignitions. In other words, this fire is not putting out enough heat to cause a fire on the first floor in the dining room.

Any external heat source that might have been used to start the fire would have clearly been visible, as you can see, from the infrared. This was not seen. Although normal furnishings and interior construction characteristics would provide a means for fire propagation, the more than usual rapid spread of these fires, especially in the dining room and the chapel areas, indicates to me that some form of accelerant was used to encourage the rapid spread of these fires.

Now if we can go on with the tape. All right. This is approximately 11 minutes—oh, I should say at approximately 11 minutes after the start of the fire the flames will emerge over the compound. The fire was probably detected on the FLIR as low as something like 50 kilowatts. That is a fire about this big.

All right, you can get your arms around that. Now when these flames emerge approximately 11 minutes later we have 3½ million kilowatts estimated in this fire. The black smoke, I might add, is probably due to the fact that we have a fuel-rich fire inside, we are not getting enough air to the materials that are now decomposing, producing the fuel in this fire.

You might have seen in that segment that a person actually jumped off the roof and walked away. That person had climbed out of one of the windows previously and had lain on the roof for some period of time.

You will notice that in areas here there is no more smoke coming out. If people were in this area at this time, it might have been possible to survive this fire in some of those locations.

OK. Could we just hold it there for a second? There was a significant event that I did not point out. Some of you may have seen it. At 12:19 and 15 seconds a person did jump from one of the windows on the second floor, and if that wasn't obvious to any of you or if you want me to go back and show that later, we can do that.

At this point, let's just move on. Here you see this rather dramatic event of this fireball. There is some debris that appears to be in it. What it is I cannot say for sure, but based on its duration and its height and the size of the diameter of the fireball, one can estimate how much fuel was suddenly released to cause that.

This is being caused from a rupture of some kind of tank or some kind of sudden release of energy, and that is equivalent to, as an estimation, 93 pounds of propane, so it would be consistent with a 100-pound tank of propane that might have been used for heating or cooking purposes in the compound. I am not saying it is a tank of propane. It is consistent with a tank of propane rupturing.

Let's move on. If you can trace it back down, it looks like it is in the vicinity of the tall tower in the center or next to the kitchen area.

There is a person that walks across the front of the building at this time. Where they exited from it is not clear, but the person that jumped from this window apparently went into the debris area here and will be seen being rescued by an agent shortly. This is a person who has exited the building from someplace.

I can't determine from this vantage point, but subsequently we will see a person being rescued from this area at this time. This is now 21 minutes after the start of this fire, and you can see that the building is collapsing in places, and it is pretty much fully involved.

This is the surrender of one of the occupants.

You will now see an agent run and rescue the person from this area. Certainly I would suggest that if that agent wasn't cited for that act, he should be commended for that.

OK. If we could just hold it at that point, I would like to conclude with a couple of remarks based on my estimates of survivability of the occupants in the compound and on the tear gas and what it might have done in this fire.

I've estimated—these are rough estimates, but I think they're pretty reasonable—that the occupants would have had sufficient warning and no doubt that the fire occurred, and this would have enabled them to escape for up to 5 minutes from the start of that first fire or perhaps as many as 20 minutes in some protected areas of the building.

So between an interval of 5 minutes after the fire started and maybe as much as 20 minutes, a person could have escaped from some parts of that building.

This was dramatically seen—and I'm sorry I didn't point it out—from a person jumping from one of the second floor windows where conditions of this fire would have been much worse than the first floor, because we all know heat rises and that's where the smoke

is going to collect and the hot gases. That person jumped from that window at 12 minutes after the start of the first fire.

The exits were within about 30 feet of almost any point, you know, from the perimeter of this building. People knew the building, and there were some large openings in there that were put in by the tanks that could have facilitated people walking out. Carbon monoxide in the smoke would have been the primary threat, in my opinion, to the occupants. This is the threat to most people that are not intimate with the fire and the way most people die in fire.

However, preliminary autopsy reports that I had available to me indicated only 5 of 31 victims where carbon monoxide was recorded. Where 31 victims had recorded data on carbon monoxide, only 5 of those would have been considered lethal, that would be over 50 percent per oxyhemoglobin. Hence, if these data are correct, at least 26 of these victims did not die due to the fire.

The autopsy report goes on to indicate that in at least 27 of the victims gunshot wounds could be attributed to the cause of death.

Let me address the tear gas. The tear gas is composed of methylene chloride, which is a liquid that forms an aerosol droplet around the CS itself, which is the ingredient that makes your eyes tear and cough. So the methylene chloride, my understanding is its role is just as a dispersal agent. It is the more flammable of the two components; that is, between CS and methylene chloride.

As a vapor in air, under normal conditions, it's flammable at 12 percent. In other words, anything above 12 percent to approximately 20, it would be in the flammable range, and if we had a spark or a small match and if we had conditions like that, we would have fire propagating through the atmosphere much like a fireball. There was no observations like that made for this fire.

In addition, if you look at methylene chloride as a liquid, which it would normally be under these conditions, it boils at something like 109 °F, so as it's dispersed into this compound with the CS, it would start to evaporate and may puddle in some pools if they put a lot in, and in those liquid pools, if one tried to ignite it, it would actually put out a match, and this is due to the chlorine in that compound. So in some sense it acts like an inhibitor.

Recently, I conducted some additional experiments to assess the role of the methylene chloride as a wetting agent. All right. So if it deposited on wood or paper or things like that, that would burn in this compound, and it would be then absorbed since it's normally a liquid.

From my experiments, I can conclude that the methylene chloride had no enhancement effect on the fire spread over the room furnishings and other things that burned in the compound.

Also I can conclude from the literature information about CS, the point where it will ignite, that temperature is comparable to what we would find for most fuels around us. So in my opinion, based upon that, the CS itself as a powder would not enhance any fire spread, and I could elaborate on those experiments and that issue.

So I can say that the tear gas had no bearing on the propagation of this fire.

On the effect of wind, wind effects did have a profound effect on the external fire spread over the compound. An approximately 25-mile-an-hour wind from the south caused the fire plume to be bent

at approximately 65 degrees with the vertical when the fire fully involved the compound, and I said at this point that firepower was probably about 3½ million kilowatts compared to the inception that we saw in the FLIR, which is estimated to be about 50 kilowatts. The flame length was 240 feet long.

Wind effects did not appear to have a significant effect on the fire growth within the compound. These were seen by the flames emerging from that window directly into the wind. So from that point there, that fire was behaving as if there was no wind and it was probably due to some closure, doors closed or other obstacles behind that room.

The tank-made openings on the front of the compound could have had some effect on fire growth over the first floor, but, more significantly, it could have provided air to areas of refuge for some of the occupants.

During the weeks preceding the fire at the Branch Davidian compound, we were all bystanders to the drama of the standoff and we wondered how it would end. The eventual outcome was a horrible event. In the 2 years since, many theories about the fire have been proposed, some quite bizarre. I hope this presentation, our report that we drafted—and I would like to submit that for the record.

Mr. MCCOLLUM. Without objection.

Dr. QUINTIERE. And the video, I hope that will help to explain the events of this fire.

Mr. MCCOLLUM. We are going back to regular order now, Dr. Quintiere. We thank you for that.

Before I recognize Mr. Schiff, I want to point out, you are going to be given this tape, which is nothing more than a copy you already have and you know about, so you can prepare it for when Mr. Shadegg or others may wish to question you about it.

Mr. Schiff, you're recognized for 5 minutes.

Mr. SCHIFF. Thank you, Mr. Chairman.

Dr. Quintiere, could you say your name again?

Dr. QUINTIERE. Quintiere.

Mr. SCHIFF. Quintiere.

Dr. Quintiere, you stated that you believed—I still have it wrong. Would you say it again?

Dr. QUINTIERE. Quintiere.

Mr. SCHIFF. Quintiere. Excuse me.

Dr. Quintiere, I want to say you have rejected the idea of the grenades and the methylene chloride having anything to do with the fire; is that right?

Dr. QUINTIERE. That's correct, yes.

Mr. SCHIFF. Let me ask the other two fire experts here, Mr. Sherrow and Mr. Gray: Do you agree with that, or do either of you believe that the use of the pyrotechnics or the chemicals and the ferret rounds, the gas grenades, could have contributed to the fire?

Mr. Gray.

STATEMENT OF PAUL C. GRAY, ASSISTANT CHIEF, HOUSTON FIRE DEPARTMENT, AND LEADER, JUSTICE DEPARTMENT SPECIAL FIRE REVIEW TEAM

Mr. GRAY. First of all, they were not pyrotechnic canisters, and I totally agree with Dr. Quintiere.

Mr. SCHIFF. All right.

Mr. Sherrow, may I ask you the same question?

STATEMENT OF RICHARD SHERROW, FORMER SENIOR EXPLOSIVES OFFICER, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

Mr. SHERROW. The information I have to this date, there were no pyrotechnics involved. The idea of the methylene chloride, I agree with the doctor on, once it's in a liquid form. However, it is a safety hazard when it is in a vapor form as it is originally injected. There is a possibility, but it's something that has to be explored a lot more.

Mr. SCHIFF. So, Mr. Sherrow, your opinion is, it's a possibility, but you would leave it as possibility right now.

Mr. SHERROW. At this point, yes, sir.

Mr. SCHIFF. OK.

Dr. Quintiere, I want to ask that you said that the proof of arson was that these fires, to begin, required a match.

Dr. QUINTIERE. Something like that, yes—spark or a match. If we had a flammable liquid, it would require something like that.

Mr. SCHIFF. But it wouldn't necessarily require a match, would it?

Dr. QUINTIERE. As I said, if it were a flammable liquid, we could ignite the vapors with a spark.

Mr. SCHIFF. Or with a flame that is spilled on it. Any—what you mean is, not a match, which is the word you used.

Dr. QUINTIERE. A flame.

Mr. SCHIFF. A flame, but you didn't say the word "flame," you said the word "match."

The point I'm getting at is, it is my understanding that there were lanterns being used for light because the electricity was turned off in the compound. Do you have the same understanding?

Dr. QUINTIERE. Yes.

Mr. SCHIFF. Is it possible that lanterns could have overturned and caused or contributed to this fire?

Dr. QUINTIERE. It is possible, but the lantern would have to have been lit and somebody would have to turn over those lanterns.

In the area of the first fire, there had been a tank there 1½ minutes before, and one might—that might suggest that it knocked over a lantern.

However, as I said, due to the sensitivity of the FLIR, had that lantern been lit and knocked over, we would have seen it at that time on the FLIR because the FLIR is going to respond to a very low temperature rise and a very small fire, and that fire would have been more than consistent with a spilled lamp.

Mr. SCHIFF. So the fire was consistent with a spilled lantern or was not? I'm going to ask you to restate that.

Dr. QUINTIERE. What I'm saying is that somebody would have had to have turned over three lanterns in those locations if a lantern was the starting point of this fire. All right.

Mr. SCHIFF. And how do you know——

Dr. QUINTIERE. I cannot tell you precisely how these fires were lit.

Mr. SCHIFF. Well, if there were lanterns in use and if you had, either through vibrations of tanks hitting walls or through a number of people panicking inside at what they might have perceived was an assault, notwithstanding the FBI broadcast going to them, couldn't either or both of those factors have easily overturned lanterns inside the compound?

Dr. QUINTIERE. Well, the only evidence we have of a tank being in the vicinity of one of the fires is the first fire, and that tank has now left 1½ minutes after the fire has begun.

If that tank knocked over a lantern and the lantern were lit, we would have seen it in that FLIR video because it would have been sensitive enough to see that. If the tank had spilled a lantern and there was no flame there to ignite it, that's possible, but somebody would have to come in and put a flame in that.

Mr. SCHIFF. What if people running around—I'm trying to picture what it might have been like inside the compound. What if people running around knocked over a lantern? Is that possible?

Dr. QUINTIERE. Of course, it's possible.

Mr. SCHIFF. I want to ask, what was the FBI's fire plan in case there was a fire during their plan to end the siege?

Dr. QUINTIERE. I have no knowledge of that.

Mr. SCHIFF. Did you ever ask them what their fire plan was?

Dr. QUINTIERE. No, because that wasn't what I was asked to look into.

Mr. SCHIFF. Mr. Gray, did you ever ask the FBI what their fire plan was, or did you know what it was?

Mr. GRAY. I did not.

Mr. SCHIFF. Mr. Sherrow, are you aware of what the FBI's fire plan was as a contingency in case a fire started from any cause during this attempt to end the siege?

Mr. SHERROW. No, sir, not at all.

Mr. SCHIFF. Does anyone know if the FBI had a fire plan?

Mr. SHERROW. I don't believe so.

Mr. SCHIFF. Mr. Sherrow, it's my understanding you are now retired from the Bureau of Alcohol, Tobacco and Firearms.

Mr. SHERROW. No, sir. I am retired from the U.S. Army. I worked for 6 years for the Bureau of Alcohol, Tobacco and Firearms.

Mr. SCHIFF. Thank you. But you did work for the Bureau of Alcohol, Tobacco and Firearms?

Mr. SHERROW. Yes, sir.

Mr. SCHIFF. I see my time has expired, but if I have additional time I would like to come back to you and also you, Mr. Doyle.

Thank you, Mr. Chairman. I yield back.

Mr. ZELIFF. Mr. Schumer, you are recognized for 5 minutes.

Mr. SCHUMER. Thank you, Mr. Chairman.

I would like to ask Dr. Quintiere some questions—Quintiere?

Dr. QUINTIERE. That's correct.

Mr. SCHUMER. We've heard a number of different theories, and I just want to bring this out. Your testimony was excellent but somewhat arcane, and since I've had a chance to study it, I just want to bring these out.

We've had a number of theories about how the fire started, and I want to ask you, for each theory, was what you observed consistent with that theory or not?

The first is from the transcript that I read earlier today of what happened inside the compound, that people in the compound poured gas or some kind of flammable substance—they call it gas here—on the floors, and then later three people in different parts—the transcript doesn't prove that—and then they lit that gas.

Would that be consistent with——

Dr. QUINTIERE. That would be consistent with what I concluded.

Mr. SCHUMER. It would be consistent that the fire was started deliberately. It's not necessarily true, but it would be consistent that the fire was started deliberately by people who poured gas and then lit a match to it?

Dr. QUINTIERE. Yes.

Mr. SCHUMER. OK.

A second theory—and you went over this a little bit with Mr. Schiff—is that the fire started when lanterns were knocked over by tanks. Would that be consistent with what we observed on the tape?

Dr. QUINTIERE. In only one case where the tank was at the first location, and it could have locked over a lantern, but then someone had to light that fuel spill a minute and a half later.

Mr. SCHUMER. So it would not be consistent?

Dr. QUINTIERE. It would not be consistent with the tank starting the fire.

Mr. SCHUMER. Correct.

A second theory was that people were running around and maybe knocked them over. I will not ask you a question on this because that's just speculation, but what I find puzzling about that speculation is that tear gas was injected for 6 hours and within 1 minute, or 1½ minutes, three different people accidentally knocked over three different lanterns in three different parts of the building. You would have to have that to have the running around theory make sense.

Dr. QUINTIERE. Yes. Fire is very rare, and for fire to develop in three locations a minute apart is almost impossible without someone essentially doing that.

Mr. SCHUMER. Another theory that we've heard mentioned is that a flame thrower from the tanks started the fire. Now, as I understand it, we would have to have seen on the FLIR a hot streak going from the tank to the building for that to happen.

Dr. QUINTIERE. Absolutely.

Mr. SCHUMER. And we did not; is that correct?

Dr. QUINTIERE. Absolutely.

Mr. SCHUMER. So you're saying a flamethrower from the tank starting the fire—is that consistent—is that theory consistent with what we saw on the tape?

Dr. QUINTIERE. No, indeed. There is no such thing as a flame flower on those vehicles.

Mr. SCHUMER. OK.

A final theory is that methylene chloride started the fire, and you talked about that a little bit, but I just want to ask you, so we get it on the record clearly, that methylene chloride or tear gas was somehow ignited and started the fire.

Dr. QUINTIERE. Methylene chloride is——

Mr. SCHUMER. Well, I want to ask you a yes or no question. Is it consistent——

Dr. QUINTIERE. No.

Mr. SCHUMER [continuing]. With what you saw that methylene chloride——

Dr. QUINTIERE. Methylene chloride did not start or contribute to that fire.

Mr. SCHUMER. Because if somehow a gas cloud was ignited, as I understand it, there would be a huge blowout——

Dr. QUINTIERE. Right.

Mr. SCHUMER [continuing]. Not just three separate fires in different parts of the compound, but one big sort of whoosh and everything would go up.

Dr. QUINTIERE. Absolutely.

Mr. SCHUMER. OK.

So in other words, to summarize, the only theory of those four—we may find others, but of those four, which are the four that I have heard most commonly mentioned, the only one that would be consistent with what you observed was that the fire was started internally by somebody?

Dr. QUINTIERE. Yes.

Mr. SCHUMER. OK.

Are there any other theories that you haven't touched on that we have heard bandied about either by critics or by people who are upset about what happened in Waco or not? Am I leaving any out?

Dr. QUINTIERE. Not that I can think of at this time.

Mr. SCHUMER. And obviously this was a terrible, terrible tragedy. But from your testimony, it seems to me that there is no question that the 80 people who perished and others who suffered, like Mr. Doyle, were clearly without doubt victims, but in all likelihood someone inside the compound was the victimizer.

I yield back the balance of my time—I yield my remaining time to Mrs. Thurman.

Mrs. THURMAN. Mr. Gray, would you agree with the statements that have just been made?

Mr. GRAY. I 100 percent agree with Dr. Quintiere. We were part of the same team. And, if you don't mind, in the interests of fairness here, I did prepare at the chairman's request a statement that I would like to deliver. I promise it'll be shorter than the other ones you have heard today, and I would like to—I have it prepared.

Mr. MCCOLLUM. If you can, Mr. Gray, we don't need to duplicate now, but I know that you have a good reputation for that, so that certainly on your time, if you would yield for that purpose?

Mrs. THURMAN. I would yield for that purpose.

Mr. GRAY. My name is Paul Gray. I'm assistant chief of the Houston Fire Department's Arson Division. I'm in my 24th year as a professional firefighter, and I am proud to have spent my adult

life as a member of this highly regarded and most respected profession.

For the past 16 years I've also held commissions by the State of Texas as peace officer and certified fire investigator. I have worked closely with many State, local, and Federal law enforcement agencies, and I've been recognized for my professionalism and job performance. I have received awards for meritorious service. I am certainly not without flaw, but my service record is.

I am here today to assist in applying a medicinal dose of the truth to the still-festering wound known as the Branch Davidian incident in Waco, TX.

On April 19, 1993, from my Houston office I watched live news coverage of the FBI assault on the Branch Davidian compound in Waco. I remember having feelings similar to the ones I had as the space shuttle *Challenger* disaster unfolded on live television.

As flames engulfed the compound, I kept watching for the sight of dozens of people safely escaping the building, just as all of America prayed for the sight of parachutes silhouetted in the smoke-filled sky on that other sad day in 1986. As precious seconds passed and the inferno grew, I realized there would be no happy ending to this story, as there was no happy landing for our astronauts 7 years before.

Terror, sorrow, sadness, anger, frustration—these and other inexpressible emotions of sympathy were evoked by those pictures. Then on another morning in April, 2 years to the day after the fire in Waco, in a split second all those emotions were reignited by an even greater catastrophe in Oklahoma City.

I believe that if we are to fully comprehend where a person stands on an issue, it would help to know how he came to stand there. I would like to try and explain how I came to stand where I am today.

I remember many years ago as a young firefighting and a paramedic the exhilaration of helping save a life or the miraculous moment of birth. I remember crying over the lifeless body of a child because I was too late to help. I recall the sheer exhaustion of performing CPR until every muscle in my body ached. I'll never forget the helplessness of an accident victim staring into my eyes, grasping my collar in his fist, and pleading with me in his last breath not to let him die.

I came to have a heightened respect for the precious fragility of life, and as my career led me into law enforcement I swore an oath to pursue who do not share that respect. I take that oath very seriously, and when other officials in public trust violate that oath it angers me and I take enormous satisfaction in exposing them.

In fact, my current duty assignment includes administration of the Internal Affairs Division in which we attempt to maintain the integrity of our profession, which can never be attained by covering up our mistakes. I am proud of the men and women in this profession, but my philosophy is, mess up and you're gone.

As the ruins of Mount Carmel still smoldered into the evening hours of April 19, I received a call from Assistant Special Agent in Charge of the Houston Field Division, Mr. Don Carter, who asked if I would be willing to participate in the investigation of the cause of the fire. It was my understanding that ATF's National Response

Team would not be used in the investigation because of that agency's involvement in the February 28 raid at the compound.

I assumed that the request for my assistance was based on the following factors: First, I was at the time the acting director of the Houston Arson Bureau, one of the largest fire investigation agencies in the country located relatively near Waco, TX; and, second, I was known to ATF because of my past association with their Arson Task Force in Houston and my experience in similar investigations as a former member of the National Response Team.

As a chief officer of the Houston Arson Bureau, I had the authority to delegate this assignment to any of more than 50 qualified investigators under my command. I chose to accept the assignment myself for one reason only: I wanted to do it.

I met the other members of the fire investigation team as they arrived in Waco, including Mr. John Ricketts, Mr. Bill Cass, Mr. Thomas Hitchings. Prior to this introduction, none of the team members had ever met. I agreed to coordinate the team's activities and was accepted as team leader and spokesman. This decision was made by the team members themselves, based primarily on geographics.

Texas Ranger Sgt. Lane Akin was also assigned to assist the team. Mr. John Hudec, Mr. John Kause, and their accelerant detection K–9 dog responded to the scene from Pennsylvania. By the way, that dog was trained by ATF.

We selected Armstrong Forensic Labs in Arlington, TX, to provide laboratory assistance and evidence analysis. I suggested this lab because of its proximity to the scene and Dr. Armstrong's specialization in fire debris analysis.

Dr. James Quintiere and Fred Mowrer from the University of Maryland's Fire Protection Engineering Department were also brought in for consultation and to focus on fire growth rate and development.

For the next 9 days we examined, measured, sifted, and photographed the fire scene. The K–9 was used to locate possible areas containing flammable accelerants. We collected debris samples, documented their location, and submitted them to the laboratory. We viewed photographs of the incident taken as it occurred and obtained videotape from the media and the FBI.

Texas Rangers were assigned to conduct interviews with the surviving Davidians and members of the FBI——

Mr. MCCOLLUM. Mr. Gray, I hate to interrupt you, but I did not let Dr. Quintiere really go to make a statement. I had him making the observations of the technical things of the fire. As much as I understand what you are wanting to tell us, that you did this background work, I know you did and it will be submitted for the record.

I feel, in all fairness, I'm going to have to let Mr. Sherrow say about 3 or 4 minutes, too, but our objective here—we've just gone 5. That's why that yellow light has come on.

In all fairness, we are here to ask questions. This is the only panel—I let Mr. Doyle tell a story because he substituted for five or six Davidians who might have been here for a whole panel, and I let Dr. Quintiere do this as an effort to try to get on the record.

I don't want to be rude, but unless you've got something substantively to add to what Dr. Quintiere said about the fire, I would like to restrict it and you can submit that testimony for the record. We don't have the time.

Mr. GRAY. I have something substantive to add to these hearings on the record, especially in response to my character being assassinated the other day in these hearings.

Mr. MCCOLLUM. I didn't know it was.

Mr. GRAY. That is part—that is part of my statement.

Mr. MCCOLLUM. I guess I wasn't aware that it was.

Mr. GRAY. I can go to the end if you'd like.

Ms. JACKSON LEE. Mr. Chairman, could he briefly summarize?

Mr. MCCOLLUM. If he would, yes.

If you could just summarize and go to the end, that would be helpful. I didn't know that your character was being attacked here in these hearings. I certainly didn't hear it.

Mrs. THURMAN. Mr. Chairman, it was during Mr. DeGuerin and Mr. Zimmermann when they were questioning——

Mr. MCCOLLUM. The two attorneys questioned it.

Mrs. THURMAN. Yes, the affiliation, and I think that's what he was trying to clarify. I think what we can do here is certainly make sure that his full testimony is submitted for this, but I agree that we should give him the opportunity to summarize.

Mr. BARR. Mr. Chairman.

Mr. MCCOLLUM. Please go ahead, Mr. Gray.

Yes, Mr. Barr?

Mr. BARR. Mr. Chairman, parliamentary inquiry. Wouldn't that be appropriate? If there is a member of this panel that wishes to rehabilitate a witness or go into something, they are certainly more than welcome to use their time. I really think—I go back to what you say, if there is something substantive——

Mr. MCCOLLUM. We are going to have to make it very short. I think Mr. Gray understands that.

If you can do a couple more minutes and summarize where you are, I will permit it, but, Mr. Gray, I can't let everybody who might have been feeling they have been attacked in here present a whole rehabilitation credibility statement. It just—that is not the nature of this hearing, but please proceed.

Mr. GRAY. Sir, I'm responding to a letter from—signed by Mr. Zeliff requiring me, or asking me, to prepare a statement for delivery here. That's what I'm doing.

Mr. MCCOLLUM. We appreciate it.

Mr. GRAY. That's all I'm asking to do.

Mr. MCCOLLUM. Without objection, the whole statement is submitted for the record. We've had a lot of statements submitted in the record in writing. We have allowed only one or two witnesses for very peculiar purposes to give oral testimony. We've gone directly to questioning as you, if you've been observing these hearings, know.

I'm not trying to cut you off, like I said, and be rude, but we just have a limited amount of time this afternoon. But please proceed for a couple more minutes.

Mr. GRAY. A newspaper editorial critical of my selection to the investigative team pointed out—I quote the editorial—"Doubts are

being fed by criminal defense attorneys, renowned experts at creating doubt, reasonable or otherwise."

I'm sure I'm not the only person who has heard defense attorneys assert that it is not what they believe that is important, rather, it is what they can convince a jury; after all, that is their agenda.

A few days ago in these hearings you heard dramatic testimony from the same attorney who was quoted in another news report as saying, quote: "Arson Team Chief Paul Gray may have tainted the investigation due to his apparent ties to the U.S. Bureau of Alcohol, Tobacco and Firearms."

In an effort to foster that belief and further discredit me, Mr. Buyer, who is not here right now, of this committee participated in an obviously orchestrated exercise to expose my past affiliation with ATF.

I make no apologies for my past law enforcement experiences and have never tried to conceal them. I am proud of the work I did while assigned to the task force, as is evident by having ATF's address, phone number, and insignia on my business card.

I am insulted to have to acknowledge these slanderous assaults. However, I can state without reservation under oath before God and this body that I and the members of this investigative team reached our conclusions with complete objectivity, independent of influence from any person or allegiance to any agency or cause. The singular focus of our investigation was to determine the truth.

I have endured personal attacks by those who would have the world believe that I was somehow part of a Government coverup in favor of the FBI, the ATF, or this administration. Frankly, I could care less about the reputation of those agencies, and, in fact, I didn't even vote for President Clinton.

No one needs to try and convince me of the horror of this tragedy. I was there. I was overwhelmed by it. The sights and smells of smoldering human corpses haunt me still. The unrecognizable burnt figures of mothers and mutilated children into grotesque figures of death are still in my nightmares.

I felt a sense of indescribable emotional sympathy for these people, and I will never, ever forget it. Most importantly, I could never, ever sleep with a clear conscience or even live with myself if I knowingly misrepresented the truth about what I believe happened in Waco, certainly not to protect the reputation of any Government agency or this administration.

Finally, I would like to state for the record that this hearing is 2 years too late. It is most certainly too late for the innocent victims of Oklahoma City, who weren't allowed the luxury of a negotiated surrender or any other option and for whom I also grieve.

Thank you.

[The prepared statement of Mr. Gray follows:]

PREPARED STATEMENT OF PAUL C. GRAY, ASSISTANT CHIEF, HOUSTON FIRE DEPARTMENT, AND LEADER, JUSTICE DEPARTMENT SPECIAL FIRE REVIEW TEAM

My name is Paul C. Gray. I am Assistant Chief of the Houston Fire Department's Arson Division. I am in my twenty fourth year as a Professional Fire Fighter. And, I am proud to have spent my adult life as a member of this highly regarded and most respected profession. For the past sixteen years I have also held commissions by the State of Texas as a Peace Officer and Certified Fire Investigator. I have worked closely with many State, Local, and Federal Law Enforcement Agencies. I have been recognized for my professionalism and job performance, and received awards for meritorious service. I am certainly not without flaw, but my service record is.

I am here today to assist in applying a medicinal dose of the truth to the still festering wound known as the Branch Davidian incident near Waco, Texas in 1993.

On April 19, 1993, from my Houston office, I watched live news coverage of the FBI's assault on the Branch Davidian Compound in Waco. I remember having feelings similar to the ones I had as the Space Shuttle Challenger disaster unfolded on live television. As flames engulfed the compound I kept watching for the sight of dozens of people safely escaping the building. Just as all of America prayed for the sight of parachutes silhouetted in the smoke filled sky on that other sad day in 1986. As precious seconds passed and the inferno grew I realized that there would be no happy ending to this story as there was no happy landing for our Astronauts seven years before. Terror, sorrow, sadness, anger, frustration. These and other inexpressible emotions of sympathy were evoked by those pictures. Then, on another morning in April, two years to the day after the fire in Waco, in a split second, all those emotions were reignited by an even greater catastrophe in Oklahoma City.

I believe that if we are to fully comprehend where a person stands on an issue, it would help to know how he came to stand there. I would like to try to explain how I came to stand where I am today.

I remember many years ago, as a young Fire Fighter-Paramedic, the exhilaration of helping save a life, or the miraculous moment of birth. I remember crying over the lifeless body of a child because I was too late to help.

I recall the sheer exhaustion of performing CPR until every muscle in my body ached. I'll never forget the helplessness of an accident victim staring into my eyes, grasping my collar in his fist, and pleading to me with his last breath,"Please, don't let me die". I came to have a heightened respect the precious fragility of life. And, as my career led me into law enforcement, I swore an oath to pursue those who do not share that respect.

I take that oath very seriously. And when other officials in public trust violate that oath it angers me and I take enormous satisfaction in exposing them. In fact, my current duty assignment includes administration of the Internal Affairs Division in which we attempt to maintain the integrity of our profession which can never be attained by covering up our mistakes. I am proud of the men and women in this profession, but my philosophy is, "Mess up and your gone".

As the ruins of Mount Carmel still smoldered into the evening of April 19, 1993, I received a call from Assistant Special Agent In Charge of the Houston Field Division of ATF, Don Carter, who asked if I would be willing to participate in the investigation into the cause of the fire. It was my understanding that ATF's National Response Team would not be used in the investigation because of that agency's involvement in the February 28 raid at the compound. I assumed that the request for my assistance was based on the following factors:
1) I was, at the time, the Acting Director of The Houston Arson Bureau, one of the largest Fire Investigation Agencies in the country, located relatively near Waco Texas.
2) I was known to A T F because of my past association with their Arson Task Force in Houston and my experience in similar investigations as a former member of the National Response Team

As the Chief officer of the Houston Arson Bureau, I had the authority to delegate this assignment to any of more than fifty qualified Investigators under my command. I chose to accept the assignment myself for one reason only, I wanted to do it.

I met the other members of the Fire Investigation Team as they arrived in Waco including Mr John Ricketts of the San Francisco Fire Department, Mr Bill Cass of the Los Angeles City Fire Department, and Mr Thomas Hitchings of the Allegheny County Pennsylvania Fire Marshal's Office.

Prior to this introduction none of the team members had ever met. I agreed to coordinate the team's activities and was accepted as team leader and spokesman. This decision was made by the team members based primarily on geographics. Texas Rangers Sgt Lane Akin was assigned to assist the team. Mr John Hudec, Mr John Kause and their accelerant detection canine Onyx responded to the scene from Pennsylvania. We selected Armstrong Forensic Labs in Arlington Texas to provide laboratory assistance in evidence analysis. I suggested this lab because of it's proximity to the scene and Dr Armstrong's specialization in fire debris analysis. Dr James Quintiere from the University of Maryland's Fire Protection Engineering Department was also brought in for consultation and to focus on fire growth rate and development.

For the next nine days we examined, measured, sifted, and photographed the fire scene. The canine was used to locate possible areas containing flammable liquid accelerants. We collected debris samples, documented their locations, and submitted them to the laboratory. We viewed photographs of the incident taken as it occurred and obtained video tape from the media and the FBI. Texas Rangers were assigned to conduct interviews with the surviving Davidians and members of the FBI. Their findings were reported to us. We asked for and received data from the FBI including their radio and sniper logs relating to the morning hours prior to and during the April 19 fire.

We prepared a report entitled "Fire Investigation Report Branch Davidian Compound Waco Texas April 19, 1993". It was submitted to the Justice Department on July 13, 1993. This report was a summary of the conclusions reached by the four team members and was to be supplemented by reports filed directly to Justice by Dr Quintiere, and the Texas Rangers.

The unanimous findings of the team concluded that the fire was intentionally set inside the building in at least three separate areas accelerated by the use of flammable liquids.

In any fire investigation there are a limited number of conclusions that can be drawn. Fire either occurs as a natural phenomenon, as the result of accident, or by intentional human conduct. When insufficient evidence exists to support a definitive conclusion, there is no shame in leaving a fire "Undetermined".
However, when there is no reasonable doubt as to the origin and cause of a fire, as in this case, a conclusion may be drawn without reservation.

We were also aware of the existence of audio tape recordings made by the FBI's surveillance equipment. We did not have access to these tapes or their contents prior to filing the report. Therefore, the report was not influenced by that evidence. However, long after the report was filed, these tape recordings were released, and appear to be corroborative of the teams findings.

Admittedly, it is extremely difficult to accept that any person could intentionally destroy themselves and their loved ones, especially in such a horrible way. The fact is, it happens. Many people simply refuse to believe it could have happened and readily accept the "Government Conspiracy" theory as a more palatable alternative. The repulsive facts are that people do commit unspeakable acts. Recent headlines tell horror stories of sons who kill their parents, and mothers who kill their children.

If "Beauty is in the eye of the beholder", then it might also be said, "Truth is in the ear of the listener". I believe that there are people who are predisposed to jump to any conclusion that supports their agendas. There are an unscrupulous few who have gone so far as to maliciously fabricate evidence and promote false assertions without regard to the extreme impact they might have on the easily influenced who may react violently.

Of particular concern to me are, not just the paranoid psycho reactionaries, but the ones who plant these unfounded seeds of conspiracy. My concern is that some of these seeds may have been planted by lawyers with an eye for dramatical self promotion. These are the people who, when speaking to the press fully understand that they are addressing their potential jury pools, make attempts to sway public opinion with baseless inflammatory comments totally disregarding the repercussions. These are the people who should have a hard time sleeping at night when the demons of their fabricated myths come to haunt them.

A newspaper editorial, critical of my selection to the investigative team, pointed out that, "...doubts are being fed by criminal defense attorneys, renowned experts at creating doubt, reasonable and otherwise". I'm sure I am not the only person who has heard defense attorneys assert that it is not what they believe that is important. Rather, it is what they can convince a jury to believe. That is their agenda.

A few days ago, in these hearings, you heard dramatic testimony from the same attorney who was quoted in another news report as saying, " ... Arson Team Chief Paul Gray may have tainted the investigation due to his apparent ties to the U.S. Bureau of Alcohol Tobacco and Firearms".
In an effort to foster that belief and further discredit me, Mr Buyer, of this committee, participated in an obviously orchestrated exercise to "expose" my past affiliation with A.T.F. I make no apologies for my past law enforcement experiences, and have never tried to conceal them. I am proud of the work I did while assigned to the task force as is evident by having A.T.F.'s address, phone number and insignia on my business card. In fact, I think Mr. Buyer and his conspirators, DeGuerin and Zimmerman, owe me and this committee an apology for such theatrics.

I am insulted to have to acknowledge these slanderous assaults. However, I can state without reservation, under oath, before God and this body that I and the members of this investigative team reached our conclusion with complete objectivity independent of influence from any person or allegiance to any agency or cause. The singular focus of this investigation was to determine the truth.

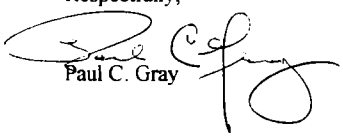
I have endured personal attacks by those who would have the world believe that I was somehow part of a government cover up in favor of the FBI, ATF, or this administration. Frankly, I could care less about the reputation of those agencies, I didn't vote for President Clinton, and I don't think much of his choice for Attorney General.

No one needs to try and convince me of the horror of this tragedy. I was there. I was overwhelmed by the senseless destruction. The sights and smells of smoldering human corpses haunt me still. The unrecognizable burnt figures of mothers and children mutilated into grotesque figures of death are still in my nightmares. I felt a sense of indescribable emotional sympathy for these people. And, I will never forget it. Most importantly, I could never, ever, sleep with a clear conscience or even live with myself if I knowingly misrepresented the truth about what I believe happened on April 19, 1993 in Waco, Texas. Certainly not to protect the reputation of any government agency or this administration.

Federal law enforcement commanders may have made tactical errors prior to and during this tragic incident for which I hope they are held accountable. But, there is no doubt in my mind that the ultimate responsibility for intentionally setting fire to the Branch Davidian Compound lies squarely and solely with the Davidians themselves.

Finally, I would like to state, for the record, that this hearing is two years too late. It is most certainly too late for the innocent victims of the Oklahoma City tragedy who weren't allowed the luxury of a negotiated surrender or any other option. And, for whom I also grieve.

Respectfully,



Paul C. Gray

Mr. MCCOLLUM. Thank you, Mr. Gray.

Mr. Sherrow, I think, in fairness to you, you should be allowed to make a brief statement. I understand you have one. We would appreciate it if you would make it brief and summarize. Thank you.

Mr. SHERROW. Yes, sir. Thank you. I have one prepared, request it be entered in.

Mr. MCCOLLUM. Without objection.

Mr. SHERROW. I will make a very brief excerpt from that.

There were four good agents killed at Mount Carmel, many wounded, many of whom I knew personally. I resented it when I saw it happen. Since that time I've met some of these survivors from the fire. I want to make it clear, I don't take sides. The truth is the only side that we need to worry about.

I didn't come to these hearings with questions—or with answers. I've got a lot of questions. Ever since this thing has happened, the limited resources I've had to examine, I have many, many questions, some of which I'll very briefly summarize.

Was Mr. Gray fully aware—not necessarily Mr. Gray, but the writers of the report—fully aware and informed as to the full extent of the so-called breaching operations?

The reason I say this, in there the word is mentioned to allegedly allow escape from the inside. I wonder about this use of the word "allegedly." Hopefully it's an innocent mistake.

Did Mr. Gray or other fire investigators really know exactly what chemical agents and in what amount were actually introduced into the building? We still have quite a bit of controversy on that.

Did the authors of the Government fire investigation report fully research the properties of those chemicals used at Mount Carmel? And, if so, why is the data reflected in the report technically flawed?

I will cite merely two examples. One, on the methylene chloride, I quote, "Probably could not have been ignited during deployment and delivery by any common ignition source present in this application." However, the Dow Chemical Corp. material safety data sheet specifically states that this chemical forms flammable vapor-air mixtures.

In addition, the report states, "The effectiveness of this product is diminished proportionately to the amount of air available for dissipation, which is why it is intended for enclosed space application."

This statement is in direct contradiction with the Dow Chemical Corp. safety data sheet which specifically states, "In confined or poorly ventilated areas vapors can readily accumulate and cause unconsciousness and death."

Do we have actual knowledge of the training—knowledge and training of chemical agent operations procedures involved in this gassing plan?

Another item: The flammable liquid contamination found on items of clothing of certain survivors of the fire were declared to be proof that they had started the fire. I would like to know why key information as to how some of the contamination occurred was omitted from the reports.

Specifically, those survivors who exited the south side of the building, they had to walk through an area that was contaminated

by fuel from large tanks spilled by the Government tank operations.

We also have probably the most important, so I will just cut to that. There were statements and concerns about, could the tanks have crushed containers of fuel, cans of gas, cylinders of propane. In the report—and I quote, "If this had happened, an immediate vapor-air exposure or flash fire would have occurred involving the vehicle itself. It did not happen."

I must take serious exception to that. As fire investigators know, or firefighters know, unless there is a separate flame, a spark, a means of initiation, fuel can be spread, it can be crushed, propane tanks can be run over, and they will leak, but they will not explode or burn.

This is not speculation. I took an armored military track vehicle and ran over samples of every flammable liquid and gas known to be at Mount Carmel and reported in the fire report. There was no fire. There was no explosion. I would like to submit this copy of the videotape.

Mr. MCCOLLUM. Without objection.

Mr. SHERROW. There are also still photographs. I wasn't aware at the time I was called to these hearings of the material that could be presented, so what I have is not as much as I would hope for it to be, but I'll be glad to answer any possible questions.

Thank you.

[The prepared statement of Mr. Sherrow follows:]

PREPARED STATEMENT OF RICHARD L. SHERROW, FORMER SENIOR EXPLOSIVES OFFICER, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

I first wish to extend my very sincere appreciation to the distinguished members of this subcommittee for extending me the invitation to appear before this assembly. It is hoped that my testimony here will serve to address many of the questions that have arisen surrounding the tragic events that unfolded at the Branch Davidian church near Waco, Texas.

During those fifty-one days in 1993, four good agents of the Bureau of Alcohol, Tobacco and Firearms, and eighty-two of the Branch Davidians needlessly lost their lives. It is my sincere hope that my attendance at these hearings will, in some small way, prevent such an occurrence from ever again taking place in this country.

I do not come to these hearings with the answers. Rather, I come with many questions. My questions primarily concern the fire that swept Mount Carmel on April 19, 1993. Unfortunately, I have not yet had the opportunity to examine as much of the evidence and documentation pertaining to this investigation as would be desired. However, those materials which I have seen raise serious doubt as to the accuracy and thoroughness of the government's version of events.

Some key areas of the government fire investigation report, authored by Mr. Paul Grey, that must be addressed include:

- Was Mr. Grey fully aware and informed as to the full extent of the so-called "breaching operations"?

- Did Mr. Grey, and other fire investigators really know exactly what chemical agents, and in what amount were actually introduced into the building?

- Did the authors of the government fire investigation report fully research the properties of those chemicals used at Mount Carmel? If so, why is the data reflected in their report technically flawed?

- Does Mr. Grey have actual knowledge of and training in chemical agent operational procedures, or as it would seem, has he simply based his observations on the word of others?

- Flammable liquid contamination found on items of clothing of certain survivors of the fire were declared to be proof that they had started the fire. Why was key information regarding the source of this contamination omitted from the government's fire investigation report?

As further information and documentation becomes available there is little doubt that future investigations will reveal additional irregularities in the government's fire report. There are many areas contained in the government fire report which bear much closer examination. Some of these include:

On page 6 of that report reference is made to the breaching operations of the tanks into the building. In this reference it is stated that the some of the reasons for this operation were, "...to allow access to the interior of the building, and allegedly (Note: Emphasis added) to allow escape from within," The use of the word allegedly is disturbing. Did Mr. Grey become aware of information that would have led him to believe that the escape of persons inside the building was not a concern of the gassing operation planners?

CS GAS In the government's documents, as well as DR. QUINTIERE's Fire Development Analysis of the Mount Carmel Fire, it is repeatedly acknowledged that CS (Ortho-Chlororbenzalmalono-nitrile) was the chemical agent used in the assault on April 19, 1993. Yet, in MR. GREY's report he states that the agent used was CN (Chloroacetophenone). Also in Mr. Grey's report he states that the chemical agent used to carry the CS, to wit METHYLENE CHLORIDE, "...probably could not have been ignited during deployment and delivery by any common ignition source present in this application." However, the DOW Chemical Corp-oration Material Safety Data Sheet specifically states that this chemical forms flammable vapor-air mixtures. In addition, Mr. Grey, in his report states that, "The effectiveness of this product is diminished proportionally to the amount of air available for dissipation, which is why it is intended for enclosed space application." This statement is in direct contradiction to the DOW Chemical Safety Data Sheet, which specifically states that, "In confined or poorly ventilated

areas, vapors can readily accumulate and can cause unconsciousness and death."

Mr. Grey also states that the gas dispersers in the Combat Engineer Vehicles (CEV's), "...had a maximum delivery rate of twelve to fifteen seconds..." This is a time reference, not a delivery rate. A delivery rate refers to a specific quantity of agent dispersed over a given time at X pounds per square inch (psi) delivery pressure. To obtain an accurate delivery rate it is necessary to know: The size of the dispersal nozzel; consistency of the material being dispersed; and the pressure, in pounds per square inch (psi) of the propelling agent (gas or liquid).

Probably one of the most glaring errors in Mr. Grey's report, which can only be interpreted as either ignorance of basic fire physics...or a deliberate attempt to mislead less than knowledgeable readers concerns speculation that one of the tanks could have run over and crushed a propane cylinder, or other flammable liquid container. In his report Mr. Grey denies this very real possibility, emphatically stating that, "If this had happened, an immediate vapor air explosion or flash fire would have occurred involving the vehicle itself. It did not happen." In fact, unless leaking propane or other flammable liquid from a crushed container had a separate ignition source, there would be no explosion or flash fire!

This is not mere speculation on my part. I have personally utalized a military tracked vehicle to conduct "crush tests" on sample containers of every flammable liquid/gas known to be located in the building at Mount Carmel. In each case the results were the same, there was no explosion or flash fire. The importance of this fact will be very evident to any competent fire investigator.

The above listed examples are only a small part of the concerns which must be addressed concerning the government's fire investigation report. But they cannot help but cast doubt on the full credibility and thoroughness of these official reports.

Finally, and most importantly. Why was the fire scene totally and completely destroyed before any independent investigator had an opportunity to thoroughly examine it for evidence as to the cause and origin of the fire that destroyed the Branch Davidian church? Having been personally part of past ATF fire investigations, I find the answer in the question.

In conclusion. The investigation into the events leading up to, throughout, and after the fire of April 19, 1993 must be turned over to a truly independent and unbiased team of experts. Unless this is done the truth will remain buried within the ashes. The American public can no longer be relied upon to remain ignorant of the facts. They are asking valid and informed questions and are demanding honest answers.

Mr. MCCOLLUM. Thank you, Mr. Sherrow.

Mr. Hyde, you're recognized.

Mr. HYDE. Thank you, Mr. Chairman. I'm pleased to yield my time to Mr. Schiff.

Mr. SCHIFF. Thank you very much, Mr. Chairman.

Mr. Gray, I just want to begin by saying that I agree with you that possible association you may have had with ATF does not taint your testimony, in my mind, as a professional.

But I also want to say that anyone's association with other organizations, including the National Rifle Association, does not necessarily taint their testimony either, but that's been a favorite character assignation that's been used all during these hearings. I accept witnesses at face value as professionals and as witnesses.

And I further want to say I see my role as asking questions to bring out testimony and evidence for conclusions to be reached later, and for that reason, Dr. Quintiere, I'd like to come back to you a little bit, please, sir.

When asked by Mr. Schumer about the possibility that this fire could have started in three separate locations by lanterns overturning at the same time, Mr. Schumer asserted and I believe you agreed, well, that would take quite a coincidence to happen. You stated fire is very rare and adding to the idea that——

Dr. QUINTIERE. Relatively rare event, yes.

Mr. SCHIFF [continuing]. Adding to the idea, that would be a tremendous coincidence for lanterns to be turned over simultaneously in three different places, right?

You have to answer out loud; the court reporter can't take nods.

Dr. QUINTIERE. Yes. I'm sorry.

Mr. SCHIFF. I have to ask you this question: How common is it for the U.S. Government to send armored vehicles to buildings and inhabited by men, women, and children, and to be pouring tear gas into them? How often does that occur?

Dr. QUINTIERE. I can only answer that question based on what we see in the news media. I can't answer that question as an expert in military affairs.

Mr. SCHIFF. How many times have you seen it in the news media?

Dr. QUINTIERE. Rarely seen it in the news media.

Mr. SCHIFF. Rarely. You've seen it more than once?

Dr. QUINTIERE. I can't recall any.

Mr. SCHIFF. My point is, I'm trying to picture what it was like inside this compound when armored vehicles are advancing, first from one place but very quickly thereafter in several places, and maybe they came about because there was a fire from the building—I don't mean flame fire, I mean shooting fire.

But there are a number of people inside that building who would have panicked, wouldn't they? Wouldn't you think that would happen?

I guess that's not an arson-related question, it's a human question. Wouldn't you think that might have been going on inside that structure?

Dr. QUINTIERE. Again, I think panic is a psychological term, and I'm not sure I can really describe panic to you in that sense.

Mr. SCHIFF. OK.

Mr. Sherrow, if I may turn to you, you testified you're retired from the U.S. Army but did serve with the Bureau of Alcohol, Tobacco and Firearms. I would like to ask, were you serving with the Bureau in February 1993 or right about then?

Mr. SHERROW. No, sir, I was not.

Mr. SCHIFF. So during what period of time did you serve with the Bureau?

Mr. SHERROW. I was on leave, administrative leave, at that time period in 1993.

Mr. SCHIFF. OK. So you had no part in the preparation or anything having to do with this raid.

Mr. SHERROW. No, sir, not at all.

Mr. SCHIFF. Did you have an opportunity to review it, or have you reviewed it just from news reports and from—or from official reports, or from both?

Mr. SHERROW. Yes, sir, I've had a chance to review both and also talk to people who were there, Branch Davidians and ATF agents as well.

Mr. SCHIFF. Well, let me ask you, as a former professional with the Bureau, what's your opinion of the plan and execution of the raid back on February 28, 1993, if you formed an opinion?

Mr. SHERROW. Unfortunately, I predicted something like this was going to happen 2½ years before Waco of what I saw going on within the Bureau.

Mr. SCHIFF. What did you see within the Bureau that caused you to predict that this would happen 2½ years before Waco?

Mr. SHERROW. The mindset—first, let me say the people in the Bureau of Alcohol, Tobacco and Firearms, they are some of the best agents in the world. There are, unfortunately, some bad apples, as we see in every organization. These have tarnished the badges of the good guys. I would like to see that tarnish taken off.

I saw recruiting of personnel going to younger kids who had a mindset. There was a very antigun mode inside. Unfortunately, there's a lot of ATF agents that are NRA members, so they're not all antigun, but there are some, and the attitude was moving up toward the top. And not just ATF, we see it in law enforcement agencies down to street level, city police departments now, and we heard testimony the other day about, there will be no knock search warrants in the future.

We are gearing up—we are seeing more battle gear, if you will. We are seeing a mindset on the side of law enforcement. It's a dangerous time.

Mr. SCHIFF. A mindset to do what?

Mr. SHERROW. That the bad guys are winning, which is, we've got to attack the bad guys, we've got to use bigger guns, bigger armored vehicles now more and more, and unfortunately, we're seeing citizens—most of them are the bad guys, but a lot of them that aren't are fighting back. They figure no matter what they do, they are going to get hurt.

Mr. SCHIFF. Whether they are bad guys or not—and I will finish with this question—did you see a mindset developing toward the idea of military style operation as a preferential way to go?

Mr. SHERROW. Yes, sir, I have, with the armament, the equipment, the tactics, and the training.

Mr. SCHIFF. Thank you, Mr. Chairman.

Mr. MCCOLLUM. Thank you, Mr. Schiff.

Ms. Jackson Lee, I believe, are you ready? Are you next? I'm told you are.

Ms. JACKSON LEE. I will pass.

Mr. MCCOLLUM. Mr. Taylor.

Who is taking time down here? You want to pass your entire side over here?

Mr. SCOTT. We would like to pass.

Mr. MCCOLLUM. Mr. Coble, are you ready to take some time?

Mr. COBLE. Thank you, Mr. Chairman.

I will extend the gentleman from New Mexico's remarks in that I was not there, I am not an expert in firefighting, gentlemen, but I don't know that it would be all that coincidental for lanterns to be knocked down given the environment at that time.

Mr. Doyle, let me ask you a question. You referred—and, gentlemen, I only have 5 minutes, so if you all can be brief, I would be appreciative.

Mr. Doyle, you referred to wet towels. Did you have a supply of wet towels there?

Mr. DOYLE. I'm just commenting on what I had heard with the way that the children and women were found after the fire, wrapped in blankets and wet towels.

Mr. COBLE. You never saw any wet towels?

Mr. DOYLE. No.

Mr. COBLE. Well, do you know with certainty—I guess what I'm getting around to is, how were they moistened? With water?

Mr. DOYLE. Right.

Mr. COBLE. Because you had mentioned earlier about there being an obvious scarcity of water. What was the source of the water?

Mr. DOYLE. Rainwater was the only source we had.

Mr. COBLE. So they would have been with the rainwater that you had saved up, I guess?

Mr. DOYLE. Apparently, yes.

Mr. COBLE. No one, I don't think, has mentioned the possibility of the cause of the fire as being from gunfire, either guns fired from inside Mount Carmel or guns fired from outside the compound.

Could that—Mr. Sherrow, or the others—could that have ignited the fire?

Mr. SHERROW. Yes, sir. Go back to what I said and the tests that had been done on the armored vehicle crushing fuel tanks. We used 1-gallon cans in that test just for samples, and out of 1 gallon the fuel would spurt up to 20 feet, which could cover quite a bit of area, especially if multiple cans or larger cans were hit. Gunfire could very well set off fuel such as gasoline.

Lanterns—the building, from what it has been described to me personally, people thought they were in an earthquake. The building was shaking. It was falling apart. We've seen in earthquakes, people aren't running around setting intentional fires. I'm not saying it was not intentionally set, I'm saying I still have a lot of study to do.

Mr. COBLE. It would seem to me that it would not be unlikely that gunfire could ignite the flames. Gentlemen, do you all want to be heard on that?

Mr. GRAY. Yes, sir. We don't have any more studying to do, and this fire cannot have resulted as a result of gunfire. Certainly what Mr. Sherrow here says can happen. It doesn't take a fire expert to be able to know that you can run over a gasoline can and spill the gasoline on the ground and it not ignite.

Dr. QUINTIERE. I think if the projectile from the gun—I mean I'm not familiar with any experiments along those lines, but if the projectile from the gun was hot, you would have seen it on the infrared. You don't see any kind of traces like that.

Now, certainly if a projectile punctures a can of gasoline, when it is puncturing it, then there's going to be some heat due to that puncture, and that could ignite the gasoline.

Mr. COBLE. Let me revert to Mr. Doyle and extend the gentleman from New Mexico's question concerning the possibility of lanterns.

Mr. Doyle, did you observe or do you have any knowledge about lanterns being accidentally or intentionally knocked over that could have started the fire during your time within the compound?

Mr. DOYLE. There were lanterns in use. I observed no lanterns knocked over on the 19th nor did I hear any gunfire coming from within Mount Carmel throughout that morning.

Mr. COBLE. Thank you Mr. Doyle.

Dr. Quintiere, it has been said that some of the people inside Mount Carmel died by their own hand, self-inflicted gunshots. Did that—did those shots—were they revealed on the FLIR that you were observing?

Dr. QUINTIERE. No. That would be within the building, and you would have to have been able to see through the roof of the building. The FLIR is not capable of that. If anything came from outside the building that was hot, it should have been visible on the FLIR.

Mr. COBLE. Mr. Chairman, if anyone wants, my time is about out. I would yield to the——

Mr. MCCOLLUM. If the gentleman would yield to me, I would be glad to take it, or the gentleman from Tennessee can have it.

Mr. COBLE. The gentleman from Tennessee got me first.

Thank you, gentlemen, for being with us.

Mr. BRYANT of Tennessee. Thank you.

Just very quickly to you two experts on this left end, the more traditional ways of investigating arsons, were they employed in terms of, were there tests run to see if there were in fact accelerants, gasoline, found within the charred ruins of this area, and were burn patterns—was there enough left there to determine burn patterns and things like that?

Mr. GRAY. Yes, there were tests run.

Mr. BRYANT of Tennessee. What were the results?

Mr. GRAY. The results—we collected over 100 samples of debris, basically just fire debris, and had them submitted to Dr. Armstrong's lab, and he did analyze them, and he reported back to us his findings, and he did confirm that there was gasoline, kerosene, Coleman fuel, and some other accelerants present in the compound.

Mr. BRYANT of Tennessee. Thank you.

Dr. QUINTIERE. You mentioned burn patterns, and I said in my statement that the—this building was essentially leveled, so you could not really look for a signature like that.

But let me add something. Burn patterns are cited by fire investigators, and recently there has been a study done, and I have some informal results from that study to actually look at whether burn patterns are meaningful in any way or can be interpreted the way people think, and the conclusion is that they cannot. So one cannot just look for burn patterns.

This was one of the reasons we were asked to look into this fire, as well as the group under Paul Gray, and that is to bring the science of fire, what has been learned through fire research, into this element of fire investigation so we could make observations and interpret them based on the physics of how fire would behave and then draw conclusions from that.

I think that is—that is a more important aspect, and I think Paul Gray said maybe something like this should have been done following such a fire.

When there is a national incident of such prominence and it is a fire, I feel that in order to learn something from that, the resources of the country should be put into understanding what took place, because fire is rare.

We had an event in the World Trade Center where a bomb went off. If that bomb had caused a bigger fire, people in that building would have been threatened and we would have had a catastrophe, more than what took place. So we should use the element of science to bring it not only into fire safety in general but into the area of fire investigation. This is what we tried to do in the role that we played.

Mr. MCCOLLUM. Mr. Bryant, Mr. Coble's time has expired.

Ms. Slaughter, you are recognized for 5 minutes.

Ms. SLAUGHTER. Thank you, Mr. Chairman.

Mr. Sherrow, did you discuss your appearance here with anyone from the NRA? Were you contacted by them, or have you discussed it with them?

Mr. SHERROW. No, ma'am, no one whatsoever.

Ms. SLAUGHTER. When you commented that the good guys were starting to fight back, to whom are you referring?

Mr. SHERROW. No, I was—the average citizen.

Ms. SLAUGHTER. The militia movement?

Mr. SHERROW. Not necessarily militia. I have talked to university professors, doctors, grandmothers. They are starting to wonder what's happening to the country. The Government's not being honest with them on a lot of things. They are searching for the truth. Unfortunately, they are getting a lot of garbage, and that's the only word I can use.

Ms. SLAUGHTER. Do you believe that yourself, Mr. Sherrow?

Mr. SHERROW. Ma'am?

Ms. SLAUGHTER. Is that your feeling, that the Government is involved in a conspiracy here?

Mr. SHERROW. I don't believe in conspiracy theories. I don't like them. I think they are ridiculous. There are some things that the Government needs to be more honest and open with the public on, but I'm sure that's going to happen.

Ms. SLAUGHTER. Mr. Doyle, I first want to acknowledge your great pain and realize that you lost your daughter, but I'd really

like to understand a little bit more about living inside that compound. How long had you been there?

Mr. DOYLE. I first went to Mount Carmel in 1966.

Ms. SLAUGHTER. Are you married?

Mr. DOYLE. I was.

Ms. SLAUGHTER. You were married. Was your wife with you at the compound?

Mr. DOYLE. No. I've been divorced since 1976.

Ms. SLAUGHTER. But your daughter did go with you?

Mr. DOYLE. My youngest daughter was there, yes.

Ms. SLAUGHTER. And your daughter was one of Koresh's wives?

Mr. DOYLE. She had never admitted that. We were very close, and she has never mentioned a word of that to me.

Ms. SLAUGHTER. You were——

Mr. DOYLE. I know that accusation has been made, but, you know, I'm not in a position to confirm or deny it.

Ms. SLAUGHTER. Well—and I'm happy to give an opportunity for you to deny that if that's what you believe.

Mr. DOYLE. I don't believe that, but——

Ms. SLAUGHTER. Mr. Doyle, you said that you were told you couldn't come out en masse. Who told you that?

Mr. DOYLE. That was the information we were given early in——

Ms. SLAUGHTER. By whom?

Mr. DOYLE. Probably Steve Schneider, since David was pretty well incapacitated for the first 3 weeks or so.

Ms. SLAUGHTER. So it was someone within the Branch Davidians that told you that?

Mr. DOYLE. There were people coming down from upstairs conveying messages and so forth. It may have been Steve. I'm not real sure.

Ms. SLAUGHTER. And you were also told, if you came out, you could expect to be shot and killed?

Mr. DOYLE. The way it was explained to me was that the sniper nest or the perimeter agents that were around the perimeter needed to be informed that individuals were coming out and they needed to be described to them—you know, their sex, their age, how many, and so on. That was the understanding I was given.

Ms. SLAUGHTER. When you lived at the compound, Mr. Doyle, were you free to come and go as you pleased?

Mr. DOYLE. Yes.

Ms. SLAUGHTER. You could go anywhere you liked?

Mr. DOYLE. Yes, I did.

Ms. SLAUGHTER. Did you have to check in or out with anyone at all?

Mr. DOYLE. Not really, no.

Ms. SLAUGHTER. Throughout the whole time you were there, were you aware of people being held there against their will?

Mr. DOYLE. People were not held against their will.

Ms. SLAUGHTER. All right. When——

Mr. DOYLE. I mean there's a whole lot of people——

Ms. SLAUGHTER. You mentioned there were places that were off limits. So there were rules that you had to go by, but you could leave any time you wanted?

Mr. DOYLE. That's correct, and people did.

Ms. SLAUGHTER. Is it your feeling that, any time during the 51 days, that you could have walked out that door?

Mr. DOYLE. Yes.

Ms. SLAUGHTER. What do you think would have awaited you?

Mr. DOYLE. In my case, as I said, I was told at one point by the negotiators—the only time I ever talked to them on the phone, they asked—they didn't say you're under arrest, come on out, you know. They asked me when I was coming out, as far as I can remember the wording, and I says, well, why do I need to come out? I have not committed a crime. This is my home. This is where I live. And they says, well, you know, we have to get things, you know, settled. We need to talk with people, and so on.

I says, well, where will I go if I come out? They said, you have a daughter in California, don't you? I says, yes, that's correct. And they said, well, you can go live with her.

As I said, what we saw of those that did come out were, they were being sent to jail, the adults, even elderly women in their 70's were being actually indicted for murder or charged——

Ms. SLAUGHTER. This was—you were told that that's what happened when people came out?

Mr. DOYLE. We saw it and heard it on the news.

Ms. SLAUGHTER. I see.

Mr. Doyle, did David Koresh—you mentioned that he thought he was going to die; is that correct?

Mr. DOYLE. That's true.

Ms. SLAUGHTER. What was his reaction when he thought he was going to die? How did he feel about it? What did he say to his followers?

Mr. DOYLE. Let's see. I think he was kind of scared in some respects, but, from what I understand, he made a phone call to his mother and left a message on her answering machine. She wasn't there.

Ms. SLAUGHTER. That he was going to die.

Mr. DOYLE. And he said that he would see her when he returned. We believe in the resurrection, and so it's——

Ms. SLAUGHTER. So Mr. Koresh, like all human beings, at that point was really afraid to die. Would that be a correct statement?

Mr. DOYLE. To some extent, yes.

Ms. SLAUGHTER. Do I understand, Mr. Doyle, that at this moment you still believe Mr. Koresh was the Lamb of God and that he is coming back on a day certain, bringing all the people who died with him?

Mr. DOYLE. We believe in the resurrection which——

Ms. SLAUGHTER. I want to know about Koresh.

Mr. DOYLE. Right. He will be included, yes.

Ms. SLAUGHTER. And you believed that throughout your time with him, that what he told you was the truth.

Mr. DOYLE. Sure, I do.

Ms. SLAUGHTER. You don't feel in any way that you were used by him or made to stay or be a part of that organization? You felt absolutely free to come and go any time?

Mr. DOYLE. Yes, I did.

Ms. SLAUGHTER. Do you know of any other religion that requires men to give up their wives and daughters?

Mr. DOYLE. I've heard of some, but I couldn't name them.

Ms. SLAUGHTER. Are you still an Australian citizen, or are you an American?

Mr. DOYLE. I'm an American citizen.

Ms. SLAUGHTER. All right. Were you a part of a religion like this in Australia?

Mr. DOYLE. I was a member of the Davidian and the Branch Davidian Churches in Australia before coming here, yes.

Ms. SLAUGHTER. You were brought into that by David Koresh's visit to Australia?

Mr. DOYLE. No, no. I became a Davidian and Branch Davidian long before David Koresh ever——

Ms. SLAUGHTER. You were with the Rodens?

Mr. DOYLE. Right.

Mr. MCCOLLUM. Ms. Slaughter, your time has expired.

Ms. SLAUGHTER. Yes, I'm sorry. I have taken advantage of your good feeling. Thank you.

Mr. MCCOLLUM. Mr. Bryant, you are recognized for 5 minutes.

Mr. BRYANT of Tennessee. Thank you, Mr. Chairman.

At this time I would yield my entire time to the chairman.

Mr. MCCOLLUM. I thank the gentleman, and at this time I would yield half of my time, 2½ minutes, to Mr. Zeliff.

Mr. ZELIFF. Mr. Doyle, do you know Brad Branch?

Mr. DOYLE. Yes, I do.

Mr. ZELIFF. I talked to him yesterday, an interesting conversation. Where were you on 2–28 when the ATF tried to deliver the search warrant?

Mr. DOYLE. I was in my room——

Mr. ZELIFF. You were in your room.

Mr. DOYLE [continuing]. Which is the third window from the left on the front of the building.

Mr. ZELIFF. He tells me he was with David at the door. Is that correct? Do you know?

Mr. DOYLE. That's his story. I never saw him there.

Mr. ZELIFF. He also told me that there was a female agent with the ATF that shot the dog from behind as they were delivering the search warrant at the door. That's where the first shot—the shot was the dog, and then the response possibly erupted from those. Do you think that's correct?

Mr. DOYLE. That's possible. During our trial there was quite a number of agents claiming that they shot at the dogs, and five dogs ended up being killed.

Mr. ZELIFF. And that may have erupted in the firepower in response.

Mr. DOYLE. If the first shot was actually at the dog, it could have been misinterpreted or whatever. I don't——

Mr. ZELIFF. Particularly for people who may have not seen——

Mr. DOYLE. My personal experience, the first shots I heard were from outside coming toward the building.

Mr. ZELIFF. Let me ask you this—do I still have a little bit?

You heard the testimony on the fire, but you were there. What do you think—what were your observations relative to—I mean, I saw it on TV. I saw the tanks go in. I saw it go through the buildings, come back. I heard the announcement, "This is not an at-

tack," you know, and that tank would go back in and go right through the building.

What did you feel? What were your emotions?

Mr. DOYLE. We definitely weren't believing what we were hearing over the loudspeakers, that they were not entering the building or this was not an attack. You know, we were told they weren't going to be shooting, and yet they are firing what amounted to mortars or rockets at us, these ferret rounds which sounded like a mortar.

Mr. ZELIFF. Were you afraid?

Mr. DOYLE. Yes.

Mr. ZELIFF. What about the kids? Was this a safe place for kids to be in?

Mr. DOYLE. I think that's why the women ended up putting them in the cement building, because they felt they were protected.

Mr. ZELIFF. I yield my time back to the chairman.

Mr. MCCOLLUM. Thank you very much, Mr. Zeliff.

Dr. Quintiere, when did that first fire start? What time?

Dr. QUINTIERE. Precisely?

Mr. MCCOLLUM. Yes, sir.

Dr. QUINTIERE. I think it's 12:07:42. I'll just refer to my——

Mr. MCCOLLUM. That's as early as you got on the FLIR. That would have been the earliest time for fire starting there is any documentation on?

Dr. QUINTIERE. Yes.

Mr. MCCOLLUM. I just want the record to reflect, in examining the transcript Mr. Schumer was referring to, when the quote at the end was, "Let's keep that fire going," the time listed here was 11:48. That would be inconsistent with what we saw on the tape and with what you saw on the tape?

Dr. QUINTIERE. That's right.

Mr. MCCOLLUM. I also would like to ask you a question about the other comments that apparently there was fuel being poured or spread at 6:07 a.m. in the morning.

Would fuel—I don't know what the fuel was, but it might have been kerosene for lanterns, who knows, but would normal fuel we think of, fuel oil or kerosene or whatever—wouldn't it evaporate, or would it have evaporated, by noon?

Dr. QUINTIERE. It would begin to evaporate, but if it's saturating into the wood floor it could still be ignited later. If it's something like gasoline, it's going to evaporate much more rapidly than kerosene and it's going to be much easier to ignite than kerosene.

Mr. MCCOLLUM. Well, there are some pretty, I guess you could say damaging statements here with regard around 7:23 about questions about, is there a way to spread the fuel in there, and some hay, and this sort of stuff. But there is a question mark in my mind about whether the fuel being poured earlier might not have been just simply poured into these lanterns. We don't know, obviously.

Dr. QUINTIERE. We don't know, and what I might add is that when one says that fire appears to be intentionally accelerated, it could have been done based on using flammable liquids. It could also have been done based on the way the normal fuel load might be arranged. The way you stack chairs, if there were—there were

bales of hay, the way that was arranged. Those things could have added to the rapid spread.

Mr. MCCOLLUM. You're not aware of there being any hay in there, though, other than—

Dr. QUINTIERE. Yes, I did see bales of hay.

Mr. MCCOLLUM. There was hay.

Dr. QUINTIERE. Yes.

Mr. MCCOLLUM. Mr. Sherrow, you heard earlier a litany of reasons of possible ways that fire could have been started in there. We got one added by Mr. Schiff about the gunfire. But, you know, from all kinds of listings Mr. Schumer read off, and Dr. Quintiere responded to each one of those in the negative, that none of those were possible.

In your statement, it seemed to me you were in an effort in part contradicting that, but I would like for you to run through with me, if you agree if you—or if you disagree with the different possible methods of starting that fire that were ruled out by Dr. Quintiere. Can you do that?

Mr. SHERROW. Yes, sir. The first one is, the flame-throwing tank absolutely did not happen. The flame on one of those, to set the record straight, is a 180- to 200-meter rod, would have blown right through the building.

Mr. MCCOLLUM. That didn't happen.

Mr. SHERROW. That did not happen, no, sir.

The lanterns being knocked over, there is a possibility. However, we'd have to have fuel leaking ahead of time, which could be attributed—they could be in areas crushed by the vehicles during the assault on the building. Especially in the rear area of the building, a lot of damage was done.

There is a lot of things that could happen. The thing that really concerns me is why the building was so totally destroyed afterwards, after the fire was out. There was no firefighting whatsoever attempted, and the crime scene—and it was a crime scene—was totally absolutely destroyed. I have seen this happen before.

Mr. MCCOLLUM. I understand that, but my point, I don't want to take the time asking the question, though, is that you did not dispute, generally speaking, the answers Dr. Quintiere gave, you would have ruled out those things that he ruled out in Mr. Schumer's response?

Mr. SHERROW. Yes, sir.

Mr. MCCOLLUM. That is what I wanted to know. I didn't want to leave something hanging because your statement was somewhat critical comparatively speaking and I just wanted to find out.

At this time, Mr. Watt, you are recognized for 5 minutes.

Mr. WATT. Thank you, Mr. Chairman. I yield 1 minute to Ms. Slaughter and 4 minutes to Mr. Scott.

Ms. SLAUGHTER. I thank you very much for yielding.

Mr. Doyle, I wanted to make one other comment. The forensic laboratory findings showed that on your shoes was a substance identified as camp stove oil, which would indicate that you had walked across it on your way to the hole from which you escaped; correct?

Mr. DOYLE. Well——

Ms. SLAUGHTER. How would you account for that being there?

Mr. DOYLE. The fuel oil was not in the area inside the building, it was when we came out. They had tipped over our diesel and gasoline supplies that we had. We had four large tanks on pedestals.

Ms. SLAUGHTER. They had fallen over? Mr. Doyle, could it be possible that the fire that you saw that covered the hole that you came out of immediately after your departure had been raging there because there was camp stove oil, fuel on that floor? Is it possible?

Mr. DOYLE. I don't believe, not in the area where we came out, no.

Ms. SLAUGHTER. You were not aware of any fuel of any sort?

Mr. DOYLE. A lot of the women would bring their lanterns into the chapel during——

Ms. SLAUGHTER. No, I am talking about——

Mr. DOYLE. But not in the area we exited from, no.

Ms. SLAUGHTER. OK, thank you. Thank you, Mr. Watt.

Mr. SCOTT. Thank you.

Mr. Doyle, were you tried for any—were you one of the defendants in the trial?

Mr. DOYLE. Yes, I was. I spent 10 months in jail and went through the San Antonio trial and was exonerated on all points.

Mr. SCOTT. OK. During the trial did any defendants—was this a joint trial, everybody tried together?

Mr. DOYLE. There was 11 defendants.

Mr. SCOTT. Did any of the defendants stipulate that the fire was started by people inside the compound?

Mr. DOYLE. Not that I know of, no. They were trying to, from what I understand, say that I was the one that lit it because my hands were burned, but those charges were withdrawn during the trial because of lack of evidence and so on. I think they were building this point up because of the shoes, the dog hitting on the shoes and so on.

Mr. SCOTT. You have no knowledge of any defense attorneys stipulating that the Davidians started the fires?

Mr. DOYLE. I have heard since the trial that there were defense lawyers that were making that claim in the press.

Mr. SCOTT. What about during the trial? You are not aware of it during the trial?

Mr. DOYLE. I don't remember it coming out in the trial.

Mr. SCOTT. And did any Davidians mention or admit during the trial that they had set the fires?

Mr. DOYLE. No.

Mr. SCOTT. Not to your knowledge?

Mr. DOYLE. No.

Mr. SCOTT. No or not to your knowledge?

Mr. DOYLE. Not to my knowledge did any of the defendants admit.

Mr. SCOTT. Mr. Gray, can you comment about the flammability of CS gas again. I think we went—I think you said that it was not flammable, is that right, that it did not contribute to the fire?

Mr. GRAY. We determined——

Mr. SCOTT. Dr. Quintiere, how do you spell your last name because we have two different spellings?

Dr. QUINTIERE. Q-U-I-N-T-I-E-R-E.

Mr. SCOTT. OK. Can one or both of you comment on the flammability of CS gas, whether it contributed to the fire or not?

Mr. GRAY. Dr. Quintiere will.

Dr. QUINTIERE. In my opinion, it did not contribute to the fire based on the fact that as an airborne flammable vapor it did not evidently reach a concentration for the methylene chloride that would have caused the fire propagation through this compound. We did not see any such behavior that would be indicative of a flammable vapor. In other words, like a natural gas leak in the building, nothing like that was seen.

Second, if this methylene chloride or CS deposits on objects that will later burn, then there is a question as to whether they would enhance the fire spread over these objects, make them ignite easier. In my conclusions, the answer to that also was no, and it is based on the data in the literature and experiments I did just recently to make the point more definitive.

Mr. SCOTT. What were the results of your experiment?

Dr. QUINTIERE. That methylene chloride did not have any enhancement effect on the fire propagation in this fire, and in addition, in one of the experiments the methylene chloride actually put out a candle flame that was adjacent to a dish of methylene chloride. The vapors actually put out the candle flame. So it could actually act as an inhibitor under some circumstances.

Mr. SCOTT. Thank you.

In the remainder of the time, Mr. Gray, I think you were cut off in your statement, did you not have time to finish your—finish what you wanted to say, and you didn't have time to say it?

Mr. GRAY. I omitted a part of it, but just for your information, to clarify something important about fire, in any fire investigation, there are a limited number of conclusions that can be drawn. Fire either occurs as a natural phenomenon, as a result of an accident or intentional human conduct.

When there is insufficient evidence to support a definitive conclusion, we have no problem leaving it undetermined, and that is what we will do if we don't know. When there is no reasonable doubt, however, as to the origin and cause of the fire, as in this case, a clear conclusion may be drawn without reservation, and that is what we did in this case.

To further get back to something that Mr. Sherrow had said earlier in response to a question about the different ways this fire could have occurred and some of the questions that he had, we are not saying and never did say that you can't cause a fire by kicking over a lantern, like Mrs. O'Leary's cow theory. Certainly that can happen.

What we had to do is take all of these theories, like a bullet striking a flammable liquid, like a lantern being dumped over, and all these other theories, and we had to apply them not in general terms but we had to apply them to this specific case under what we know happened by the—primarily and admittedly the photographic evidence helped us more than anything I think in this investigation. So when we took our, for instance, our samples, our debris samples, we compared those samples taken and identified in the areas where we saw fire in the photographs and enhanced and improved or corroborated, I should say, by the infrared.

The thought of a tank running over—the report responds to an allegation that—in fact, it was another one of those unfounded conspiracy seeds laid by Jack Zimmermann that said originally that a tank had run over a propane cylinder and caused the fire and that is what started the fire.

What we were responding to was the fact that propane is a liquefied petroleum gas, and when exposed to atmosphere, when opened to atmosphere, it evaporates very rapidly. What we meant in our report is that had a tank run over a propane cylinder, exposing a gas like that, we most probably would have had a fireball right then and there because propane if not ignited early in a 25-mile-an-hour wind, and Dr. Quintiere will agree with me, dissipates very rapidly; it doesn't leave a pool to just sit there for a while.

The other thing was the flammable liquid containers, the gasoline cans, the Coleman fuel cans, and I think I saw some photographs, some big pictures that we could show if somebody has them somewhere. Those cans are very important. They were found in the debris. If you close a cylinder, excuse me, a container, if you fill a container with gasoline or water, for that matter, and you seal the top of it and you set it in a room and you set that room on fire, there will be an increase in pressure in the inside of that can due to the liquid trying to expand and trying to convert into a vapor. As that occurs, that container begins to swell until it just basically gives up. It will break and it will rupture, spilling its contents. After the fire is out, we will find that can, and it will show evidence of internal heat rupture, pressure, and it will be evident that that can was closed and sealed up at the time of the fire.

However in this case, we found about two dozen flammable liquid containers with the tops removed; not blown up, but removed. We also found some of these containers, and there is a photograph, I saw it just this morning, of holes punched in the side of these containers, not that they were flattened. And we did, by the way, we did find a couple of containers that were actually smashed and they could have admittedly been smashed by a tank, and they were back there in the gymnasium area, the last place to catch on fire, I should add. We did find some flattened containers. We did find the containers that were not flattened and they were not overpressured and ruptured; they were opened and they had holes punched in them similar to and consistent with a knife blade.

And finally the explosion, the big explosion, the question was asked of Dr. Quintiere earlier about had he heard of any other theories; yes, I have heard of another theory. In fact, as part of the lawsuit against the Government I read a part of an affidavit submitted that said that the FBI on foot entered the building, shot the Davidians, and planted an explosive device on top of the church vault that he called it. We refer to it as the bunker because it is a concrete cinder block.

That is another theory that did not, could not have possibly happened in this particular incident. Referring to that explosion, the explosion happened well after the building was totally destroyed. It was very unlikely that that explosion was anything other than a propane cylinder, as Dr. Quintiere pointed out.

This guy is a wizard with the math. I asked him many times, I probably bored him to death, but I asked him a lot of real dumb

questions and I asked him very plainly and simply, Doc, is it possible for this to happen, and he would give me a mathematical formula showing me that there is no way.

That cylinder of propane we found in the courtyard—there is a small courtyard that is next to the center part of the building in a little alcove. There was, in fact, a 100-pound propane cylinder with a piece of the top blown out about the size of a football exactly where that explosion occurred, and I have no doubt that that is what the big explosion is, and it was certainly not an incendiary device nor was it a bomb that the Davidians had planted in there.

Mr. MCCOLLUM. Thank you very much. Your time has expired. Mr. Shadegg, you are recognized for 5 minutes.

Mr. SHADEGG. Thank you, Mr. Chairman.

I would like to thank the members of this panel. I think it has been very helpful testimony.

Dr. Quintiere, I would like to give you an opportunity to explain one issue that has been, that I think you had to rush over in your testimony. It is the flash in the window. There is this long dog run, if you will recall, that is on the top of the gymnasium. It runs the opposite direction. And there is a window, one single window at the end of that long, what they call the dog run, and as the camera was going by, the infrared camera, there is a flash of heat in that window. I think you said—show the dog run. That is the dog run, that window. You said there was a momentary or an incident that wasn't repeated. Can you explain why that is not a fire, again, for us?

Dr. QUINTIERE. OK. I didn't discern that it was in the window. I thought it was more in the debris pile, in that location.

Mr. SHADEGG. OK.

Dr. QUINTIERE. If that is what we are talking about, it was a momentary flash. It is indicative of sunlight reflecting off something and registering on the FLIR. It could be a thermal pattern. If it were a thermal pattern, there is nothing that persists from that, so therefore it is more likely to have been reflected light off of something shiny, in which the sunlight now gives an apparent temperature rise.

Mr. GRAY. If you don't mind me helping to clarify that for you—

Mr. SHADEGG. Excuse me. I just want to ask you, the FLIR, I saw it and it looked to me like it came off the window. The FLIR would pick up a flash off the window; is that what you are saying?

Dr. QUINTIERE. Some kind of reflection. I was told that some of these windows were boarded over and some of them had aluminum foil on them, so if it were aluminum foil caught at the right angle with the sunlight, you would see that.

Mr. SHADEGG. We are going to see it again I think in a minute because we are going to show some of the FLIR tape. It is just a quick flash, I agree with you; I just wanted to understand what that was. If it is the sun flashing off, so be it.

Mr. Chairman, the next point I want to make is that during my questioning really of Mr. Potts and Mr. Hubbell, I went into some issues, they dealt with the FLIR tapes, the FBI tapes that were taken, and I understand we are going to show those in a moment so that we can see what they show, but though I had not asked Mr. Clarke a question, he became quite angry over some of my

questioning, and demanded to know if we had, we here on the panel had this report.

It turns out, and I have checked with staff on both sides, and just for the record I would like it to reflect, first of all, talking with staff both for the Judiciary Committee and for the Government Reform and Oversight subcommittee, none of our staff indicate that we had this report; we absolutely did not have this report in this form.

I understand the discussion went back and forth between the Justice Department officials who are here and our staff, and they say, well, you had it. We did hold up what appeared to be this document, and Mr. Clarke said it was flat, not that document, it is indeed not that document. The only thing that the Justice Department now says is that it may have been in stacks of paper like this that we received. I never saw it, and it wasn't given to us, and it was not identified to us in any way as the April 12 briefing paper for the Attorney General.

Mr. Clarke is not with the Attorney General's Office now nor with the FBI so perhaps he did not know that we did not have it or that we did not have it in that form. I certainly was unaware of it. It is, I understand, a report that the footnote on page 272 of the Department of Justice's report says that the Attorney General herself did not read carefully nor did she read the supporting documentation for it.

With that, I would like—I understand we are going to show the videotape that is the FLIR tape which shows these incidents leading up to the fire.

Mr. MCCOLLUM. You are free to speed the tape up or anything of that nature that Mr. Shadegg would like. I don't know how lengthy this tape might be.

Mr. SHADEGG. At points, Mr. Chairman, it may be worthy to speed the tape up so that we don't waste a lot of time.

Mr. MCCOLLUM. You direct that, whatever you want.

Mr. SHADEGG. If you can see the tape, and Dr. Quintiere, maybe you could point things out. Could you point out the tank with your little indicator, your green indicator?

You see the tank now going into the back of the building. This is the gym. The perpendicular line at the top is what they call the dog run with the window. Maybe—there is the first entry of the tank. There are a series of these. If you have the ability, as I understand you do, to show double time, maybe when the tank is way away from the building you could speed the tape up so that we can see principally its entries—OK, that is double time. There we go, this is a second entry.

Dr. Quintiere, would the bright light at the back of the tank be the exhaust of the tank?

Dr. QUINTIERE. That is the engine, I think. It is the heated back part of the tank, but you might possibly see the exhaust as well.

Mr. MCCOLLUM. Dr. Quintiere, if you could pull the microphone up to you closer.

Dr. QUINTIERE. Yes, I am sorry.

Mr. MCCOLLUM. I would allow Mr. Shadegg to explore this with you for a little bit when the light runs out. That is part of his question, to get this tape clarified.

Mr. SHADEGG. As you see now, the tank is approaching. Again, it is still at the right edge of that roof going at the corner.

Dr. Quintiere, do you know where the bunker is? Can you show that. The bunker is back there.

There is yet another entry by the tank, and at some point the tank disappears into the building. I am not sure which entry it is. There was a plume of heat that looked like it came out of the back of the building at that point. Again, that white light coming out of the back is the engine at the back of the tank?

Dr. QUINTIERE. That is correct, that would be my interpretation.

Mr. SHADEGG. Maybe you can just point out the white that I am referring to.

Mr. SHADEGG. Thank you, sir.

This is the point in which the tank again disappears for some time into the interior of the building.

Mr. MCCOLLUM. Does this continue on for quite a while, Mr. Shadegg?

Mr. SHADEGG. It does. If this is double time, maybe we can speed it up. Ultimately there comes a point where the right corner of the roof collapses onto the tank. There we go. OK.

Now if you could stop it right there, you can see where now the roof has collapsed with these multiple entries. If you can take the green and show the dog run, and then show that shadow. There is the dog run, and then below it is a shadow showing where that whole section of roof has collapsed away.

Now if you can show the tank, I think this is the point where the tank begins to go up on to the roof. Right there. OK, if you would proceed. This is double time? OK.

As you can see, at that point the tank is now going up on the left half of that roof. It has already gone up on the right half.

Mr. MCCOLLUM. Do we know what time this was?

Mr. SHADEGG. Yes, I believe we do. I believe it is right around 12.

Dr. QUINTIERE. 11:31.

Mr. MCCOLLUM. So it is half an hour or so before the fire began, is that correct, Dr. Quintiere?

Dr. QUINTIERE. That is correct.

Mr. SHADEGG. And in a part of the building where the fire didn't in fact start?

Dr. QUINTIERE. Except for that fourth incident that we saw on the video.

Mr. SHADEGG. I think the point of my questioning earlier was not that the fire in fact started here but that it could have started here once you started destroying a part of the building, that that kind of destruction could have led to the start of the fire, whether it did or did not.

Mr. GRAY. Certainly it could but it didn't.

Mr. SHADEGG. We are evaluating what is the risk, what changes do we need to make, did we take excessive risk, that is the issue.

Mr. GRAY. Frankly, anytime you run into a frame construction building like that with a tank, you run a risk of burning it down.

Mr. SHADEGG. As you can see now, if you would, Dr. Quintiere, show that now the right half of the roof has been destroyed. I believe in just a few more frames here the left half of the roof is in

fact destroyed itself, and that is the rubble we later see consumed in fire.

Dr. QUINTIERE. That is correct.

Mr. MCCOLLUM. Mr. Shadegg, how much more of this tape do we have? I am not trying to——

Mr. SHADEGG. We are just about finished, Mr. Chairman. We have now destroyed the right half of the roof completely, we take a couple more runs and destroy the left half of the roof, and essentially I think the tank backs out.

If you can see the ridge line, Dr. Quintiere, maybe you can point out that ridge line. You will see that in a few frames, and in the still frames we have up it was destroyed all the way up to the ridge line.

Dr. QUINTIERE. This is what you are talking about?

Mr. SHADEGG. I am talking about the ridge line going the other way. The next one, further down. All the way from the green arrow to the left, that roof becomes destroyed along that ridge line. Go ahead.

Can you read for us the time, it is now 11:43 and we are running at double speed? Thank you. Keep running it.

Mr. GRAY. It is after 12. I think what you are looking for is that flare; it is after 12.

Mr. SHADEGG. Is the flare after 12?

Mr. GRAY. Yes, it is.

Mr. SHADEGG. Is the tank present at that time?

Mr. GRAY. It is in the area.

Mr. SHADEGG. It was in the video which you showed, right, Dr. Quintiere?

Dr. QUINTIERE. Right. If you allow me, if you run it to 12:08, that is about the time that——

Mr. SHADEGG. Would you run it up to 12:06. At that point we will be able to see—at this point, as I said, it is difficult to count the number of entries of the tank, but the point is made, I believe.

Mr. MCCOLLUM. Are we done or are we——

Mr. SHADEGG. We are running ahead to 12:08. We are trying to save your time and everybody else's time, Mr. Chairman.

Mr. TAYLOR. Whose time are we on, Mr. Chairman?

Mr. MCCOLLUM. We are on Mr. Shadegg's time, actually Dr. Quintiere is theoretically answering this question, which we are getting to at 12:08. As soon as this tape gets there, it will be all over.

Mr. WATT. Do we know what the question is?

Mr. TAYLOR. Mr. Chairman, with all due respect, if Mr. Conyers' time went against my 5 minutes and was measured to the megasecond, then——

Mr. SHADEGG. We are at 12:04 at this time, Mr. Chairman.

Dr. Quintiere, it is now destroyed to the roof line. Mr. Chairman, that is fine. I really have nothing further. Dr. Quintiere has explained the flash. If he wants to show it on his tape or his tape, that is fine. I wanted to give him an opportunity to explain that flash in the window. I did see it, people have raised it with me, I think people need to understand it. If it is a reflection of light, it is a reflection of light, so be it. That is all I want to do.

Mr. MCCOLLUM. Thank you very much. Thank you, Mr. Shadegg. Ms. Jackson Lee, you are recognized for 5 minutes.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman.

I have started off many of the questioning that I have done acknowledging the tragedy of the loss of life and have made that known to many of the witnesses that have come forward.

Mr. Doyle, I would like to acknowledge that to you. And as I try to get an understanding of how we can ensure the real facts and that this does not happen again on all parts, I do want to understand something that I read in the New York Times article but as well David Koresh's theology suggests that he would come back in 42 months, I believe, from April 1993, and I think, Mr. Doyle, you have said that you hope he comes back pretty soon. What do you mean by that? When would pretty soon be?

Mr. DOYLE. Well, within my lifetime surely, and even a lot sooner than that, but we don't set any times and I don't believe David ever exactly said it that way that he would be back in 42 months.

Ms. JACKSON LEE. Did he say it that way are you saying?

Mr. DOYLE. I say, I don't recall ever hearing him put a time on it.

Ms. JACKSON LEE. What would he say to you when he sees you?

Mr. DOYLE. I hope he indicates that he is pleased to see me. I don't know what he will say.

Ms. JACKSON LEE. What would he say about your escape, coming out of the building?

Mr. DOYLE. You go through a lot of guilt when you come out of a situation like this and so many others don't. I feel somewhat guilty that I am alive. I feel somewhat guilty that I am out of jail. I don't think he would condemn me for it, if that is what you are thinking, but I don't really know what he will say until that day happens.

Ms. JACKSON LEE. And is he or would he come back as a human or as god or however you would interpret it? What would be your interpretation?

Mr. DOYLE. What we would call a glorified body, visible but not bound by the flesh.

Ms. JACKSON LEE. And so you right now are not sure when that might be?

Mr. DOYLE. No.

Ms. JACKSON LEE. Would he ask you about how you escaped?

Mr. DOYLE. Would he ask me? I expect he would already know.

Ms. JACKSON LEE. You mentioned that you were in the chapel, weren't feeling well all day, is that my understanding, or most of the day?

Mr. DOYLE. I had been sick the day before on the 18th. I had been in bed sick all that day, and because I guess I dozed off and so on I wasn't able to sleep that following night, so I had come down to the chapel. I was in the chapel at 6 a.m. when the gassing first started.

Ms. JACKSON LEE. Were you in the chapel most of the day?

Mr. DOYLE. Throughout——

Ms. JACKSON LEE. Of the 19th?

Mr. DOYLE. Yes, up until word of the fire, yes.

Ms. JACKSON LEE. You had indicated several comments about what happened throughout the compound. Was that based upon what people told you coming back and forth?

Mr. DOYLE. I made one trip up to my room in order to get some water. I had some water in a glass container, and when we were told that the gas would affect our clothes, our food, our water and so on, I thought to myself, well, it is not going to go through glass probably, so I went and retrieved water. At that time I noticed that my room was in the process of being demolished then, that was fairly early in the day.

Ms. JACKSON LEE. But you told us about incidents that happened around the compound. Was that based a lot on people coming and telling you since you were in the one area?

Mr. DOYLE. It depends on which instances you are talking about.

Ms. JACKSON LEE. You mentioned the cafeteria and other locations.

Mr. DOYLE. I was not aware—as far as the round hitting Jimmy Riddle in the face, I was told that by somebody.

Ms. JACKSON LEE. Let me ask you quickly, and I apologize to you, I have some questions for the gentlemen dealing with the fire itself. Why were you not allowed to go to certain rooms in the compound?

Mr. DOYLE. Some rooms were off limits because they were private. David's private rooms were basically off limits unless you were invited.

Ms. JACKSON LEE. Would that be where he would take his wives in some of the rooms?

Mr. DOYLE. That is where he slept up until he moved. He was not in those rooms on the day of the raid.

Ms. JACKSON LEE. But he would take some of his wives in those rooms?

Mr. DOYLE. He would take people in there, he would take men in there if he wanted to give them a Bible study, or he would take the women in there if that is what was going on.

Ms. JACKSON LEE. If he was sleeping, that is where he would take his wives, in those private areas?

Mr. DOYLE. Into his rooms, yes.

Ms. JACKSON LEE. Mr. Chairman, I would ask the same deference, I need the tape run because I have to ask Dr. Quintiere a question about the escape. I have always wanted to pursue the availability—and thank you, Mr. Doyle—or the opportunity for escape. You mentioned there was the tape where you would show us of the person jumping off the building. I would like you to get me to that point, please, so that I can see that, and I am going to be talking, the questions, to both you and Mr. Gray of this whole issue of escape.

One, the question is in terms of the timing, the last questioner had us go through a series of films that started at 11:31 with the CEV's, and so my question is it seems that the first CEV came about that time or maybe they were there beforehand, but the question is the fire started how much beyond the CEV?

I don't want to disturb you, I need you to get to the film so I don't lose my time on that question, but how much more time after that CEV that we saw at 11:31 did the fire start and is it likely

that you could hit something at 11:31 and you be the cause or that entity be the cause of a fire and it didn't show up until about 12 or whenever it began to show up?

Dr. QUINTIERE. Not likely. As I said, there could be a spill of fuel, but it would have to be ignited later in some fashion. That is the only possibility.

Ms. JACKSON LEE. So that 20 minutes, except for the lighting of certainly would have been rare for the CEV to be the only reason that 20 minutes later a fire started?

Dr. QUINTIERE. Not from the—the flame would not have come from the CEV.

Ms. JACKSON LEE. Hitting the building. That is what I am trying to determine.

Dr. QUINTIERE. That is right.

Ms. JACKSON LEE. Are you going to get to that for me? That is what I need, you and Mr. Gray to answer.

Dr. QUINTIERE. Where the person jumps off the roof, that is what you would like to see?

Ms. JACKSON LEE. Yes. Not the one running on the ground, but the one jumping off the roof.

Dr. QUINTIERE. Let's go to 12:18.

Ms. JACKSON LEE. And I would like Mr. Gray and Dr. Quintiere to answer the question about the possibility of escape as you watch this person and how long a period of time that was. So to reflect upon whether 80 people, 50 people, 30 people could have secured an opportunity for escape, as you show some flashes, flashovers, and I need to see the context of that so that I can——

Dr. QUINTIERE. You have to go back. That is the person jumping. Let's go back.

Ms. JACKSON LEE. I missed it. I was looking at you. I am sorry.

Dr. QUINTIERE. All right. Let's stop at that point. Here you see the person on the roof. That person had previously come out of one of these windows. That person lay on the roof for sometime and has now made a decision to jump off.

Ms. JACKSON LEE. We have not identified who that might have been.

Mr. GRAY. Yes. That was Avraam Renos.

Mr. DOYLE. Renos Avraam.

Mr. GRAY. Sorry.

Ms. JACKSON LEE. Ruth Riddle had already come out?

Dr. QUINTIERE. I understand Ruth Riddle is the person who jumps, I was told that, and I will show you that, you know, just after this. Let's let this run. So this individual is walking away, and then at 12:19 and 15 seconds approximately——

Ms. JACKSON LEE. Is this the time? I am sorry, you said it was what?

Dr. QUINTIERE. Approximately 12 minutes after the start of the first fire.

Ms. JACKSON LEE. 12:19.

Dr. QUINTIERE. Yes, 12:19. We will see someone jump out of this window. That is a second floor window. The fire conditions would have been much more severe there than on the first floor, and certainly people in the vicinity of this opening could have walked out if they were in that vicinity at about the same time or even later.

Here she is, if that is Ms. Riddle. There is a person jumping—hanging from that window and then falling.

Ms. JACKSON LEE. OK. All right. And therefore that area there from your fire experience evidences that it was clear enough for someone to get to a window or that it was clear enough that if individuals were in that area, they could have come out?

Dr. QUINTIERE. Yes, I believe people that were in this area would have had a longer time to survive, and certainly people near these openings on the first floor where wind would be blowing through and providing fresh air, they would have had more time to get out. People in the dining room, if there were people there, or people who stayed in the bunker which ignited later, they would have had to get out much sooner.

Ms. JACKSON LEE. Mr. Gray, in your experience with hands-on fire suppression and saving people, what period of time is a range of time that people could save themselves with a fire raging?

Mr. GRAY. From the inception of this fire, and we are talking about this fire only, not in general, we are being specific here. We feel like because obviously we are 10, 12, 14 minutes after the fire begins, I would take an educated guess of about 20 to 22 minutes from the inception of this fire, from the first ignition that there may have been some viable conditions inside the building.

Ms. JACKSON LEE. You say people in a 20- to 22-minute time period could save themselves?

Mr. GRAY. Thereabouts. I think they had 20 minutes or so to get out of the building before they were overcome.

Mr. MCCOLLUM. Ms. Jackson Lee, I think your point has been made and your time is up. On your time, if you would let, I would like Dr. Quintiere maybe to explain where in all of this sequence Mr. Doyle came out if Mr. Doyle could tell us that, as long as we have this picture up here, I think people would like to know that.

Ms. JACKSON LEE. I certainly will yield the time I have to you, Mr. Chairman.

Mr. MCCOLLUM. Just for that purpose. Do you know, Mr. Doyle, where did you come out of the building; do you know?

Mr. DOYLE. You can't see where the four of us came out. We came out around the corner on the right hand side of the screen, out of the chapel, the very back part.

Mr. MCCOLLUM. But you can't see it in this video?

Mr. DOYLE. Not from this angle.

Mr. MCCOLLUM. Thank you. Thank you very much.

Mr. DOYLE. I might just add that the three that came out ahead of me met Renos Avraam when he walked away from the front. They met at the corner, and they all were out before I came out.

Mr. MCCOLLUM. You came out after these that we saw jumping?

Mr. DOYLE. There were three went out ahead of me unbeknown to me at the time, but when I came out and ran into the razor wire fence I looked up and they were already walking up to the gate, so they had met at the corner.

Mr. MCCOLLUM. Thank you.

Mr. Barr, you are recognized for 5 minutes.

Mr. BARR. Thank you, Mr. Chairman.

Mr. Doyle, previously we have heard testimony from the FBI that during the course of this whole day, that is April 19, while the

tanks were coming back and forth and the CS gas being inserted, that they were broadcasting a message over a loudspeaker. Did you hear that message?

Mr. DOYLE. Part of the time, yes.

Mr. BARR. Was that the message you recall some of the words being, this is not an assault?

Mr. DOYLE. "This is not an assault, we are not entering the building."

Mr. BARR. OK. Was that being played at the same time as the pictures Mr. Shadegg showed us earlier of tanks going in and smashing down walls and going up on the roofs?

Mr. DOYLE. Right. It probably started before the actual penetration.

Mr. BARR. But it continued during that time?

Mr. DOYLE. As far as I know, yes.

Mr. BARR. In other words, while the tanks were smashing into the building, they were saying, "We are not going to enter the building"?

Mr. DOYLE. Right.

Mr. BARR. Mr. Doyle, there has also been a great, not a great deal of testimony, but some testimony and I know you are aware of it from your experience as well as the previous trial about the bugging device picking up discussions about fuel being placed around and putting fuel out and saving fuel and so forth the morning of April 19. Very briefly, what were those conversations concerning, if you know?

Mr. DOYLE. I never heard the remarks about pouring fuel or spreading fuel. I did hear one remark in the vicinity of the foyer area or the front part of the church because of the cans of fuel that were in the hallway when the tank began to come in to the front door, somebody made a remark, "We better get the fuel," and several of us ran over and either grabbed one or two cans, one in each hand, whatever, and moved it to what we thought was a safe location. I took mine back to the back stairway, just put them on the bottom of the stairs.

Mr. BARR. OK. I would like to draw your attention to the large blowup of the photograph on the easel here, and Mr. Bush will point out a tank entering the front of the building. Is that the front of the building where that tank is entering?

Mr. DOYLE. That is the front of the building, but it is not the front door area. That is the one——

Mr. BARR. Right. If that tank kept going, would it go directly to the bunker area?

Mr. DOYLE. What they call the bunker, yes.

Mr. BARR. OK. Do you know if the tank came in close proximity with the bunker?

Mr. DOYLE. During our trial, the driver of the CEV said that he went right on into the kitchen area, which was right in front of the tower there, and his comment was he had never saw so many cans of beans and stuff in his life or something to that effect.

Mr. BARR. OK.

Mr. DOYLE. Whether he hit the concrete, I don't know.

Mr. BARR. OK. Do you know if there was any CS gas in the bunker?

Mr. DOYLE. From what I understand his purpose in going in was that he sprayed at least one canister or one bottle of gas from the boom in there. It would be almost point blank range.

Mr. BARR. OK. We had earlier here, but I think some of the witnesses earlier took them with them, a blowup of this schematic diagram here which shows the location of the bodies, and there is a great concentration of bodies that were found in the bunker.

Mr. DOYLE. That is where the women and children were.

Mr. BARR. What was the reason for them going to the bunker area?

Mr. DOYLE. Well, I could only speculate, I don't know, but I would say that they probably felt it was safer, that it would maybe protect them from the gas.

Mr. BARR. Was the bunker area one of the lowest rooms in the building?

Mr. DOYLE. It was on the first floor.

Mr. BARR. OK. Dr. Quintiere, if someone—during the time when the airplane was flying around taking the infrared pictures, if somebody were in one of the rooms in the top floor below the roof and they struck a match, would that show up on the FLIR film?

Dr. QUINTIERE. No.

Mr. BARR. OK. If a weapon were discharged inside of a room, would that be picked up?

Dr. QUINTIERE. Possibly if the projectile is hot.

Mr. BARR. OK. But the striking of a match, the lighting of a Coleman lantern would not have been picked up?

Dr. QUINTIERE. Yes, that is right.

Mr. BARR. OK. You mentioned earlier, going back to I think Mr. Shadegg's line of questioning or at least he discussed this, the hot spot that there may have been a reflection. Could that have been something other than a reflection as well? We don't know what it was; do we?

Dr. QUINTIERE. Yes, we don't know what it was, but it was momentary and did not persist.

Mr. BARR. And it didn't recur?

Dr. QUINTIERE. Did not recur.

Mr. BARR. OK. Let me ask you, and I know that, I am not asking for you to speculate as to whether or not something was likely or not but just possible. We went into this with some of the previous witnesses, and if you have already covered this, I apologize for going over it again, but could the CS gas and the methylene chloride vapor have possibly operated as an accelerant?

Dr. QUINTIERE. The answer to that is no.

Mr. BARR. OK, it could not have?

Dr. QUINTIERE. No, it is possible that the methylene chloride, because it is flammable in the vapor state between about 12 and 20 percent, it could ignite and propagate. Nothing like that behavior was seen in this fire, so we can rule that out definitively.

Mr. BARR. OK, thank you.

Mr. MCCOLLUM. Thank you, Mr. Barr. Your time has expired. Ms. Lofgren, you are recognized for 5 minutes.

Ms. LOFGREN. Thank you, Mr. Chairman.

You know, Mr. Gray, when you made your comment about how you felt when you saw the fire for the first time, I felt—it just

brought back memories for me because I felt exactly the way, just sick and close to tears just thinking about what was happening, and I think—I was glad you said that because I think it reminded a lot of us how we felt, and the question is how did it happen, did it have to happen. I think to some extent, at least I hope, that this hearing will at least help in some way to determine that.

You know, listening to you, Mr. Doyle, I was—and I have been saying throughout these hearings that I think it is important whether I share your faith or not that people should have tried to understand the world from the point of view of yourself and others whose beliefs differ from my own, and I am not sure that happened. Perhaps it was impossible for that to happen.

But one of the things I am wondering about is your relationship, this is probably not the right word, between Mr. Koresh who was your leader and yourself and the other Davidians. For 51 days between the February ATF raid and April 19, there were all kinds of discussions going on between Mr. Koresh and I think Mr. Schneider as well as the negotiators. Did he talk to you about what the content of those negotiations and what was said?

Mr. DOYLE. Steve Schneider would at times tell us what was being discussed on the phones but not minute-by-minute run down.

Ms. LOFGREN. What about David Koresh?

Mr. DOYLE. As I said, David was basically incapacitated for the first several weeks anyway of the siege.

Ms. LOFGREN. After that?

Mr. DOYLE. I only probably saw him two or three times in the whole 51 days.

Ms. LOFGREN. So he didn't—the FBI at certain points, negotiators were urging people to leave and urging him to have people leave. That was never—he never like had a meeting and told people, the Davidians, that necessarily?

Mr. DOYLE. No. Steve Schneider went around day by day and would ask, well, who wants to go out today. That was a daily routine as far as on Steve's part.

Ms. LOFGREN. But it wasn't like they said you should leave now, and he didn't say that, Mr. Koresh, I mean?

Mr. DOYLE. No, he didn't come down.

Ms. LOFGREN. We had asked, actually I think Mr. Taylor asked and I thought it was a good idea, but I guess we are not going to do it, to subpoena some of the reporters who have written stories, and I think all of us in public life know that just because it is printed in the newspaper doesn't mean it is necessarily true.

Mr. DOYLE. That is what we have come to learn.

Ms. LOFGREN. Since you are under oath, I would like to ask you a question about it. There were a series of articles printed in the Waco Tribune Herald and in part three of that series there is a story, I will summarize it, there was a Barbara Slosson and yourself were going for a shopping trip of some sort, and that the car stopped and that you believed that Koresh had the power to stop that vehicle. Is that true or not true?

Mr. DOYLE. I am not even familiar with that story at all. I don't recall it.

UNIDENTIFIED SPEAKER. That was Karen.

Mr. DOYLE. Karen is my oldest daughter.

Ms. LOFGREN. Oh, I am sorry. Your oldest daughter.

Would you believe as part of your faith that Mr. Koresh would have had the ability to do such a thing? To stop——

Mr. DOYLE. To stop a vehicle? David made a point of always saying, I do not have the ability to do miracles. My only gift, we might say, is to explain the Scriptures as God showed them to him. He made no profession of doing miracles or tricks or anything.

Ms. LOFGREN. All right.

Let me ask you, there is an article in the New York Times as well that indicates—I guess you were interviewed and another lady, also a Davidian who did not perish, quoting or paraphrasing that Koresh was a prophet and that what happened was outlined in the Book of Revelation. Do you believe that is true? If you could just say yes or no because I am about to run out of time.

Mr. DOYLE. OK. We accepted—originally we accepted David as a prophet. We have come to accept him as somewhat more than that toward the end.

Ms. LOFGREN. I don't want to interrupt but I have about 30 seconds left and I have one more question.

Mr. DOYLE. OK. We saw connections with what happened to what we were being taught, but they are not the complete fulfillment, no.

Ms. LOFGREN. So what happened really was not complete but pretty close to what was expected in the Book of Revelation?

Mr. DOYLE. It was a sample, you might say.

Ms. LOFGREN. Let me ask Mr. Gray, and Mr. Doyle referenced earlier in his testimony that he was and I can't remember what the exact phrase is, an arson dog had hit on him, his clothes and shoes. I am not an arson investigator. He also indicated today in his testimony that he didn't see anybody tip over lanterns and that he certainly just didn't see anything like that.

Why would a dog—first of all, did a dog do that? Why would that be—what could the explanation for that be in your professional judgment, sir?

Mr. GRAY. The answer to your question is we did bring in a specially trained hydrocarbon accelerant detecting canine in. This is similar to a drug dog or bomb dog. They are trained to sniff out and alert when they smell hydrocarbon-related products. The dog hit on about 100 different places in the compound. We basically gridded the ground out and had the dog trace over most of it, and the dog hit, made positive alert signs in about 100 places, and they corresponded with the points of origin that we established: The dining room area, the chapel, and the left—excuse me, right front window.

One of the other things we had the dog do is sniff, if you will, the clothing that had been removed from the Davidians as they left the building, including Mr. Doyle's clothing. I think he testified earlier that he stepped in some kerosene or something outside on his shoes. Well, the problem with that is when the dog alerts on something, and I also have to say this, I have to qualify it, a dog's sensitivity is about a thousand times more sensitive than a gas chromatograph. What I mean by that is a dog may alert on something and it comes back negative from the lab, laboratory, that is. In this case, the dog did alert on Mr. Doyle's shoes. They were sub-

mitted to a laboratory, and the laboratory analysis showed that that was a light naptha consistent with Coleman fuel, just like the can in the picture we had earlier, Coleman fuel which was also found inside the chapel area where Mr. Doyle was and where he escaped from.

His jacket very interestingly was also alerted on by the dog. We removed the jacket, laid the jacket out on the ground with both sleeves spread out and actually walked around the jacket with the dog. The dog only alerted on the cuffs of the sleeves.

Mr. Doyle's hands are not burnt the way you would think of a thermal burn. His hands were on fire. The sleeves of that jacket were also analyzed, and the laboratory report determined that they did contain a class 0 deep paraffinated kerosene consistent with—in fact I remember this phone call because I had no idea what these items were. They were all numbers to me. Dr. Armstrong called me and told me, I have an identifier on number 19–C or whatever it was. He says it is charcoal starter fluid, and I congratulated him, very good, Doc, you did a great job. He says, you want to know what kind? I said yes. He says it is Gulf Lite.

Now, what I find painful actually, first of all I find it painful to say right here in front of Mr. Doyle, and I find it horrifying to think that this is what really happened, but Mr. Doyle has testified that he rolled around on the floor and he had, his back was on fire and all this kind of stuff and he stepped in some fuel outside. That may very well be the case except the fuel that was on his sleeves was different than the fuel that was on his shoes. The fuel on his sleeves was the same kind of fuel you use to start a charcoal fire, Gulf Lite, charcoal starter fluid that was analyzed by the lab. His hands were not burnt, they were burning, they were on fire, a big difference.

Ms. LOFGREN. Thank you. My time has expired.

Mr. MCCOLLUM. Thank you, Ms. Lofgren. Mr. Taylor, you are recognized for 5 minutes.

Mr. TAYLOR. Thank you, Mr. Chairman.

Mr. Doyle, like everyone else, I regret the loss of life of your daughter. I really think all of this was preventable, I personally think it was preventable. If David Koresh, who had apparently, from everything I can see he had an incredible amount of control over people, husbands gave their wives to him, parents gave their very small children to him, your local paper said that, and I am quoting, Howell was turning the Branch Davidians into a harem. Men were virtual eunuchs warned to guard his secret. Most married men stayed after Howell took their wives.

To those who left the cult and to outsiders they were saps, but they couldn't bear the thought of leaving. It threw them into despair, for if they left what was all of the suffering for. In these articles it says that Howell says that he was the Lamb of God. It actually quotes him talking to a reporter saying that he was Jesus.

Do you believe that David Koresh——

Mr. DOYLE. He never claimed to be Jesus.

Mr. TAYLOR. Well, sir, may I quote? I am going to quote.

Mr. DOYLE. I wouldn't trust the quote.

Mr. TAYLOR. As you know, the interview, Howell was making this astonishing claim: "If the Bible is true, I am Christ, but so

what, what is so great about being Christ, a man nailed to the cross, a man acquainted with grief, you know, being Christ ain't nothing."

Mr. DOYLE. The name Jesus and the name Christ is separate with us.

Mr. TAYLOR. OK. So I am going to ask you, do you think David Koresh said that and do you believe it to be true?

Mr. DOYLE. What I am saying is he never taught he was Jesus Christ 2,000 years ago. We do believe he was a messiah, yes.

Mr. TAYLOR. And you believe that he was the Messiah?

Mr. DOYLE. A messiah.

Mr. TAYLOR. OK. An article I think came out in the New York Times, there was a curious quote attributed to you and another person, and it says, "If God gives us a command, then it is not a sin." Would that include anything; adultery, lying, stealing, murder?

Mr. DOYLE. In the Ten Commandments it says, thou shalt not kill. For those who believe the Bible, that is God's instructions to Israel at Sinai.

For those who believe the Bible, that's God's instructions to Israel at Sinai. A number of months or years later, they come up to Canaan and they are told to go in and kill all the people that live there. You be the judge.

Mr. TAYLOR. Did you make that statement, that if God gives us a command, then it is not a sin?

Mr. DOYLE. We believe that if a command comes from God, then he takes the responsibility for it. It is not sin if you're obedient to what God says.

Mr. TAYLOR. Did God command the Davidians to kill those four ATF agents?

Mr. DOYLE. God didn't command me to kill anybody. There was no orders to kill anybody. In fact, I don't believe it was ever proven in our trial that we actually killed them. I'm not saying nobody shot anybody from within, but it was never proven as to who shot who.

And a lot of—there was some evidence that there was friendly fire in the wounding, or whatever, of some of the agents. I'm not denying that they might have been shot, but it wasn't proven. In self-defense, I believe that the people were justified if they fired back when heavy amounts of gunfire were fired into rooms with women and children.

Mr. TAYLOR. Mr. Gray, I'd like to go to your testimony, because I've done a lot of research on this and I'd like you to go back to your theory of how the fire started. I heard you talk about the gasoline cans being open. Please in the brief amount of time that remains tell us how you think the fire started.

Mr. GRAY. Well, I thought we had done that, but basically, Dr. Quintiere and I were part of the same team. His report is actually a supplement to mine. There is no disagreement between us that this fire was intentionally started inside the compound by the people in there using flammable liquids as accelerants.

Mr. TAYLOR. When you say the people in there, who is that?

Mr. GRAY. The Davidians themselves. In fact, if you don't mind me jumping back to my statement again, there is one sentence.

Mr. TAYLOR. I think it is worth it.

Mr. GRAY. I wanted to say this, too, because of my—I don't know, because of what they accused me of being in collaboration with the Government.

Federal law enforcement officers obviously did make some tactical errors prior to and during this tragic incident. And I hope this body, somebody holds them accountable, please. I'm pleading with you, somebody out there in the Federal Government still screwed up big time, OK, but they didn't start this fire. That's the bottom line.

There is no doubt in my mind that the ultimate responsibility for intentionally setting fire to the Branch Davidian compound lies squarely and solely with the Davidians themselves. And there's just—that's all I got to say about it.

Mr. TAYLOR. Thank you, Mr. Chairman.

Mr. MCCOLLUM. Thank you, Mr. Taylor.

Mr. Zeliff, you are recognized for 5 minutes.

Mr. ZELIFF. Thank you.

Mr. Doyle, did you notice while you were in the compound anything relative to a methamphetamine lab, anything relative to drugs, any meth labs at all?

Mr. DOYLE. There was no lab in Mount Carmel under David's jurisdiction. We found—upon returning there after being gone for a few years in 1988, we found evidence that somebody, not a member of the church, had a drug lab and that paraphernalia, recipes, chemicals, whatever was handed over to the sheriff's department.

Mr. ZELIFF. Right. And you know, you've gone through an awful experience, as we sat and listened to you today you've been through a trial and you've gone through 2 years where you've had a chance to think about it.

This week kind of opens that all up again. You've heard testimony, ATF, FBI, and all of us and what do you think? What has come out of this? Have we gotten—are we making any progress? There is still a lot of conflicting information.

Mr. DOYLE. One thing I do want to stress and that is that suicide was definitely against the doctrines.

Mr. ZELIFF. That's one question I had. Was there any evidence of suicide?

Mr. DOYLE. From my point of view, no. I don't believe in suicide. It was not taught by David or any of the——

Mr. ZELIFF. No suicide pact, no meetings talking about it, nothing?

Mr. DOYLE. No. As far as the fire starting and how it started, I'm not going to speculate. Certainly it didn't start in the area that I was in. I saw no one else lighting it in the chapel or anywhere, so.

Mr. ZELIFF. So the voices at 6 a.m. that were heard saying, spread the fuel around, the comments about hay, you don't—nothing you saw would indicate any confirmation?

Mr. DOYLE. I never heard those statements, no.

Mr. ZELIFF. You never heard those statements?

Mr. DOYLE. No. I will admit there was hay in parts of the building. Would you like me to explain that?

Mr. ZELIFF. Sure.

Mr. DOYLE. As a result of the initial raid, the front of the building was so shot up, especially the women's and children's quarters, that we—some of the men took boxes of potatoes out of the kitchen area and put them all around the windows to kind of block off the holes from the weather. Over the 51 days of the siege, the potatoes sprouted and eventually went rotten because we couldn't cook without electricity and so on.

So they were removed and I think in some of the women's rooms there was some bales of hay put around the windows to take the place of the potatoes.

Mr. ZELIFF. No passing hay on top of a fire to create——

Mr. DOYLE. No, I never——

Mr. ZELIFF. What about children?

In your process you said you got out of the building with four people. On the way out did you see any children at all?

Mr. DOYLE. No, they were at the other end of the building.

Mr. ZELIFF. The other end. If you can, and let me just ask Mr. Sherrow and Dr. Quintiere and Mr. Gray, is there a 4½-minute gap on the videotape between 11:34 and 12 o'clock?

Dr. QUINTIERE. I'm not aware of any. I didn't focus on that part of the tape. The tape——

Mr. ZELIFF. Could you check and get back to us and see if there is?

Dr. QUINTIERE. I'm not even sure I have that part of the tape.

Mr. ZELIFF. OK. I guess——

Mr. SHERROW. If I may, sir, yes, the copy of the tape I have does have a gap in it.

Mr. ZELIFF. It does have and it's 4½ minutes?

Mr. SHERROW. Approximately, yes, sir.

Mr. ZELIFF. We've heard some conflicting testimony on the fire and you have some strong feelings. If you can tell us in less than a minute a summary where you disagree the most.

Mr. SHERROW. The main thing is I don't discount that the fire was started inside by the people inside. It could well have been. What I do have a serious problem with is the government's refusal to provide material under the rules of disclosure and the complete destruction of the fire scene without letting independent investigators examine it.

Mr. ZELIFF. All right.

I'm going to ask you the same question I asked Mr. Doyle and I'll let Mr. Doyle answer after you've had a chance to answer.

You have seen this thing, this is 2 years ago, we have gone through criminal trial, we are in a civil trial. You have seen—all this week, you have seen all the comments about the fact that nothing new is coming out of here, what we are trying to do is all antilaw enforcement and all that kind of stuff.

We are committed, and I'll stand on the record that we are committed, to getting at the truth and we make no apologies for getting at the truth.

Both of you have now watched now eight, nine days of this. You have heard FBI. You have heard ATF. You have heard Mr. Potts. You have heard the two guys that got fired and rehired.

Just your reactions, each of you, in terms of what you heard this week, whether any new information got out, what information we

need to still get out. If you think somebody ought to be held accountable, who do you think that should be. What are we missing? What have we gotten out of it at this point?

First you, Mr. Sherrow.

Mr. SHERROW. Yes, sir. I do believe quite a bit of new information has come out. I believe it's been very valuable, but there's still a lot more to come. As I said earlier on, there are some outstanding law enforcement agents that need the tarnish taken off their badges. If it requires criminal prosecution for wrongdoing, if the courts find that, if hearings or investigations find that, that's what we need to do. We've got to get the confidence of American public back in law enforcement. It's there but it has been diminishing. We've got to clean that up. These hearings are really going a long way toward that.

Mr. ZELIFF. The one question I did ask and I just restate, is there anything that we've missed that we should go after in the remaining two days?

Mr. SHERROW. Yes, sir. I think we've missed some of the questions as to, as I mentioned earlier, why items of evidence have disappeared, why the crime scene was destroyed before it could be evaluated. These areas, especially the evidence disappearing.

Mr. ZELIFF. Mr. Doyle, I have a chance for two people, so you're my second one.

Mr. DOYLE. I have to admit that I have not followed these hearings in every detail. We can't get C–SPAN where I'm from; at least we don't have it. I think that a lot of things have been brought out from what I'm hearing and seeing that weren't brought out before. I'm glad that for once—the President made a statement a while back that we've already had a bunch of hearings already and he saw no need for this one.

I don't believe there was ever any witnesses—excuse me, survivors that were witnesses in those hearings so I'm happy for that reason. I do feel that the issues that Mr. Sherrow mentioned need to be addressed for the sake of this country.

And I would especially like—which may be beyond this committee, I don't know, but I would like the situation of the nine that are in prison to be reviewed as to why they are doing 40 years when a jury found them innocent of the major crimes.

Mr. ZELIFF. Were you guilty of any crime?

Mr. DOYLE. No, I was not.

Mr. ZELIFF. Thank you very much, Mr. Doyle.

Thank you, Mr. Chairman.

Mr. MCCOLLUM. Mrs. Thurman, you are recognized 5 minutes.

Mrs. THURMAN. Thank you, Mr. Chairman.

Mr. Doyle, I share the comments with many of my colleagues on the loss of your daughter and certainly your friends.

Do you remember at any time at the very beginning when the FBI actually took over the compound or actually became involved in this, and evidently Mr. Koresh at that time had said that he wanted to talk to a Dr. Phillip Arnold?

Mr. DOYLE. Right.

Mrs. THURMAN. OK.

I don't know this, if you know that Dr. Arnold actually had an opportunity to speak before this committee.

Mr. DOYLE. I haven't seen any reports.

Mrs. THURMAN. Well, he did and he was very good at trying to explain your beliefs. And I just kind of want to go over something with you to maybe help clear up this issue on the fire a little bit. And I'm going to read actually from a statement that he made so that you will understand that it is from him.

"It should be understood when discussing the fire and its origins that if the evidence shows that the Branch Davidian ringleader started the fires, this does not prove suicide was the reason. The FBI did not believe that suicide was an option for the Branch Davidians. Also the bugged tapes recorded a Davidian telling his fellows not to spread all the fuel now but to save some for later.

"This indicates that the purpose for spreading fuel was not suicide because there would be no later. It suggests a motive more in line with their religious beliefs against mass suicide and compatible with their belief that God would protect his people from harm. This motive is consistent with another remark on the tapes which seems to say, 'so we don't light it up till they come in.'

"If the Branch Davidians started a fire, it would be done to provide a defense against a penetrating assault by the tanks and troop support. They seemed to have regarded it as a last resort to be used only if the tanks come in. As a last resort, they would light up the firewall to halt the tanks from advancing on their women and children hiding in the walk in the middle in their sacred center. Their religious faith in God would have trust him to protect them from the fire getting out of control, but when it did get out of control some were overcome by smoke, others were burned," and so on.

He has suggested that is from Zechariah, chapter 2.

Could you tell me about this particular belief in your own words?

Mr. DOYLE. The reference is to God being the ring of fire around Jerusalem. It's in reference to God being their protection. It is not—it has nothing to do with human beings lighting fires and I never heard David make that analogy or comparison. Always our trust has been in God, even if he allows us to die.

There were times in Old Testament—in the Old Testament where people went through fire or went through being in a lion's den or under siege and God did miraculous differences, but we also have the early Christian church of the first century who believed in that same God and were allowed to be eaten by the lions and so on. So we were prepared, you might say, whatever God allowed to happen to us, to accept it as his will. We didn't lose faith in God or the people that we felt he had used, such as David and others in the past. But we certainly didn't believe in suicide because I——

Mrs. THURMAN. And it suggests that you did not believe in suicide. Never in here does it mention this, but it does mention the idea of a ring of fire.

Mr. DOYLE. Suicide to me is an unpardonable sin because you can't ask forgiveness for it once you're dead.

Mrs. THURMAN. But the ring of fire was meant to protect you.

Mr. DOYLE. That was God's protection but basically it is literally what it says in the Scripture. God will be a ring of fire around Jerusalem. The little city of Jerusalem, not Mount Carmel or whatever.

Mrs. THURMAN. Mr. Doyle, there also—evidently during the testimony with the FBI there was a question about the fire. Do you remember giving, I guess with your attorney present, any statement to them about the fire at that time?

Mr. DOYLE. To the FBI?

Mrs. THURMAN. Yes. Or Texas Rangers, I'm sorry.

Mr. DOYLE. The Texas Rangers came to me while I was up at Parkland Hospital in the burn ward. I think the initial contact was through one of the hospital personnel asking would I give them an interview and I said I did not feel up to it. They eventually made their way to my room and basically even though I said I wouldn't give them an interview, they said, well, can we read the questions to you, to which to my recollection I remember saying no comment, no comment all the way through. I did not answer their questions. Since then I've heard that I've been quoted as saying certain things.

Mrs. THURMAN. Mr. Doyle——

Mr. DOYLE. I would deny them.

Mrs. THURMAN. Who are the Babylons in your mind?

Mr. DOYLE. Everybody. All mankind. We're all in Babylon. That's basically confusion starts in your head and it affects families and it affects countries and this whole planet.

Mrs. THURMAN. Thank you very much. And thank you for being here.

Mr. MCCOLLUM. Thank you, Mrs. Thurman.

I believe that everybody has had their time except the chairman, and I yield 5 minutes to myself.

Mr. Doyle, you've had a long day, but I do have a couple of other questions and then we will wrap up. I just want to clarify something: Did you light or start any fires on April 19, 1993?

Mr. DOYLE. No, I did not.

Mr. MCCOLLUM. Thank you.

Can you explain in any way why you might have had two different fuels on different parts of your clothing or body that Mr. Gray was alluding to a minute ago?

Mr. DOYLE. I have to admit that I had a cigarette lighter on—in my pocket. And as a result of the initial raid, a lot of people reacted through nervousness or whatever, and I smoked. Not that I am a smoker, I don't—I haven't smoked since coming out. Many, many years ago I gave up smoking back when I was 20. And so, but I smoked because I was very nervous. I smoked and I ate.

Mr. MCCOLLUM. You think that some of that fuel from the cigarette lighter somehow got on your clothing?

Mr. DOYLE. It was an issue made of that during the trial that a lighter was found in my pocket. I'd say that it probably could have gotten on my clothing.

Mr. MCCOLLUM. What about any lighting of kerosene lamps or other kinds of—I don't know what kind of fuel you had in those lamps. In the morning, did you do that?

Mr. DOYLE. I can remember women bringing their lanterns to be refilled in the chapel from time to time, but I don't recall lighting them for them.

Mr. MCCOLLUM. Did you refill them that morning?

Mr. DOYLE. Not that I recall on April 19. In fact, the only woman that ever came into the chapel to my knowledge on April 19 was Jennifer Androtti who came down fairly early in the morning asking were there any gas masks because the women in her area did not have any. And I indicated that there was a black plastic garbage sack there in the pews with some gas masks in them, go ahead and take them.

Mr. MCCOLLUM. Have you heard anybody who was there either during the course of your stay in the compound before—between the 28th of February and the 19th of April or since who survived with you say that they believed or that they saw anyone making or lighting any fire that day at all on the 19th of April 1993?

Mr. DOYLE. I don't recall any of the survivors or especially the guys that I was in jail with saying they saw——

Mr. MCCOLLUM. How about any plans? Anybody say or discuss any plans to light any fires before that date?

Mr. DOYLE. There were no plans discussed with me to light fires or anything.

Mr. MCCOLLUM. No discussion of anybody saying they might do something like that just to protect themselves, to barricade the kids, to return something or throw Molotov cocktails?

Mr. DOYLE. There may have been some discussion early in the siege when the tanks were first brought in about, well, how do you cope with a tank? There may have been statements like you can't shoot it with a rifle or a pistol and references may have been made to Molotov cocktails.

Mr. MCCOLLUM. None that day or none within the close proximity of the——

Mr. DOYLE. Not to my knowledge.

Mr. MCCOLLUM. What about sanitation. We've heard a lot about it being very, very bad the last week or two. Was this unhealthy for——

Mr. DOYLE. It was no worse on the last day than it was throughout the 51 days. What was my job basically was to dig the holes that we—we had outhouses at Mount Carmel due to the fact that we were in the process of building and indoor plumbing wasn't a big thing at the time. And once the—we came under the attack and siege, we were not able to get to the outhouses and actually the tanks bulldozed them over anyway. So we were using a bucket system. On the various levels, we had little areas marked off for toilets and every day these would be taken and emptied. I would dig the hole and empty them and fill it up.

Mr. MCCOLLUM. Was this unsanitary, in your opinion, for the kids? It—was there disease potentially there that was greater than it had been before?

Mr. DOYLE. It wasn't a great situation but I don't think it was potentially—as I say, it was taken care of every day.

Mr. MCCOLLUM. It was not getting worse? It was not imminent that somebody was going to get very ill because of this?

Mr. DOYLE. If there was any human waste found or spread over the building, I would say it was because tanks maybe went through the area on that day. But as far as on a day-to-day basis, they were taken care of and disposed of.

Mr. MCCOLLUM. I would like to know what the attitude of people in the compound was, your friends, the people who you associated with in the last 5, 6 days before the 19th. Were they upbeat? Were they down? Were they—was it any change from the week before? Was there any sense of hope greater or less than there had been at any previous time, and if so or if not, why?

Mr. DOYLE. I think there was kind of an upbeat having heard that God had indicated today to David that he was to write out the seals and we were told the negotiators had given him the green light that whatever time he needed he could spend writing them and so on. I think we were looking forward to—that it was going to be over.

Mr. MCCOLLUM. Did you have any sense of how long this might take or any sense of when he might come out or if he would come out?

Mr. DOYLE. There was the possibility it might take him a week or two to get them all written. I don't know—I don't know whether he discussed that with the negotiators, but I was told they said whatever time he needed would be granted.

Mr. MCCOLLUM. Did you believe that he was going to do that?

Mr. DOYLE. Yes.

Mr. MCCOLLUM. Did you believe that you were going to come out?

Mr. DOYLE. Yes, I did.

Mr. MCCOLLUM. Would you have ever come out had David Koresh not said it was not all right to come out?

Mr. DOYLE. If he had indicated that, you know, God wanted us to just submit to the authorities or whatever, we were willing to do that. But——

Mr. MCCOLLUM. But if he didn't indicate that to you, would you ever come outside against his will.

Mr. DOYLE. He didn't tell me to escape from the fire. I think over a period of time we were all planning to come out.

Mr. MCCOLLUM. Let me ask one last question, I know I passed my time, but I've got to get this out. You're the only Davidian I know to ask this to here today in the hearings and that is do you have an opinion based on all of your knowledge of your beliefs and the attitudes and beliefs of those who were inside living in Mount Carmel before the February 28 raid of the ATF, had David Koresh been arrested outside the compound, had he been——

Mr. DOYLE. Had he been?

Mr. MCCOLLUM. No, if he had been arrested if he had been arrested outside the compound, if he had been taken away from you, if you will, and then somebody come knocked on the door to do a search warrant, would there have been anything different? How would you have reacted to that?

Mr. DOYLE. We'd have probably—especially if they had come knocking, whether he was there or not, I think they would have been admitted in, if they'd have come regularly and knocked on the door and said we need to see your guns or whatever. David Koresh had been arrested along with some friends, some of the church members back in 1987 and nobody reacted violently or made threats of revenge or anything like that.

Mr. MCCOLLUM. You would not have anticipated an excessive reaction, a negative reaction in such a way as to be violent against anybody?

Mr. DOYLE. No.

Mr. MCCOLLUM. Last but not least, were there any plans, that somebody was going to go out and kill everybody at McDonald's, some witness said that came out after the fact. Were there any plans that you know of by anybody in the compound at any time when you were there to go out and injure or destroy property or injure people in the local community?

Mr. DOYLE. No.

Mr. MCCOLLUM. All right.

Mr. TAYLOR. Mr. Chairman.

Mr. MCCOLLUM. Mr. Taylor.

Mr. TAYLOR. Mr. Chairman, since you went over.

Mr. MCCOLLUM. You can ask a question or two if you like.

Mr. TAYLOR. I know that someone is going to answer differently than some other people have, but I would like to ask the exact same question to this panel.

Do you know, have you heard of anything, have you seen anything, have you read anything that in any way justifies the murder of those four ATF agents by David Koresh and his followers?

Mr. GRAY. Absolutely not.

Mr. TAYLOR. Or absolves David Koresh from the guilt of having those 80 people die with him?

Dr. Quintiere.

Dr. QUINTIERE. No, sir, not in my opinion.

Mr. TAYLOR. Mr. Gray.

Mr. GRAY. Me neither.

Mr. TAYLOR. Mr. Sherrow.

Mr. SHERROW. No, sir.

Mr. TAYLOR. Mr. Doyle.

Mr. DOYLE. I don't believe they were murdered. I think they were set at risk by their own agencies going ahead knowing that we in all likelihood knew they were coming. I think that they went against their own laws attacking a building knowing that there were women and children in there. If the officers exposed themselves to fire by stepping out and emptying their magazines into the building and someone did shoot them, I would consider that self-defense, not murder.

Mr. TAYLOR. All right.

Mr. DOYLE. I don't think anybody is justified in doing murder. Defending yourself is a different proposition. We don't call it murder if we go and shoot people in a wartime situation and certainly it looked like a battle to us.

Mr. MCCOLLUM. Thank you, Mr. Taylor.

Ms. Slaughter, you had one followup and I will permit it.

Ms. SLAUGHTER. I do thank you very much, Mr. Chairman. I really do appreciate that.

But Mr. Doyle, David Koresh would not have been able to physically to escape because of his wounds, but his body was found with a bullet hole through his mouth and a barrel of a gun lying next to him—not the barrel—yes, the barrel, and which would certainly

have indicated that David Koresh and others did indeed commit suicide.

What is your thought about that?

Mr. DOYLE. I'm not aware that he had a bullet hole in his mouth. I understand he had a bullet hole in the head. Now, whether somebody else shot him, I don't know. Apparently, you know, it's possible.

I can only tell you what I was told. It's hearsay. Dennis Abraham told me he was sitting in the hall upstairs at one point in the morning and he went into the front room, which he ended up exiting from——

Ms. SLAUGHTER. This is Koresh you're talking about?

Mr. DOYLE. Dennis Abraham went into this room that he ended up exiting from and in the room was David Koresh, Steve Schneider, and Mark Wendel. They were sitting on a bed talking, he says, and he went in and was listening to what they were having to say and the next thing the room filled with smoke, he says. And he walked over to the window and trying to get a breath of fresh air and he said the thought came to him, why am I standing here sucking air through a broken window, why don't I just go out? So he went out on the roof. And that was, as I say, the last time that he saw David.

Both Steve Schneider and David had bullet wounds. Now whether somebody shot them to put them out of their misery, whether they ran out in the hall and found they were in the middle of the fire instead of escaping it, I don't know. I don't know what they went through because I wasn't there.

I figured that if somebody did—found themselves trapped and was—were burning and suffering, if they asked for somebody to put them out of their misery, I wouldn't condemn that person. But I don't know that—there was no one in our area that came up with bullet holes, thank the lord, so there was no condemnation in that area for us that escaped. But I couldn't speak for the others.

Mr. MCCOLLUM. Thank you, Ms. Slaughter.

Ms. SLAUGHTER. Thank you, Mr. Doyle.

Mr. MCCOLLUM. We certainly have had a long day today. I want to thank all of you for being here on this panel.

I know, Mr. Doyle, it has been particularly tough. And I want to thank the professionals here for helping us walk through this fire. It has been one of the great discussed parts of the entire Waco affair. I hope that after this we can assess better with your help what happened on that final fateful day.

We will be in recess until Monday morning at 10 a.m. We will reconvene in room 2141, next door, the Judiciary Committee room.

These subcommittees are in recess.

[Whereupon, at 6:06 p.m., the subcommittees adjourned.]

ACTIVITIES OF FEDERAL LAW ENFORCEMENT AGENCIES TOWARD THE BRANCH DAVIDIANS

(Part 3)

MONDAY, JULY 31, 1995

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON NATIONAL SECURITY, INTERNATIONAL AFFAIRS, AND CRIMINAL JUSTICE, COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT, JOINTLY WITH THE SUBCOMMITTEE ON CRIME, COMMITTEE ON THE JUDICIARY,

Washington, DC.

The subcommittees met, pursuant to notice, at 10 a.m., in room 2141, Rayburn House Office Building, Hon. William H. Zeliff, Jr. (chairman of the Subcommittee on National Security, International Affairs, and Criminal Justice) presiding and Hon. Bill McCollum (chairman of the Subcommittee on Crime).

Present from the Subcommittee on National Security, International Affairs, and Criminal Justice: Representatives William H. Zeliff, Jr., Robert L. Ehrlich, Jr., Steven Schiff, John L. Mica, Peter Blute, Mark E. Souder, John Shadegg, Louise McIntosh Slaughter, and Gene Taylor.

Present from the Subcommittee on Crime: Representatives Bill McCollum, Steven Schiff, Stephen E. Buyer, Howard Coble, Fred Heineman, Ed Bryant of Tennessee, Steve Chabot, Charles E. Schumer, Robert C. Scott, Zoe Lofgren, Sheila Jackson Lee, and Melvin L. Watt.

Also present from the Committee on Government Reform and Oversight: Representative William F. Clinger, Jr.

Also present from the Committee on the Judiciary: Representatives Henry J. Hyde and John Conyers, Jr.

Staff present from the Subcommittee on National Security, International Affairs, and Criminal Justice: Robert Charles, staff director and chief counsel; L. Stephan Vincze, defense counsel; T. March Bell, counsel for justice affairs; Michele Lang, special counsel; Marshall Cobleigh, senior policy adviser; Sean Littlefield, special assistant and clerk; Committee on Government Reform and Oversight: Kevin Sabo, general counsel; Judith McCoy, chief clerk; Jeffrey Wilmot, professional staff member; Bud Myers, minority staff director; David Schooler, minority chief counsel; Ronald Stroman, minority deputy staff director; Donald Goldberg, minority assistant to counsel; Cherri Branson, minority professional staff member; Ellen Rayner, minority chief clerk; Cecelia Morton, minority office manager; and Eddie Arnold, public affairs officer.

Staff present from the Subcommittee on Crime: Paul J. McNulty, chief counsel; Glenn R. Schmitt, counsel; Daniel J. Bryant, assistant counsel; Audray L. Clement, clerk; Committee on the Judiciary: Alan F. Coffey, Jr., general counsel/staff director; Dan Freeman, parliamentarian; Julian Epstein, minority staff director; Perry Apelbaum, minority general counsel; Melanie Sloan, minority counsel; and Tom Diaz, minority counsel.

Mr. ZELIFF. Good morning. The joint hearings of the Oversight Subcommittee on National Security and Judiciary Subcommittee on Crime will now come to order. We have some good news to report. The ranking minority member on our committee, her husband, John, had major surgery yesterday at 1 p.m. He had a kidney transplant at Shands Teaching Hospital, University of Florida in Gainesville, and all signs are very positive for a very successful outcome. She certainly made the right decision. She is with her husband and will be there today and tomorrow. All our prayers and best wishes go to Karen Thurman and her husband, John.

As we move into day 9 of oversight hearings into conduct of the executive branch at Waco it seems to me that our bipartisan overall purpose, shedding light on those events, putting the record straight and preventing future Wacos, is being achieved.

We are not done; far from it, but we have covered a lot of ground. What we have learned in the past 8 days is significant. We have educated ourselves and the Nation. We have turned up facts that were not in either one of the administration reports, not in the Treasury report and not in the FBI report. We will touch on those in a moment. We will also hopefully put to rest conspiracy theories that were not grounded in fact.

Over the next 2 days more bright lights will be turned on a few people at the FBI and also the military involvement, and tomorrow we will hear from the Attorney General of the United States. These hearings are first and foremost about finding the truth and making it stick. That is invariably the aim of constitutional oversight and it can be no different here.

Without accountability, the oversight process is empty. That is why officials, high and low, at Treasury, Justice, and Defense are being asked to participate and answer questions. For too long questions have been asked about Waco: about who thought these plans were a good idea, the ATF raid, and the FBI gas and tank assault and why. Answers have been few and in some cases unsatisfying. Responsibility has shifted and shifted again. Responsible agents have been fired, but then rehired and even promoted.

Political appointees responsible for key decisions have been neatly absolved of blame by their own internal factfinding reports. Some political appointees have even urged in strong language that America forgo an indepth look at the genesis of the tragedy. Even the President, who finally acknowledged last week that the hearings are appropriate, has been quick to dismiss further questioning.

Frankly, the question it leaves, rightly or wrongly, is that the President is distancing himself from the original March through April 1993 decisionmaking process and I don't believe that he feels that further review is necessary and we should be spending our time on this kind of oversight.

Most recently, the White House has mounted a well-coordinated damage control campaign, including an outside consultant and Cabinet-level telephone call to discourage embarrassing questions. Frankly, this approach bothers me deeply. I don't know what the answers are and I don't pretend to know. I am only now learning what all the facts are. But I don't like resistance to this inquiry, and I think more air and more light can only be helpful.

In my view, ensuring accountability is the only way to reach closure on this tragedy and to prevent any similar further tragedies from occurring. I think that properly identifying the many things that went wrong at Waco and ensuring accountability is ultimately good for law enforcement and good for America.

Mr. Magaw, Mr. Noble, FBI witnesses, the Texas Rangers, and a number of others have said the same. It will give us renewed faith, as it should, in our great system. It will confirm to each of us that the constitutional oversight process works and that we can and should believe in the devotion to duty shown by most law enforcement officers.

At Waco, poor decisionmaking characterized the process from the start. There was a cascade of misjudgments and mistakes and, as I see it, there has been a continual passing of the buck. Decisionmaking by some was careless. I reserve judgment on whether some decisions were even reckless.

The point is, as we have seen evidence of flawed plans, flawed interagency coordination and interagency communications, and flawed plan execution the ending, as some have said, was almost foreseeable.

The risks of a tragedy were there. What I have learned so far is worth reviewing. ATF raid planners overlooked viable alternatives. They let pass an opportunity to see Koresh's guns before the raid. They let pass opportunities to arrest Koresh outside the compound. Sarabyn and Chojnacki did not listen to the undercover agent, Rodriguez. Like many here, I found Rodriguez's testimony very persuasive.

Koresh knew that they were coming, and yet the raid continued. And back in Washington I am not convinced that the element of surprise was ever stated to those in the field as a condition without which they must abort. So some responsibility lies there, as well. We have seen documents, and Mr. Noble admitted that these are missing from the Treasury report, which indicate that dynamic entry was chosen over a nonviolent siege because ATF lacked qualified expert negotiators. In my view, again, that is the tail wagging the dog.

Mistakes also include, in my view, ATF's attention to media coverage before the raid and calling it "Showtime." For whatever reason, that was bad judgment as well. Over at Justice, I don't believe that the result was foregone.

Again, better planning and decisionmaking could have favorably affected the outcome. Why was a successful negotiator removed? Why did negotiators and tactical personnel operate at cross purposes? Why were religious experts not more fully used?

Why didn't Mr. Jamar tell the Attorney General or anyone else in Washington that he felt there was a 99 percent certainty that use of CS gas by the tanks would accelerate the operation. Why

didn't anyone bring the April 14 surrender offer to the Attorney General? If they did, what happened to it? Then there are many uncertainties; the risk to small children, how the Davidians would respond, the effects inside the compound of deconstructing the rear of the compound. It is not the conclusiveness of these hearings that supported waiting, but the very uncertainties that they raise.

All in all, I believe that these agents lower in the chain of command were acting with extraordinary endurance, discipline, and bravery. I do think someone up the chain of command, however, needs to be held accountable. We will learn more about the decisionmaking process today and tomorrow. Always before us should be the question of how do we ensure accountability and responsibility. I thank you.

The Chair now recognizes Mr. McCollum from Florida.

Mr. MCCOLLUM. Thank you, Mr. Chairman. We welcome all of our panelists again today. Several of you have been with us before, others for the first time.

As we move into the final 2 days of these hearings on the tragic matters at Waco both on the 28th of February and then on the 19th of April where 90 Americans lost their lives—four of them were ATF agents and the rest were private citizens, 22 of them children—some say that these deaths were avoidable. I certainly think that the earlier hearings we have held with regard to the ATF role in this tragedy indicate there were any number of stages where things could have been done differently to avoid the tragedy of February 28 and there is plenty of blame to go around for the occurrences on that particular date.

What we have been addressing for the past 2 or 3 days and will continue today and tomorrow, though, is not what happened on the 28th of February, but what happened on the 19th of April and what led up to that day, the decisionmaking process and the accountability question that has also been raised by Mr. Zeliff.

There are questions remaining today as to the actual occurrences on the day of the assault with CS gas, and perhaps I am wrong in even characterizing it as an assault. Some would dispute that fact. But we are going to hear about that today. And we will hear later from a military witness who will discuss with us the role of the military in advice and in support of the activities on the 19th. And then tomorrow we have Attorney General Reno here to discuss her decisionmaking process and conclude these hearings.

A couple of retrospective thoughts on the last few days. First, I think Friday we had testimony that was very compelling, that should close the books once and for all on who started the fire. It seems very apparent to me the fire was started inside that compound by Davidians. Why they started it, exactly who in terms of what person or persons did it, I don't know. I don't think any of us will ever know.

But I think that the evidence that was presented, the expert testimony and the film footage that we saw Friday afternoon in these hearing rooms, proved conclusively that the fires were not started by the FBI or anybody who was connected with law enforcement, but had to have been started inside that compound.

Second, there are a couple of things that still bother me. Friday's testimony did not clarify at all, as far as I am concerned, and still

raised the questions of why Mr. Jamar's concerns, to a 99-percent certainty, that the CEV's and tanks were going to be fired upon, were either, A, not expressed or, B, not passed on, and had they been, whether that would have made any difference in the ultimate decisionmaking of the Attorney General and those up the chain of command.

The reason I say that is because it is quite apparent that what actually happened on the day of the final gas insertion is that the vehicles were fired upon, that the plan called for accelerating the input of this gas and indeed that happened, and that in a period of about 6 hours a heck of a lot more gas was put into the compound than originally desired by Mr. Clarke and by others who were involved in making the recommendations on the gas insertion.

I also would suspect the fact that they didn't respond according to what you thought they would was a big part of this more rapid insertion plan and there was apprehension going into this by some who thought that if indeed there was too rapid insertion, too much of an assault appearance, the Davidians would react in a very negative way rather than coming out as had been hoped for in the plan. So, to me, that is very disturbing, and I hope you can clarify some of that today for us.

I am also still concerned with the amount of force that was ultimately used. The film footage we saw on Friday afternoon showed the tearing down of one portion of the structure which appears to have been a prelude to tearing down much more. This seems to have been a tag-on to the accelerated plan for the gas insertion which is also disturbing. And last but not least, while we have had a lot of discussion about it, I personally am still not satisfied with respect to the questions of the handling of the so-called plan of surrender. Specifically, I have concerns about David Koresh's thoughts and sincere beliefs, as relayed to the FBI by his attorney, apparently that as of April 14, that Koresh was going to transcribe his interpretation of the seven seals and come on out.

Obviously that was not taken seriously and there are reasons why, and several of you expressed those reasons already. But it is still disturbing that this was not passed on or that the feelings were not interpreted differently with respect to the answer on that date. At any rate, I am sure we will explore these and a number of other matters today as we begin the process of concluding these hearings and I thank you, Mr. Chairman, for the opportunity to make a couple of opening remarks.

Mr. ZELIFF. Thank you, Mr. McCollum. Mr. Schumer from New York. We are willing to give you additional time beyond 5 minutes if you would like to take it.

Mr. SCHUMER. Thank you, Mr. Chairman, and for the courtesy extended. I would like to make a couple of points this morning. The first relates to some of the news that we saw in the papers this morning based on the television show that Mr. Zeliff and I appeared on yesterday, and the lead headlines all said that the chairman of our committee would this week implicate the President in the decisionmaking process, the implication being that the President interfered or made the decision.

Unfortunately, this has been a pattern in these hearings, allegations based not on evidence but on innuendo. It is a serious allega-

tion that the President interfered with, changed, moved up the decision. And we can't just bandy these things around unless we have some real evidence. It doesn't have to be in a court of law beyond a reasonable doubt, but some evidence, a little bit.

Now, all four of us, myself, Ms. Thurman, Mr. McCollum, and Mr. Zeliff all examined the Presidential documents. There was not a shred of evidence there that the President did anything other than hear what the plan was and approve it. In fact, the chain of command worked exactly as it should.

Janet Reno reported to the President her plan, he asked some questions, and then he said, based on your expertise and what you have been advised, go ahead. In short, the President was informed, but did not interfere with the decisions of law enforcement experts and that is how it ought to work.

And so, if we are going to make serious allegations and they are going to be reported in the newspapers the next morning, we ought to then see if there is evidence, not innuendo based on either a member of this committee or someone else's perambulations in the brain as to what they might think had happened, but evidence. So I await in all sincerity and with all earnestness some hard concrete evidence that the President intruded on the decisionmaking process in a way that he shouldn't have.

I put that—I would like to compliment my colleague, Mr. McCollum. Once again, I think Mr. McCollum, he heard the evidence Friday and today he had the courage to say while there were a lot of mistakes made and he has asked a lot more probing questions, he put to rest allegations that the fire was started by anybody other than David Koresh and the people in the compound.

For those of you who were here late into Friday that became quite clear. Yet we heard on Sunday that "the Government killed the 80 people." Maybe the Government, the FBI, the ATF did some wrong things, but they didn't light the fire. They didn't start the fire. That is not one of these questions that is very debatable.

There is tons of evidence on the side that it was started in the compound. There is no evidence that—no real evidence, just hearsay, innuendo, conspiracy theory that it wasn't, that it came from the ATF or FBI.

If this hearing is going to put some of these conspiracy theories to rest, then when the facts come out that criticize FBI and ATF, let's criticize. But when they come out that they bolstered their side of the story, let's admit it. Let's just do it and come down the middle. And I hope that will happen. I would like to read a letter faxed to me from someone named Nelda Neal. I don't know her, but I sure agree with a lot of this letter except for one part.

She said, Dear, sir—it is actually a letter addressed to Chairman Zeliff, but was faxed to other members of the committee, myself included.

Dear Sir: As an active Republican who has watched many hours of the hearings this week, I am appalled at the aggressive attacks by some of my fellow Republicans upon the law enforcement arm of our government. I know a family who lost two daughters and a grandchild at Waco.

Much of what has been demonstrated must have the cults and the militants rejoicing. It makes our side of the committee look like pawns. Of course, we want Clinton out of office, but not at the expense of confidence in our American system.

Guess which part I don't agree with. It was a joke. It is early in the morning. I don't want Clinton out of office. OK.

Let me just make two other points. Today, we will hear again about the raid. In my judgment the use of CS teargas has been shown quite conclusively to have been necessary, and I think when there are again allegations that this gas was used purposefully or even recklessly to harm children, that is a bad allegation and doesn't measure up.

On the other hand, there is a serious question about how this raid was conducted that I haven't heard adequately answered, and I hope we will. Pulling in these huge tank-like CEV vehicles not just to insert the gas, but to bang at the building, and in the pictures you can see the whole compound shaking, it seems to me is going to frighten those inside, not get them to come out and maybe make an Armageddon-like philosophy, which was already bubbling in Koresh's head, God knows, even more pointed. So I would like to know why that was decided. To me, that is the most questionable part of the decisionmaking process and the plan that was done.

The final thing I would like to do is again admonish all of my colleagues and those who watch out there about Monday-morning quarterbacking. The $64,000 question is if you were the Attorney General on the day before the raid, on the day before the tear gas was inserted, what would you have done, and how could you have made the decision better?

In hindsight, we know that it didn't work well. It was a horrible result, with people dying. But the day before, what would you have done? Koresh had lied and lied and lied about coming out. Most of those who knew him or what he was like felt there was a real chance that he would take the lives of many of his followers and himself if the siege went on much longer. What would you have done?

I sort of feel at times these hearings—if we did hearings on D-Day like we are doing hearings today we would probably end up court-martialing General Eisenhower because he didn't have the foresight to know that the waves on Omaha Beach would blow the troops a mile or two further over than they should have, resulting in a huge loss of life.

Again, hindsight is easy, but if you are on the side of fairness, if you are not out simply to get ATF or FBI for another agenda as the NRA is, and I stand by my assertion that the NRA has unduly influenced both the genesis and the performance in these hearings, the setup of these hearings, then you don't just attack law enforcement for attack's sake. You attack them when they are wrong, bolster them when they are right, and hope that the outcome will make a stronger ATF, a stronger FBI so that the terrible events that happened at Waco won't be repeated. Thank you, Mr. Chairman.

Mr. ZELIFF. I would comment on one quick action. It is our hope that by getting to the bottom of this matter that credibility will be there for law enforcement. I think the American people deserve those kind of answers and I think these hearings will do what we intend to have them do.

If we sent tanks and troops to Bosnia, I certainly hope that the President would be involved and that we don't leave it to the military experts. We will see how it unfolds in the next couple of days.

I would like to welcome the panel this morning. By way of introduction, Jeffery Jamar was the Special Agent in Charge of the San Antonio FBI office and onscene commander at Waco. Dick Rogers was an Assistant Special Agent in Charge and the leader of the FBI Hostage Team at Waco. Edward S.G. Dennis, Jr., served as former U.S. attorney of Pennsylvania and was the former Assistant Attorney General for the Criminal Division at the Department of Justice during Waco. R.J. Craig was a member of the FBI's Hostage Rescue Team, who prevented Ruth Riddle from returning to the burning compound. James McGee was an FBI Special Agent, who drove one of the tanks during the siege. John Morrison was a member of the FBI's Hostage Rescue Team, who will testify to his observations regarding the start of the fire at 12:10 p.m. on April 19, 1993. Byron Sage was a Supervisory Senior Resident Agent of the Austin FBI office and the chief hostage negotiator at Waco.

Welcome gentlemen, and thank you for returning today. If you would please all stand and raise your right hand.

[Witnesses sworn.]

Mr. ZELIFF. Let the record show the answer is in the affirmative.

Mr. Schiff from New Mexico will be our lead questioner. You have 5 minutes.

Mr. SCHIFF. Thank you, Mr. Chairman.

Mr. Chairman, I want to begin by saying that obviously these hearings have gone on for a number of days, but I think they have been very useful in what is still a very controversial issue among the American public, what happened at Waco and why.

I want to say that I agree with Mr. Schumer that we should judge each action separately. In my own view, the hearings we have had so far, some information has come out which is favorable to Government agencies and should be stated and some information has come out that is not favorable to Government agencies and should also be stated. I will give just one example of each.

There are many examples, and I think there will be more before we are through here. I think initially evidence has been demonstrated that there was information available that somebody among the Branch Davidians, whether it was David Koresh or not, was possibly illegally changing firearms from semiautomatic to fully automatic fire.

There was enough information that the Bureau of Alcohol, Tobacco and Firearms had a legitimate interest in the subject. At the same time, it is clear to me at least that the Bureau of Alcohol, Tobacco and Firearms decided that they were going to pursue the matter of their search warrant through a military kind of raid and they weren't going to be dissuaded from that by anybody no matter what risks it had for their own courageous agents they sent forward, no matter what risks it had for children inside. That is how they were going to proceed and nothing was going to stop them.

I think that that was a horrible mistake, and I hope we will continue identifying those acts which we can say the Government was justified or the Government was not justified.

Coming to this panel, I want to say, first, as you have heard there has been a controversy over whether the President of the United States was involved in the decision for the final attempt to end the siege, and if so whether that was appropriate or inappropriate.

I would like to ask if anyone on the panel, and would recognize anyone who might offer on this, is in a position to state from their experience if they know how much involvement the President had in the decision to approve the final attempt to end the siege. Anyone care to——

STATEMENT OF JEFFERY JAMAR, FORMER SPECIAL AGENT IN CHARGE, FEDERAL BUREAU OF INVESTIGATION, SAN ANTONIO, TX

Mr. JAMAR. No.

Mr. SCHIFF. I don't see anyone on this panel volunteering.

Mr. JAMAR. Mr. Schiff, none of us in Waco were in a position to know what the discussions between the Attorney General were and anyone else.

Mr. SCHIFF. I understand. As you know, the Attorney General will testify tomorrow. We can ask directly, but I thought I would ask that first.

Let me ask about the plan to end the siege. I understand that there was a plan A and a plan B. There was an initial plan to gradually insert CS gas into the compound, apparently in the hope that it would at least gradually influence the people in there to leave the compound and surrender and there was a contingency plan that if the vehicle that first went forward to insert the gas failed, then there would be an attempt to move forward quickly to insert gas from all different sides.

Mr. Jamar, let me turn to you. Have I correctly summed up what the idea was?

Mr. JAMAR. Yes, sir.

Mr. SCHIFF. I have also heard it stated that there was a general belief on the FBI side that it was expected that somebody—again, there were a lot of people inside the compound—somebody inside the compound could be expected to fire at the vehicle when it first went forward in plan A. Mr. Jamar, is that correct?

Mr. JAMAR. When we sent the plan in, first, the proposal from our headquarters was to do the incremental gas insertion. The concern we had was of the safety of the agents as they approached the compound over and over again that the Davidians could prepare. They knew what the vehicles looked like. They had weapons to do great damage to the vehicles to include both the CEV's and——

Mr. SCHIFF. Because time is short, let me ask, there was a belief that it was likely that somebody among all the people in the compound might shoot as this first vehicle went forward?

Mr. JAMAR. I think you need to know the history, Mr. Schiff, to understand how the process came about. We disagreed so we asked Mr. Clarke and Mr. Potts to come to Waco when we began those discussions.

What it led to was that we were all satisfied that the safety issue regarding the incremental delivery of the gas was addressed. I think Mr. Clarke said he was satisfied they weren't going to fire.

Mr. Potts testified he was satisfied. I think Mr. Rogers testified he was.

I can't speak for the other SAC's. I think that is why the issue about my being so concerned that they would fire, I didn't make a greater issue of it because the safety issue that was on my mind so much was satisfied by the plan we came up with, keeping the Bradleys outside the wire, approaching the compound with only one CEV at the time, which was the best protection of the agents.

The agents were still vulnerable to Molotov cocktails and to the 50-caliber semiautomatics they had. The danger was there, but the problem is in my mind it was relieved, so I didn't press. I think when Mr. Potts and Mr. Clarke testified that I did not press upon them my concern, because it went away because the issue was their safety. That is how we ended up with the incremental plan.

It wasn't plan A, plan B except there was a possibility to address the safety of the agents by having, if agents are fired upon, there was an option in order to suppress that fire and that is what would be in your description of A and B.

Mr. SCHIFF. One quick followup question. How long did it take before you went from plan A to plan B?

STATEMENT OF DICK ROGERS, FORMER HEAD OF HOSTAGE RESCUE TEAM, FEDERAL BUREAU OF INVESTIGATION

Mr. ROGERS. Almost immediately when the first CEV Approached the compound, I got radio traffic indicating that the vehicle was taking fire.

Mr. SCHIFF. Almost immediately?

Mr. ROGERS. As soon as it is penetrating the compound, as soon as the boom was touching it. Because of my concern from what I am hearing, I didn't immediately call a compromise and tell the other units to start putting ferret rounds in. I went back on the radio and asked to confirm that that was, in fact, happening.

From the time I heard it until I gave the order to go into, as you have described it, plan B, but it was just an acceleration of putting gas in, there was a 4-minute time lapse before I verified that what was happening was, in fact, taking place.

Mr. SCHIFF. I want to conclude by saying it seems to me that it was very predictable what was going to happen hereby, even only a few people from within the compound, so I wonder if we weren't really talking about plan B, a full-scale moving forward all the time.

Mr. ROGERS. I was not and I have never said that I thought they were going to fire.

Mr. SCHIFF. Thank you.

Mr. ZELIFF. The time of the gentleman has expired. Mr. Scott from Virginia, you have 5 minutes.

Mr. SCOTT. Thank you, Mr. Chairman. Looking at that, the witnesses, and looking at the time for the panel insertion of the CS gas and the fire, I don't think we can possibly hold this hearing without repeating a lot of what has been said. We have a lot of same witnesses who have been with us. So if we get the same questions and get the same answers that is the best we can do with the panel.

First, let me ask a question about the gas. We have had testimony that CS gas has been used worldwide over many years and in the history of its use there is only one citation of an infant who developed a problem, but was completely cured after, within 30 days.

Although, it is traumatic and very irritating when you are under its effect, do any of the members of the panel have any knowledge of a citation of an actual person developing medical problems or death as a result of CS gas?

Mr. JAMAR. No.

Mr. SCOTT. No one has any citation of a person having a medical problem as a result of CS gas.

Mr. Dennis, did you do a report after the—after this was over?

STATEMENT OF EDWARD S.G. DENNIS, JR., FORMER ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION, DEPARTMENT OF JUSTICE

Mr. DENNIS. Yes, I did. I was not the Assistant Attorney General for the Criminal Division at the time. I had been out of the Department about 3 years in the summer of 1993 when Philip Hyman, the Deputy Attorney General——

Mr. SCOTT. Let me get to a question. Is there any question in your mind having done a report after the fact, Chairman McCollum indicated that has been pretty much put to rest, any question that the fire was set from inside?

Mr. DENNIS. No question in my mind.

Mr. SCOTT. Is that based on video evidence as well as audio evidence from inside?

Mr. DENNIS. On video evidence, audio evidence, witnesses from inside the compound, based upon the arson expert's evaluation.

Mr. SCOTT. Are you familiar with what happened at the trial after the fact?

Mr. DENNIS. No, I am not familiar with what happened at the trial.

Mr. SCOTT. Questions have been asked about whether or not we had firefighters right on the scene. If there had been firefighters right on the scene to have done their job, they would have been shot at, but even if you could have gotten past that, is there any evidence based on the gas cans and other accelerants inside, is there question as to whether or not having firefighters right there on site would have made any difference?

Mr. DENNIS. The arson experts found that it would not have been made a difference because of the use of accelerants and the wind was carrying the fire too quickly for firefighters to have any effect.

Mr. SCOTT. What do you mean by accelerants?

Mr. DENNIS. There were flammable liquids that had been spread around the compound by the Davidians and the fire had been set in three separate places. That, along with the wind that was driving the fire, apparently made it move much too quick for the firefighters to have an impact.

Mr. SCOTT. What kinds of accelerants were they?

Mr. DENNIS. I am not sure what chemicals were being used.

Mr. SCOTT. It is obvious that it is difficult to figure out what to do when you have Koresh who is going to burn the place down and

you have people inside will accept it as biblical prophecy. Do we have—did we get any help from behaviorists who were familiar with cult activities to help us predict what the children and people inside might have done?

Mr. JAMAR. Might have done at what point, sir?

Mr. SCOTT. To predict how they might have reacted to the gas and the tanks coming in.

Mr. JAMAR. I think the logical conclusion of a human being, the gas was designed to force them from the space they were in. Our original plan was to put the gas at one end of the compound, demonstrate the power of the gas and hopefully start negotiations. We were hoping, too——

Mr. SCOTT. Did we get advice from people expert in cults?

Mr. JAMAR. More behaviorist, not geared to cults; people who were expert in human behavior not necessarily cults.

Mr. SCOTT. Could I get one more quick question?

Mr. ZELIFF. Real quick.

Mr. SCOTT. It would not be a quick question. I yield back.

Mr. ZELIFF. Thank you for your restraint. I yield to Mr. Buyer of Indiana.

Mr. BUYER. Thank you, Mr. Chairman. One thing I wanted to, Mr. Jamar, let you know I think it was you that recommended we listen to some of the negotiation tapes?

Mr. JAMAR. Yes.

Mr. BUYER. I did that. When I flew back to Indiana I drove out to Washington, DC, with my family and I don't think my 10-year-old appreciated the hours of tapes. I think we had it out in the Appalachian Mountains. But it was interesting.

I have done that and it gave me a good perspective of what you were under. I mentioned the other day that I had listened to a little bit of them, and now I have listened to a lot more hours of those tapes.

We talked about the other day about the perishable asset of patience and how long that had been wearing on you. I did get a very strong sense in listening to those tapes the difference in, almost we had Drs. Arnold and Tabor testify the other day about the changes in mood and once they were writing the seals and I could hear that in some of the voices and Mr. Schneider talking about the writing of the seals, and I guess my sense here is that that was really discounted by the FBI.

Help me for a moment. Did you really believe that that was just a ruse and nothing but a delay or stalling tactic and that was why it was discounted, because Washington had this plan to go with the raid on the 19th and you were willing to do it, so we will play this game with them to write the seals, but in fact you really did have your D-Day set on the 19th?

Mr. JAMAR. Not at all. We submitted the plan and it was discussed with Mr. Clarke and Mr. Potts and it was an FBI plan that was submitted from Waco. When I suggested that you listen to the tapes, I think if you picked up that mood, I hope that you also picked up in a discussion that you picked up Sunday the 18th the negotiators pressed and pressed for something regarding the manuscripts.

I hope you detected that as well. And the last thing that Steve Schneider had an opportunity to say, one of the last things he said on the 18th was I haven't seen the first page to edit and I am paraphrasing. I have the exact quote. I will read it, if you like. We didn't discount anything. That is what I hope we can communicate here, that we were grasping for anything we could do to resolve that.

The last thing we need is an operation like this to put so many people in danger. We don't like to do that when we can avoid it.

Mr. BUYER. Wasn't there a negotiator, Duane?

Mr. JAMAR. Yes.

Mr. BUYER. In the afternoon, I think he was the one informed that one of the seals had been written, that they were well into the second and he helped negotiate the deal as to how we were going to get the first seal sent out. I was left with the strong impression that you were negotiating in good faith to do that.

Mr. JAMAR. We were. Can I read the——

Mr. BUYER. Sure.

Mr. JAMAR. Discussion: This is April 18, the conversation between one of the negotiators and Steve Schneider.

"Negotiator: You know——

Ms. JACKSON LEE. What are you reading from?

Mr. JAMAR. This is a summary we gave you. I think it was a tape that Mr. Buyer had the other day, some of the highlights of some of the quotes. I hope you all have one. This is our format. I think you have these quotes. The tape that Mr. Buyer held up the other day are these quotes. Shall I proceed?

"Negotiator: You know, reading through the logs of some of the other conversations last night I thought I saw one that said you had begun editing the first seal.

"Steve: No, not at all. I don't—it is incorrect, okay?

"Steve: Man, if I said that I must have been on something.

"Negotiator: I am not saying you said—I am just saying it was written there, and sometimes you know that——

"Steve: Yeah, I know. I heard someone on the press, I think it was Rick, say something like that. I about fell over because I have never said anything."

"Yeah, yeah, says the negotiator.

"Steve: Like that, you know.

"Negotiator: The way I understand it from our last conversation, of course, this has been almost 24 hours now, is that David had finished writing the First Seal and yesterday afternoon he was nearing the end of the second.

"Steve: Yes, he did say that once.

"Duane: But you had not been given anything.

"Steve: Exactly.

"Duane: For editing. Exactly.

"Duane: Is that still the situation?

"Steve: Right.

"Duane: Okay. And Judy said she was typing some of the biblical passages she felt he would be using or referring to.

"Steve: Right.

"Negotiator: But she had received nothing yet.

"Steve: Exactly.

"Duane: Okay. Is that—is that still——

"Steve: You said it correctly."

What I got from this conversation was late on the 18th after whatever else they had said is that don't expect anything soon. That is what I got from that conversation.

Mr. ZELIFF. Mr. Buyer, you can have one more question.

Mr. BUYER. I wanted to make sure that, when I listened to that it wasn't that he was denying that the first seal was being worked on, but the fact that Mr. Steve Schneider had not received it to edit it.

Mr. JAMAR. I am not arguing that with you at all. My point to you is that they tell us all sorts of things. So we say, OK, how about a product. Give us something we can hang our hat on. Had Steve said that, we will give you——

Mr. BUYER. I am on somebody else's time. I will bring this up with you again because I think it is an important point for us to make a followup on. Thank you.

Mr. ZELIFF. Thank you. Ms. Sheila Jackson Lee from Houston, 5 minutes.

Ms. JACKSON LEE. Thank you, Mr. Chairman. I do want to—I want to thank you in advance for your indulgence.

Mr. ZELIFF. What does that mean? What is coming up?

Ms. JACKSON LEE. I do want to say that I had the opportunity to be home in the district and you hear, first, the concerns of your constituents. They are hurt. They know that lives were lost, the ATF and certainly the children and others that were in the compound. They also want to know are we headed toward the right direction in ensuring that we reaffirm the Constitution and the Bill of Rights.

I guess I also share with them that Government is not perfect. I share with them and I paraphrase Winston Churchill who says democracy is not the best, but it is better than the rest. I may have taken his words a little bit out of context. But there has been a lot of discussion over the weekends and I just moved to be able to make one statement very clear and you gentlemen cannot respond to it and I have some questions for you.

On April 20, 1993, these words were said. I was informed of the plan to end the siege. I discussed it with Attorney General Reno. I asked the questions I thought it was appropriate for me to ask. I then told her to do what she thought was right, and I take full responsibility for the implementation of the decision. Was that the chairman's words? No.

It was the words of President Bill Clinton on April 20, 1993. So I am a little confused as to why we would have such righteous discussion about whether or not there had been any taking of responsibility. But I know when we hold the highest office, I would imagine that there was sadness in the Reagan administration when 265 young men and women lost their lives in Lebanon when he was the Commander in Chief. I hope that these hearings will bring about an opportunity for us to make a change and to have a positive response to what has tragically occurred.

Mr. Jamar, just a yes or no answer. When had the negotiations come to a standstill? How many dates beyond or earlier than April 19 were there seemingly limited opportunity for negotiations?

Mr. JAMAR. I would say March 20 on. I would say March 24th on.

Ms. JACKSON LEE. So almost a month before?

Mr. JAMAR. Yes, ma'am.

Ms. JACKSON LEE. And the issue had been certainly wanting to continue those negotiations, and the April 19 date did not signal—or the actions on the 19th—let me correct that. The actions on the 19th was not the confirmation to end negotiations, that was not D-Day, this is it, we don't want negotiations. Was the intent to encourage negotiations?

Mr. JAMAR. Intent was to, hopefully, get their attention where they will engage in serious negotiations. In fact, Mr. Sage said it over and over again during that morning, the 6-hour period, we want to talk to you more. We want to—send us out a manuscript. He said, if you've got something done, send it out to us. He continuously broadcast our desire to engage in negotiations.

Ms. JACKSON LEE. Negotiations were to go on?

Mr. JAMAR. Yes, sir.

Ms. JACKSON LEE. Mr. McGee, there's been many points of discussion about this whole idea of religions and other aspects or the criteria of the definition of the group that might have been in the compound. I don't know if we are here to be able to resolve that. But I do understand that you risked your life or you attempted and did save—did assist, I believe, Ruth Riddle, and she is alive today; is that my understanding?

STATEMENT OF JAMES McGEE, SPECIAL AGENT, FEDERAL BUREAU OF INVESTIGATION

Mr. MCGEE. Yes, ma'am, she is.

Ms. JACKSON LEE. And as I asked you a question—Mr. Dennis, I'm going to be asking you a question as—I want the light to be on as I ask it, so that the Chairman will indulge me, I can get an answer from you, dealing with your report which will include how long you were away from the Justice Department, how many years, whether or not you felt you had to make your bosses or former bosses look good and whether there was a coverup.

Mr. McGee, my question is, what, as you were saving or bringing out or helping to assist Ruth Riddle—and I applaud you for that and others who participated in saving the lives. There was some discussion or maybe some comment about what the Messiah told them to do, but, more particularly, can you tell us about Ruth Riddle's recollection when you saved her from the fire?

Mr. MCGEE. Yes, ma'am. If I can expound a little bit, it might take a few minutes.

But, first of all, before I begin, I'd like to pay tribute on behalf of the Hostage Rescue Team to those four ATF agents who sacrificed their life for this country. And I'd also like to offer my condolences to their families and also to those agents, these 17-plus, who were wounded at this hostile fire at the Branch Davidian compound that day.

Ms. JACKSON LEE. Thank you.

Mr. MCGEE. OK. In our initial introduction, Mr. Zeliff, Mr. Craig was the driver of the CEV, and I wasn't. That was a reverse.

Mr. ZELIFF. I apologize for the information that I read.

Mr. MCGEE. On that day in question, in reference to Ms. Riddle, we witnessed—and I can articulate, basically, a narrative here of how that went and how that happened. But she was witnessed on a second story window——

Ms. JACKSON LEE. Why don't you tell us who Ms. Riddle was? She was——

Mr. MCGEE. Ms. Riddle was one of the Davidians that was inside——

Ms. JACKSON LEE [continuing]. Inside the compound?

Mr. MCGEE [continuing]. The compound, one of the Branch Davidian followers of David Koresh. She was being advised by the loudspeaker system to jump to save herself. The fire was imminent. It was engulfing the second story. And she did jump, and then she immediately stood up and went back into the structure.

I was located in a Bradley track vehicle, located on the red white corner, if that means anything to you, basically the front right. We moved over to that location.

And just to make one thing clear, at that time I knew that Ms. Riddle had been in there on the day with the shoot-out with ATF, and I suspected she had been involved in killing Federal agents. I also knew that she'd been in there all that morning firing on us for 6 hours with an automatic weapon, firing everything else that they had access to. And, third, I suspected that she, along with the others who were able to come out, were involved in setting the fires that killed the rest of the Davidians.

But, nevertheless, we pulled up in front of the compound, because the Hostage Rescue Team does not differentiate between who it saves. We save whoever. Nevertheless, Ms. Riddle had gone back into the room and laid down with her feet inboard, and we pulled up within 25—let's say 25 feet of the structure.

I'd estimate the temperatures were about 200 degrees Fahrenheit. I was a fireman before I came an FBI agent, so I've been in fire situations before.

I exited the back of the vehicle, went in and confronted Ms. Riddle, who was, I'd say, in a level of unconsciousness, nearly unconscious. Obviously, she had decided to commit suicide, like the rest inside. That was her mindset.

When I aroused her, she asked, who are you? And I said, I'm with the FBI, and I asked her where are the children. And she, just like Clive Doyle did earlier, she would not tell me where the children were. She failed to respond. She sat there basically motionless and stared at me.

Myself and the other agent present there, if she had said where the children were, we would have gone in further to get the children. That's why we were there, to save them.

At that point, I explained to her we have to get out of here. This place is going to burn up, and we're going to burn up with it if we don't get out soon. She resisted. She—she resisted verbally and also physically. I had to—I had to pick her up physically and carry her out, over the perimeter of the building that was on fire.

By the way, while I was inside the structure, I noticed no presence of gas, and that whole area had been—there had been gas insertion in that area. But the ventilation was so great, with 40-plus-

mile-an-hour winds, that the gas I don't think was having any impact.

But, nevertheless, we pulled her out and brought her back to safety in the back of the track vehicle. And then Special Agent Bob Hunt, Special Agent Chuck Pierce then conducted a primary medical survey, and we transported her back to the medical rally point.

Mr. ZELIFF. Your time is expired.

Ms. JACKSON LEE. Mr. Chairman, may Mr. Dennis answer that brief question that I gave him regarding his report?

Mr. DENNIS. I was out of—excuse me. I was out of the Department 3 years when I was asked to conduct this review. I was not at all in the Department during any facet of the Waco investigation. I was given complete access to the files and to interview witnesses in connection with this event and was given a free hand with regard to my evaluation and my thoughts on how the decisions were made, how the negotiations were conducted and whether or not reasonable steps were taken to try to save the lives of those involved.

My findings were based upon my best judgment, trying to be as objective as I could, realizing that I had been in the Department of Justice for 15 years as an assistant U.S. attorney, U.S. attorney, Assistant Attorney General for the Criminal Division, even Acting Deputy Attorney General, and that I worked with the FBI extensively during that period of time and certainly had a great deal of admiration and still do for their courage and the way that they conduct—the level of professionalism that they conduct themselves with. I found that same level of professionalism in the handling of this case. Certainly the results were not those that were sought to be achieved, but I did find that the FBI had acted with great discipline and professionalism.

Ms. JACKSON LEE. Thank you for your indulgence, Mr. Chairman.

Mr. ZELIFF. Thank you.

The Chair now recognizes Chief Heineman from North Carolina.

Mr. HEINEMAN. Thank you, Mr. Chairman.

We've been questioning various panels since this thing started. We're getting little bits of pieces that when this is over we'll have to patch together, and I'd like to kind of bring together the thought processes of some of these panelists that have been answering questions from day one.

But I have a question before I do that. And in my mind we've listened to Mr. DeGuerin say something about an April 14 date, and then that's been corrected by people on the panel relative to, no, it was sooner than that relative to the letter and that statement by Koresh that he was going to finish the seals and come out. Did anything happen, Mr. Jamar, on April 14, or is that just a mistake by Mr. DeGuerin?

Mr. JAMAR. His conversation was with Koresh April 14. And where he—he had previously talked to Steve Schneider the day before and, of course, wasn't available when he talked to him on the 14th, where presumably Mr. DeGuerin persuaded Koresh to adopt that point of view of the seals that Mr. Tabor and Mr. Arnold I think testified about here.

And then apparently he caused Mr.—Mr. DeGuerin caused Koresh to send that letter out that was dated the 14th, about it was an open-ended thing that we had analyzed that I described last week. But that was the events of the 14th.

But then the conversation—subsequent conversations were that, with us after that conversation, between us and Mr. DeGuerin, where he said he was going write the seals, take 2 or 3 days each, and then progress. Hopefully, things will be done in 10 days or 2 weeks. That's where we left it.

Mr. HEINEMAN. Thank you.

Mr. Jamar, you've been—you spent more time answering questions than most of the folks. Is there a story you want to tell from February 28 up until April 19 that we haven't asked you?

Mr. JAMAR. I think that one thing that hasn't come across here is the danger level that all the agents and all the people were experiencing during that period. And I think I would ask Mr. Rogers to describe it for you, since he was facing them, and maybe some of the—Mr. Morrison and Mr. Craig and Mr. McGee, describe the level of danger that existed during that entire period that was of so great concern to me that I tried to communicate the last two times I was before this committee, last week, that it was pressing us so much that the level of danger was increasing every day. And that's what drove—that was the driving force.

I'd like to ask Mr. Rogers, if you don't mind.

Mr. HEINEMAN. Thank you. Permit me to ask Mr. Rogers. Mr. Rogers.

Mr. ROGERS. Sir, I think that when we look at the whole situation, you have to take the 28th of February and the events that took place to get a perspective of what the danger was. When we have the number of killed and wounded that took place with ATF that first day and the fact that they barely penetrated that compound while sustaining those casualties, I think that sets the stage for what the potential was and what took place.

I don't know if this panel is aware of the fact that, other than being shot, there were ATF agents that sustained grenade fragments from handgrenades that were thrown at them. A number of those agents took multiple wounds. In order to protect our agents and because of this level of danger, that's why we brought in the armored vehicles.

Here is a .50-caliber round. That's what they had inside that compound. Here is a 9-millimeter round. When you compare the two, it becomes very graphic as to what the difference was.

This round right here was designed in World War II or a little earlier. It was the primary round that aircraft—the P–51 and other aircraft fired. It's also an antiaircraft round. This is what they had that could shoot out of scope rifles. We know that this round is effective out to about 2,500 meters.

This round here is designed where it will not continue to penetrate wallboard or go through a human and hit someone else. These are the differences in what we faced there.

And, because of this, that's why we brought in armor. Not to scare anyone, not to make this look like a military operation or a military campaign, but to prevent additional deaths. That's the only reason.

And there was concern that this round right here would penetrate the Bradleys. We were told by a number of military experts, yes, this will penetrate those Bradleys that you have. We went back to the Pentagon and said, can you clarify this? We're told by some people that the Bradleys will protect our people, and other people say, no, it will go right through them. So this is the concern, this is why we brought in the heavy armor.

Mr. HEINEMAN. Thank you, sir.

Just two quick things, Mr. Chairman.

Mr. ZELIFF. Very quick.

Mr. HEINEMAN. I'm just wondering how Mr. Schumer missed that .50-caliber round. And, No. 2——

Mr. ZELIFF. Is there a little jealousy that Mr. Rogers got——

Mr. HEINEMAN [continuing]. I do want to congratulate Mr. McGee for his heroics. There are many unsung heroes in both of these raids. One had been sitting here time and time, day after day, that had 43 injury wounds, a man from ATF. And I don't see him here that I could acknowledge him, but being in the business myself I know exactly what was running through your body and in your mind. And you are a hero, as those other ATF people are. And certainly if this—if I see that gentleman from ATF here, I'll ask him to be acknowledged.

But thank you for the extra time, Mr. Chairman.

Mr. ZELIFF. Thank you, Mr. Heineman, Chief.

Ms. Lofgren of California.

Ms. LOFGREN. Thank you, Mr. Chairman. You know, Mr. McGee, I was amazed in a way by your story of trying to save a Branch Davidian who tried to reenter the flames in what was obviously some belief that that's what she should do. I mean, that's not standard behavior for your average person.

And coming on the testimony Friday from the fire experts about the material found on Mr. Doyle's—the lighter fluid that was found on his clothing—and I haven't heard any explanation for how you could have lighter fluid on your—on your cuffs, absent spreading it around. I mean, I can't think of an innocent explanation for that.

The picture emerges to me that at least some of the Davidians intended to burn the place up and at least the lady you tried to save intended to be burned within it. And I'm wondering, Mr. Morrison, you were inside, did you see anything that would either refute that conclusion or support it?

STATEMENT OF JOHN MORRISON, SPECIAL AGENT, FEDERAL BUREAU OF INVESTIGATION

Mr. MORRISON. Yes, madam. Shortly after 12 o'clock on April 19, I observed an individual in the front door area behind a piano. My attention was drawn there because radio traffic indicated that there was a man with a long gun in that doorway, that being a rifle or shotgun, I did not know. So I looked. I saw him. He had the gun, but he wasn't pointing it at anyone.

He then knelt down. I couldn't—before he knelt down, he was back behind the piano. He was making a motion like he was sweeping or I think spreading something. He then knelt down behind the piano. I couldn't see his hands. He was making a motion with his hands, at which point a fire erupted from where his hands were.

He then stood up, fire got a little bigger, he moved off out of my sight.

And I announced on the radio, they just started a fire here. Did anyone else see that? At the same time, I saw smoke lip around the corner of the building from my right side.

Moments later, sometime later, I see a man on the roof who is—I didn't see how he got there, but he was on the roof, kind of above to the left of where I saw the person start the fire. He emptied out his camo pants pockets, appeared to have large magazines. I thought they were explosive devices, so I called it out on the radio, watch out, I think this guy may have explosive devices. I think they were .50-caliber magazines.

He dropped them over the side. He laid on the roof. Smoke's coming. One of our track vehicles drove up, tried to pick him up, unbuttoned, come with me. He waved them off, continued to lay on the roof. And, after a while, the smoke got so heavy, to me it appeared he'd had enough. Jumped off the roof, kept his hands down, and walked over. As I panned over, I saw him walking.

I then saw some other people far away from me exiting the compound. Before Jim rescued his woman, I saw another woman who had already jumped, I don't know her name, from the second story. She was laying face down, facing me, with just a small smoke trail coming up from her back. She was laying on her stomach with her hands like this, messing with her hair while she's—I called out she's on fire, we need a track vehicle there. As the tracks are coming to pick her up, the smoke just starts now getting more intense on her back. Here is a woman on fire, doing nothing.

Ms. LOFGREN. So these might have been people who were sorting through whether maybe their belief system, how much they——

Mr. MORRISON. Oh, my gosh, of course.

And then our track—long story short, our track arrives on the scene. I hear gunfire at this time. One of our agents jumps out with a fire extinguisher because she's on fire now. He hoses her down with a fire extinguisher. Couple more agents jump out, grab her, they throw her in the track. They, of course, ask her where the kids are, throw her in the track, and drive her down to where the medical survey, go down to where our medical personnel were. And I was told that if they had been maybe 10 minutes late, that she would have died. They literally saved her life.

Ms. LOFGREN. She was lying there, catching on fire?

Mr. MORRISON. Right.

Ms. LOFGREN. Mr. Craig, there's been at least some confusion over whether or not the efforts of agents prevented people from leaving or not. And you were—had I guess breached the first interior wall. Can you tell us about the trapdoor and the underground bus? Did you do anything that either made it harder for people to leave or that made it easier for them to leave? And did you—what was the result? Could you tell us that? Briefly, since my time's almost up—is up.

STATEMENT OF R.J. CRAIG, SPECIAL AGENT, FEDERAL BUREAU OF INVESTIGATION

Mr. CRAIG. Ma'am, you mean when the gas was inserted and all—the question about why I put in that corner of the building?

Tactically it was a sound decision for two reasons. First, the exits—most exits of that building were in the back side center or on the right side, right side front and the right side. So, logically, to move people in the direction of the doors initially was to put a bottle of gas—the first bottle of gas inserted right in that corner, the red green corner. It happened that that's where the trapdoor allegedly was to the bus.

Second part of that decision, to put it over where the trapdoor was, was sound in that these folks are already in an entrenched mind and body. They're in this building, this compound, fortified compound. They want to stay there. If we allow them to get into that bus, which is even more—it's underground, a bunker, then it would be even harder to get them out. They're going to be entrenched even more physically and mentally in that bus. So if we pushed them away from that trapdoor initially, that was our goal.

Later on, when the building caught on fire and I had been out of the area and when I heard radio traffic that the building was on fire and I turned around and saw it, I then turned the vehicle around, took about another minute and a half to get up there. The fire was just about encroaching the red—or excuse me, the green white corner. I saw no people outside, and I couldn't believe that people had not fled that scene.

So it was my thought—and I did pull up to Mr. Rogers and talk to him. Have they come out anywhere? He said no. Immediately started to push the burning—the debris away from that bus area. Because if that caught on fire and they were inside, it would have consumed them completely.

Ms. LOFGREN. So you cleared it away?

Mr. CRAIG. Cleared all the burning building debris away from that corner, yes.

Ms. LOFGREN. Thank you, Mr. Chairman.

Mr. ZELIFF. Thank you. Mr. Mica from Florida.

Mr. MICA. Thank you, Mr. Chairman, and members of the committee.

I want to take just a minute and reflect, as some of the other members of the panel have today, about where we are and why these hearings took place and a couple of observations.

One of the things that has concerned me over the past weekend is reading about some of the messages of hate and the messages of disdain for some of the members of this panel. And, you know, I think that that is totally unfair and totally uncalled for.

The purpose of these hearings wasn't to engender hatred or blame on anyone. The purpose of these hearings is to look at an incident in which four ATF agents were killed and others wounded and 80 individuals or many citizens, women and children, also were killed by an action that involved the Federal Government.

And I'm really saddened that some people use these proceedings to attack personally people who I, in fact, disagree with on the panel, but that's—I just want to reflect a minute what this is all about. This hearing is indeed about trying to find out what took place, if mistakes were made, to assess responsibility and accountability and then, in our system of government, to see how that can be corrected.

And, in fact, we don't live in a monarchy where we assign some high commissioner to do a review of this or we don't live in a Third World country or in the former Soviet Union where the politburo asks the KGB to do an investigation.

I took some time to look at what has taken place on Waco hearings, and everybody says there's already been hearings done. And if you look at the hearings, there was one in March 1993 during the siege, another one during the siege of April 2, and two shortly after the siege April 22 and 28, one by the House Ways and Means Committee and House Judiciary Committee, on which I don't serve.

I read over the weekend also some of the reports, even the autopsy reports. Even some of the remains hadn't been removed or the evidence discovered when these took place.

The House Appropriations Committee did a review on June 9 and 10, and that was even before the Department of Justice had gotten involved, asking for requests from various experts, or before any of the Treasury reports which we've all referred to had been completed.

And, actually, if we look at the facts, October 22, when the last inquiry, cursory review of this incident was held, it was before any of the trials and before the firings of individuals and then the subsequent rehiring and the comments by Mr. Hartnett, who accused the Treasury report of being filled with distortions, omissions and things that certainly were untrue. So our purpose here is not to enrage anyone or to stir up the pot of hatred but to really look at what took place and see that we make sure that it doesn't happen again.

And this isn't just another agency of Government. This is our Federal law enforcement agency for which I've always had the greatest respect and other Members of Congress have. So when something like this happens it's incumbent that we do review this thoroughly and properly, and that's our system of government.

One final thing is I'm not a member of the Judiciary Committee, and I'm not an attorney, and you've seen—God forbid I should ever serve on the Judiciary Committee—but I do serve on the House Government Reform and Oversight Committee and that has an important responsibility that dates back to 1808 when we took—when we started creating the bureaucracy of Government in our country under the new constitution. And, in fact, we did assign that responsibility to another panel, and that's what I serve on. And we've never looked into this issue. And certainly if any issue in Government deserves our oversight, it's certainly this particular incident.

So, with those comments, I'll get back to my questions at the next round, but I just felt personally that I needed to say that. Thank you.

Mr. ZELIFF. Thank you, Mr. Mica.

Mr. Watt from North Carolina, you have 5 minutes.

Mr. WATT. Thank you, Mr. Chairman.

Mr. Jamar, it seems that you've been here before. This is day eight of these hearings, I believe. How many times have you been here?

Mr. JAMAR. This is my third.

Mr. WATT. And, Mr. Rogers, I think you've been here before. How many times have you been here?

Mr. ROGERS. This is my second day.

Mr. WATT. And Mr. Sage, how many times have you been here?

STATEMENT OF BYRON SAGE, SUPERVISORY SPECIAL RESIDENT AGENT, FEDERAL BUREAU OF INVESTIGATION, AUSTIN, TX

Mr. SAGE. Three times, sir.

Mr. WATT. Well, I think for the three of you, I'd at least like to give you 1 minute of my time to tell me anything that you think might needs to be covered that we haven't already asked you about. It's quite obvious now we're into speech making rather than question asking. So if you all have anything to add, the three of you gentlemen, I'll be happy to give you 1 minute of my time to address any issue that you have not already been asked about.

Mr. ROGERS. Thank you, Mr. Watt. I think that the one thing I would like to get across is that, you know, perception sometimes clouds what reality is. And I think that it's come up in this hearing that the perception is among the American people that this was a quasi-military operation on the part of the FBI against American civilians. And while the images on TV are very powerful, the truth of the matter is that the FBI is a law enforcement agency. The Hostage Rescue Team is not a military unit. We carry handcuffs, we read people their *Miranda* rights, and we're fully cognizant of the constitutional rights of all Americans. And——

Mr. WATT. I take it you believe those rights are valuable. And if any lesson comes out of this, there's been a reinforcement of that notion among the American people that the exclusionary rule, the fourth amendment, is designed to protect the innocent, not shield the guilty, I take it.

Mr. ROGERS. Sir, we're cognizant of all of the rights, and we ourselves are American citizens, and we would not want to see anything diminished in that regard.

Mr. WATT. I thank you very much.

Let me go on, in keeping with what I have tried to be about in the context of these hearings, and look prospectively as lessons that this incident may inform us about in the future and help us make better decisions about in the future.

I understand, Mr. Dennis, from the notes that I've been provided, that you did a retrospective review and have made certain recommendations about areas of operation, including evaluation of the roles of the Hostage Rescue Team and negotiators, evaluating the adequacy of communication between the tactical and negotiating teams, and various other recommendations that you have made.

Let me first ask you whether any of those recommendations that you have made rise to the level of anything that we ought to be considering doing as Members of Congress on a legislative basis, as opposed to things that can be handled on an administrative basis.

Mr. DENNIS. Mr. Watt, the recommendations you speak of were promulgated by the Department based upon issues—in part upon issues that I raised in my report. My report was a factual report as well as an analytical one to look at some of the areas of negotiation.

Mr. WATT. I want to come back and ask you about what you recommend, but that red light's going to come off. What I first want

to know is, is there anything that you have recommended that would impel us to take any legislative action as opposed to an administrative response?

Mr. DENNIS. I believe that a number of the recommendations do involve additional financial support with regard to the Hostage Rescue Team, for instance. There were issues with regard to having more than one. Because this is one unit and they were tied up in Waco for almost 2 months. There were questions about their availability if another crisis should emerge.

And so I think that those recommendations should be looked at with regard to those types of legislative support.

Mr. WATT. Any other legislative responses that we need to be considering that you're aware of, based on your report and review?

Mr. DENNIS. Not that I'm aware of.

Mr. WATT. Can you give me a quick thumbnail of your administrative recommendations, so that we are clear on what those are?

Mr. DENNIS. Well, the observations—the recommendations—I made no recommendations with regard to legislative action or administrative action. But I did make some findings with regard to the conduct of the standoff.

One finding that I made was that there were clearly communications problems between the negotiators and the tactical elements in the standoff, certain differences which were resolved by the commanders. I raised some issues with regard to how those were resolved and certainly invited review of that as a matter of internal FBI and Department of Justice review.

It's my understanding, in having spoken with a number of officials from the Department about that, that that review has taken place, and perhaps Mr. Rogers could give you some details on that. But my basic findings were that the Bureau had developed a reasonable response to the crisis. They did not achieve their objective, which was to get—to resolve it without the loss of life. But I did not believe that that was for want of a reasonable plan, given what they knew at the time.

Mr. WATT. Thank you, Mr. Chairman.

Mr. ZELIFF. Thank you.

Mr. Blute from Massachusetts.

Mr. BLUTE. Thank you very much, Mr. Chairman.

And I want to thank the members of the panel for their testimony. And some of you I know have been here a number of times and I know it takes a lot of effort, a lot of time to prepare for it, and we appreciate your testimony today.

My question is to Mr. Rogers relating to the overall strategy of the final raid there with the CS gas. I understand the idea that you want to punch holes in the walls, insert the gas, and then, hopefully, the idea was to force the Davidians outside the compound. But having watched the aerial photography of the destruction of the gymnasium, I'm at a loss to understand what was behind that concept. The tank clearly is not just inserting a hole to insert CS gas. It's actually destroying the entire building. Indeed, the building at one point falls down on top of the tank. I wonder if you could clarify that for me.

Mr. ROGERS. Yes, sir, I sure can. That portion of the compound, as you indicate, was the gymnasium. We knew from the intel-

ligence that we've been gathering over these number of weeks that no one lived in that area. We knew that that was a storage area where they mainly kept furniture and other kinds of items that they weren't using. And what that vehicle was doing was trying to make a path back into where another CEV with the gas—and this one didn't have gas on it—could then at a later time get back towards that bunker complex and then insert gas if that, in fact, was what we chose to do.

You see it on television, and I agree with you, the roof starts coming down, a portion of it. And then it's been said that, well, he climbed up on the roof with that vehicle. Well, the fact of the matter was, is that he had to flatten that if we were to get through that area.

Graphically, it looks like we're trying to take down the structure. In reality, we were not. And we were also on an area that had no one living there, we knew they didn't have offices in there, and basically it was a benign portion of that structure.

Mr. BLUTE. At the same time, you were trying to send a signal in there that you weren't attacking with weapons, that you were—you had microphones putting a message in to the Davidians not to be concerned, that this was just an insertion of some type and not an armed attack. Yet if I was one of those inside and I happened to gaze out the window and saw a tank destroy a portion of the building, I think I would be concerned about an assault.

Mr. ROGERS. And, of course, that was in hour 5½ of the whole operation, when we made the decision to have him try to get a path through that area. So at this—by this time, we'd taken a number of hours of automatic weapons' fire from them. Mr. Sage had been on that loudspeaker the entire time, and we figured that that's——

Mr. BLUTE. So it was an escalation?

Mr. ROGERS. I'm sorry?

Mr. BLUTE. It was an escalation at the time?

Mr. ROGERS. No, it was not an escalation. I mean, how can we—how can you term that an escalation of our——

Mr. BLUTE. Well, you're saying that you were receiving fire and Mr. Sage had been informing those inside that this was not an attack, but what was the point of the—you said that there was more fire coming from the building. Did this cause you to change your strategy in the meantime?

Mr. ROGERS. No, it didn't cause strategy to be changed during the meantime. As I've already testified, we changed the—I gave the compromise order within about 5 minutes, about 6:05, when we started taking fire.

Mr. BLUTE. Let me move on——

Mr. ROGERS. That was the original plan.

Mr. BLUTE [continuing]. Just because I just have a limited time.

Let me ask you one more question about the fire and the tapes of the conversation within the compound about the fire. Mr. Jahn stated at the trial that he could recognize the fire discussions on unenhanced tapes the first time he'd heard them. The FBI couldn't—did the FBI hear those tapes, and they didn't get that message?

Mr. ROGERS. I never received any information whatsoever that they had that information coming from the overhearers. I'm not—

I didn't hear Mr. Jahn, I'm not sure who he is or what his testimony was, but I feel certain if the people who were actually there with the headphones on had that information, it certainly would have been passed to Mr. Jamar and then to myself. I never got that information.

Mr. BLUTE. Thank you, Mr. Chairman.

Mr. ZELIFF. Thank you.

The Chair now recognizes Mr. Conyers from Michigan, 5 minutes.

Mr. CONYERS. Thank you, Mr. Chairman. I've recovered sufficiently from your accusations against the President over the weekend, and we're prepared to wind down these hearings.

As we come to an end, all of us are looking for anything that happened in these hearings after 8 days and nights to indicate not that the—that Attorney General Reno had something to do with this, but now the President. Well, after we've exhausted that bit, the only one left that I can think of is the butler. Maybe the butler did it.

Mr. ZELIFF. Maybe we ought to ask him.

Mr. CONYERS. Yes, I am surprised you hadn't tried to subpoena the butler by now. Here are these witnesses who are up for several times. We keep going over and over this business.

And I just want to ask Mr. Sage and Mr. Rogers—and I thank you for your reappearances—is there anything that all of us that weren't there can say to the American people to persuade them that you were reacting to the most voluminous weapons assault that has ever been visited upon Government agents? I mean, that's what this is all about.

And we got rid of the conspiracy theory now against religious groups and people that harbor weapons. And we're now trying to determine whether the Government agents just decided to go in and take these guys out.

We heard some very weepy testimony about people getting shot up from within. The point is that you were acting, as far as I can tell, in a defensive mode in which there had been something of an ambush. Tell me, finally, I presume this is your last appearance, tell me what we can say to everybody to make this question as definite as possible.

Mr. SAGE. If I could start, from the negotiation standpoint, from the immediate response standpoint, having arrived there on the morning of February 28 at approximately 11 o'clock, what I saw for the entire 51-day siege, Congressman, was a great deal of professionalism at every level, with every component brought forth to try to resolve this matter. I had the privilege of working with some of the best law enforcement officers and agencies that I've ever had the opportunity to do in 25 years in law enforcement. The caliber of professionalism that was brought was unsurpassed. Every possible effort, every possible option that could be identified was fully explored and fully pursued.

The biggest problem that I have, just to cut my comments somewhat short, is that there is such an emphasis placed on testimony before these combined subcommittees on the insights or and I feel genuine beliefs of two defense counsel, that what they observed during the course of a total of 5 days, a total of 28 hours, has ap-

parently totally and completely surpassed the insight of con experts in the area of behavioral science, of negotiations, of tactical, to the point that their 28 hours has eclipsed 215 hours and 51 days of steadfast, aggressive, and honest efforts to resolve this matter without any further loss of life. That bothers me, but I appreciate the opportunity to have brought it forward to this committee.

Mr. CONYERS. Thank you.

Final comments, Mr. Rogers?

Mr. ROGERS. Yes, sir. Very quickly, the reason we chose to use those CEV's, which has been heavily criticized, is that we would not have to fire ferret rounds initially and give the Davidians the impression that we're shooting at them. That's why we chose to insert that gas that way. I know of no other way to insert tear gas that's more benign than choosing that method. Ultimately, we had to resort to ferret rounds, but we didn't want to start that way because we did not want a gunfight.

I'll remind the American people one more time that during that entire time, those 6 hours, and indeed those 51 days, the FBI never fired one shot at the Davidians.

Mr. CONYERS. Thank you, Mr. Chairman.

Mr. ZELIFF. Thank you, Mr. Conyers.

The Chair now recognizes the chairman of the full Committee on the Judiciary, the very distinguished Henry Hyde from Illinois.

Mr. HYDE. Well, thank you, Mr. Chairman.

I just have a comment to make. We have had a few laughs now about the butler did it. That's funny. But as I count up the deaths here, 86, and then if you want to make the leap that Oklahoma City has some connection because it was done on the anniversary of Waco, that's another 160, give or take. So you're talking 246 lives. And for this Congress to try to oversee what in the hell happened and how did it happen, it just seems to be talking about the butler did it a little capricious, a little frivolous. And that's just my opinion.

I yield my time to Mr. McCollum.

Mr. MCCOLLUM. Thank you very much, Mr. Chairman, for yielding to me.

I have Documents Nos. 1 and 2, I would like given to Mr. Sage, if you could, please. And if you have other copies, maybe Mr. Jamar can get a copy. But Mr. Sage is the person who I want to see this.

If you'll look, Mr. Sage, to Document No. 1, it says it's the negotiation team strategy proposal, and has a date of March 22, 1993. I took this directly out of the briefing book that Attorney General Reno had during the final day of her decisionmaking that we had testified to last Friday.

Could you identify that document? Is this one you prepared? There's no signature, there's no name on it. I know nothing about it except it appeared in her briefing book.

Mr. SAGE. This was a position paper that was presented to formalize briefings, continuous briefings that had been provided from the negotiation cell or staff to the onscene commander. It documents a specific assessment, a consensus of the negotiation staff as to where we stand as of the 22d of March.

Mr. MCCOLLUM. This is provided to you?

Mr. SAGE. No, we generated this, myself and Gary Noesner.

Mr. MCCOLLUM. Who would it go to?
Mr. SAGE. It went to the onscene commander as well as——
Mr. MCCOLLUM. To Mr. Jamar in this case, right?
Mr. SAGE. Yes, sir.
Mr. MCCOLLUM. And then who else?
Mr. SAGE. Obviously, copies were shared with the rest of the negotiation team, and the dissemination beyond that point, I'm not certain.
Mr. MCCOLLUM. All right. In the third paragraph of the document, it reads, that the negotiation team believes the long-term prospect for a peaceful resolution remains good. This decision is based on the low suicide potential of individuals within the compound, the lack of direct threats, substantive demands or deadlines in the absence of further violence.
However, the short-term prospect for total resolution is not encouraging. And you go on to say a lot of other things in that memo. At least as of March 22, 1993, you still thought the negotiating prospects were good. I know you've given us some pretty dismal prospects as far as they got down to this impasse idea by early in April. But as of March 22, you thought they were still good, did you not?
Mr. SAGE. The negotiation prospect was never abandoned from the——
Mr. MCCOLLUM. I know it wasn't abandoned.
Mr. SAGE [continuing]. 28th of February through the 19th of April.
Mr. MCCOLLUM. I know it wasn't abandoned. What I'm interested in is the characterization. Because it seems to me, as you reported to superiors, at some point along the way your idea that the prospects were good changed. But as of March 22d, they were still good in your view, right?
Mr. SAGE. The long-term possibilities were still good, yes, sir.
Mr. MCCOLLUM. What was long term in your mind?
Mr. SAGE. Long term was months, certainly beyond days to weeks. Short term—and that is why exactly—the context in which we presented the briefings to the onscene commander, short term meaning the immediate release or surrender of significant numbers, and significant numbers being 10, 20, hopefully all of them, at date certain.
Mr. MCCOLLUM. All right. On the second document you have in front of you is a copy of the transcripts of tapes number 234, 236, 237 and 238 on the 16th and 17th of April. They involve excerpts of those portions of the transcripts of the negotiations dealing with the question of the writings of the Seals.
I believe that for the record and for everybody to have a full flavor of what this was all about and how this was really going with David Koresh and how it was reported to you folks, that you need to read that into the record. And I would like to ask, with permission of the chairman, that you—that you read us, starting on what is listed as page 38, tape 234, beginning where Dick asks a question of Steve Schneider. Would you please read that into the record?
Mr. SAGE. I'm sorry. I didn't know which page you're referring to.

Mr. MCCOLLUM. It's the first page on the top. Well, it's got a cover sheet. If you will turn to the transcripts themselves, I'm referring to the transcript itself, inside. It's the third page in, I guess, maybe on what you have. It's the first page. Does it start—I don't have what you have necessarily in front of me.

Mr. SAGE. Well, I've just been given this. So I'm not as familiar with it as you are.

Mr. MCCOLLUM. It says at the top, "Dick, have you got chapter one edited yet? Tape 234, dated April 16, 1993."

Mr. SAGE. I don't have tape 234. Mine starts with 236.

Mr. MCCOLLUM. Well, would you take him this, please?

Mr. ZELIFF. I would ask if the minority has any objection—this is going to be a while—to him reading this transcript.

Mr. WATT. Mr. Chairman, what—don't these transcripts speak for themselves and aren't they already part of the record?

Mr. ZELIFF. I think the intent here by Mr. McCollum is to read in a flavor as to what happened. We've been talking about Mr. DeGuerin and Mr. Zimmermann's reaction to the peace plan. I think this would give them a chance to explain on their side what actually happened.

If you have no objections, let him read. Otherwise, we'll just let him read a reasonable——

Mr. CONYERS. Mr. Chairman, why don't we just do it within the course of the 5-minute rule?

Mr. ZELIFF. Just so we can tell you up front, and I don't think Mr. McCollum wants to misjudge anything or take advantage of it, he's asked before the red light went on, and they can go on and on. I just asked you if you have any objection.

Mr. CONYERS. Yes, we would rather keep this within the 5-minute rule so we can finish.

Mr. ZELIFF. So then within a reasonable 3 or 4 minutes, Mr. McCollum.

Mr. MCCOLLUM. Well, whatever. If he can read as much as he can that way. We'll come back to it.

Mr. CONYERS. We have already had them in the record. They're accepted.

Mr. MCCOLLUM. Well, if we could please just start on the first page.

Mr. CONYERS. Well, wait a minute. We're discussing an objection, Chairman McCollum.

Mr. MCCOLLUM. Well, if——

Mr. CONYERS. And all I'm trying to point out to you is that we do allow people to go—members to go a minute or 2 beyond the 5-minute rule.

Mr. ZELIFF. Just—I'd like to remind the gentleman from Michigan, my good friend, Mr. Conyers, that last week 2 on your side took 35 minutes in the same process. We don't want that to happen today. If we can, give them a reasonable opportunity, the question's been asked, to let him go ahead and proceed. And let reasonable be, you know, let's say 3 or 4 minutes.

Please proceed.

Mr. CONYERS. Well, I will withdraw my objection on this side and hope that we can move these hearings to as rapid a conclusion as possible, Mr. Chairman.

Mr. ZELIFF. I thank you for your cooperation.

Mr. Sage.

Mr. SAGE. Can you—I stand prepared to do whatever you'd like.

Mr. ZELIFF. What the chairman understands that Chairman McCollum would like to do, is give you an opportunity to summarize, if you can, read specifically, to give us a flavor of this transcript, to kind of, from your point of view, deflect perhaps the weight of the evidence.

Mr. MCCOLLUM. Mr. Chairman, what I'd like for him to do is to read verbatim the transcript, as much as you will allow him to read. I think it's very, very important that everybody in the public domain not have this buried somewhere in a piece of paper in a hearing report. This needs to be understood. I think it's very important. As much as you will let him read of it, I would appreciate it. Just verbatim.

Mr. CONYERS. Mr. Chairman, why didn't he take his 5 minutes to have it read?

Mr. ZELIFF. He's now going to do this. He asked the question at the end, and you can proceed. The Chair now asks Mr. Sage to start reading.

Mr. SAGE. If this committee has 51 days, I stand prepared to read this. I can summarize what was——

Mr. MCCOLLUM. My request is that you read it verbatim, sir. It's not the entire 51 days. These are just on dated April 16, 1993, tape 234, lists at the top page 38 of the transcript itself where it says, Dick, have you got—have you got chapter one edited yet?

Mr. WATT. Mr. Chairman, parliamentary inquiry.

Mr. ZELIFF. Please state your parliamentary inquiry.

Mr. WATT. Is it my understanding that we are doing a second round of questions with this panel or is this—are we near the end of this panel?

Mr. ZELIFF. We worked with Mr. Schumer, and because of folks coming in we agreed to go to a second round for both sides. Both sides agreed to that.

Mr. MCCOLLUM. And I will continue to ask that this be read, as much of my time as I have, throughout the period of the second round, or my own questioning of the first round. But I'd like a reasonable amount of this to be read, what I think was a legitimate request of mine when the light was still on on my side. At this point, if it's 3 or 4 minutes, that's fine.

Mr. ZELIFF. Please proceed.

Mr. SAGE. Well, all right. This picks up in the middle of a conversation between Dick Wren, who is one of the negotiators and Steve is Steve Schneider. And again this is the middle of the conversation.

[The information follows:]

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face every day though, Dick. That's the, that's the first cause. That's the first principle.

DICK: Have you got, have you got chapter 1 edited yet?

STEVE: Chapter 1.

DICK: The first Seal.

STEVE: Does he have?

DICK: Has he --

STEVE: I don't even know because --

DICK: No, see -- you know, I'll bet you 5 bucks, and you'll have to come out to, to get this resolved --

STEVE: David just came down. He just, he just came --

DICK: I'll be he hasn't written 10 words.

STEVE: He, he says I bet he hasn't written 10 words. He just came into the picture just now.

DICK: Great. I'm happy for him. Listen.

STEVE: On the first Seal.

DICK: Yeah, he's on the first Seal now? (David's voice in background not discernible.) I thought you guys had gotten, you know, through the fifth Seal or some such thing.

STEVE: No. No, not at all.

DICK: No, where are you now --

STEVE: That was never stated.

DICK: -- the first Seal?

STEVE: No, here's what happened.

DICK: I mean listen. You know, truthfully where are you?

STEVE: Clint, Clint is the one --

DICK: Pardon me?

STEVE: Clint was the one that asked questions about --

DICK: No --

STEVE: -- where in regards are we in relation to time with the Seals? Like what, what Seal are we in.

DICK: No, I understand that.

STEVE: Okay, okay.

DICK: We've talked about that. But I was --

STEVE: Right.

DICK: -- talking about the manuscript, the writings. What Seal are you currently reviewing and writing?

STEVE: I believe he's still working on the first.

DICK: He's working on the first Seal.

STEVE: Yes. (David's voice in background not discernible.)

DICK: How long --

STEVE: Oh, he says no. He said he's on the

second.

DICK: He's on the second Seal.

STEVE: Yeah.

DICK: Has the first Seal been edited yet? I mean is this --

STEVE: No, it hasn't.

DICK: -- a rough draft?

STEVE: Not that I'm aware of. Because I, I'm the one that is probably going to be doing that. And that's not been done.

DICK: Well, can you give me any kind of time frame at all?

STEVE: Well, from, from my part? From my part it will take no time at all.

DICK: No, I'm not talking about your part. I'm talking about David's part.

STEVE: I -- he can't give you -- I really -- can you give him a time frame as to when the Seven Seals will be finally in manuscript form? (David's voice in background not discernible.) Considering the Bradleys running into the building and all the --

DICK: They may never get done, right?

STEVE: Listen. With all those -- no, it, it slows the process. No, he's doing it, Dick. But you know the noises and all that, you know, of course, it's harder to concentrate. It's harder to get the very

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handled in my personal life. And my understanding was that after the, the Easter season there that you folks would be considering coming out. And so I came back to, to be here when that happened. But unfortunately, I got here a little early I guess.

DAVID: (Chuckling.)

DICK: It appears at least, doesn't it?

DAVID: Oh, yeah.

DICK: Huh?

DAVID: Yeah.

DICK: How you working -- you doing well on your manuscript? Are you, you moving along on that?

DAVID: Yeah. The, the first one's been completed, and as Steve was trying to tell you, you know, that so many of us seem to, to be totally detached from the facts of the, of the Scripture. I mean the extreme persecutions that were received by Christ 2,000 years ago. I mean everybody thought he was a nut. Everybody.

And no matter what he did -- they thought the miracles were of the devil. You know, he doath the works by the power of Beelzebul -- I mean they were, they were directed then. I mean they were in a situation where they had to make decisions right then and there. And most of them didn't have time to. Most of them had their lives to attend to. They were

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STEVE SCHNEIDER: -- say that, but I, I found it maybe a little upbeat that I see something there now. You know, it's, it's that he's got some kind of an answer. He's now working on it. And when it started that day, I mean, I didn't even get to spend any time with him that day because he had those papers scattered around. He actually, Dick, he actually didn't even want to talk with DeGuerin. He said he was so dizzy. And it took him awhile to come to the phone. So, I see -- like whether you believe that or not, I can't help that.

DICK: No. I accept what you say, Steve, and I -- and, and I hope that that's true and I believe that it's true.

STEVE SCHNEIDER: It is. But, you know, again, though -- but I, I'm like you are in that I even -- I don't know myself how long it's going to take. I see what he's doing with that first seal.

DICK: Um-hum.

STEVE SCHNEIDER: He said he's ready on the second, but I haven't even seen the first one. Myself I haven't even -- so, I'm being totally, you know, frank with you.

DICK: Well, why don't you do some research on it and get over there and try to assist him as best

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HENRY: Um-hum.

STEVE SCHNEIDER: But --

HENRY: Do you think that David is working on the first seal or the second seal?

STEVE SCHNEIDER: I, I haven't -- you know, that's what I was -- that's right. You asked me that. And what happened was then -- so, I turned in. It was sometime after 4. I don't know when he turned in. I, I went to bed and he was still up. So, I don't know if he started working on it then -- or I haven't seen him yet. This is the latest, you know, where the day's gone by where I've not seen him. So -- and I, I just went up there about, oh, 15 minutes ago, listened by the door. It was very, very quiet. So, I don't think that he's awake right now.

HENRY: Okay.

STEVE SCHNEIDER: But, you know, last night, between the one conversation, the other one with Dick, the incident, you know, it took a lot of time where he would have been working, I know, for sure.

HENRY: Okay. Well, let's do this then.

STEVE SCHNEIDER: Okay.

HENRY: Do me a -- do me some favors. Okay?

STEVE SCHNEIDER: Okay. Let's hear them.

HENRY: Okay. First of all, find out where he is. Is he working on the first -- is he still on

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the first seal? Is he working on the second seal? Okay. And, secondly, do you -- see what your perception is or, or, or ask him: does he believe that each seal, the second, the third, fourth, fifth, sixth, and seventh, are they going to take about the same amount of time and is he going to -- you know, are they going to be as long -- that is to say --

STEVE SCHNEIDER: I don't think so, Henry, because --

HENRY: Okay.

STEVE SCHNEIDER: -- you know, what I already know myself with the seals, like, say, one, two, three, four, five, they're all different. And I think -- like the fourth seal, as you'll learn, is a very deep seal. It's, it's one of the deepest of the first four, in fact, is the deepest. The first one, I -- it would seem like he's got his done. He hasn't handed it to me. I don't know why yet.

HENRY: Um-hum.

STEVE SCHNEIDER: And I think he said there was like somewhere around -- I, I don't know if he counted real carefully, but he said it's between 28 and 30 pages or something like that, he told me, and --

HENRY: Uh-huh.

STEVE SCHNEIDER: And I know I saw the papers all over the place and --

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HENRY: Yeah.

STEVE SCHNEIDER: -- I asked him when he wanted to give them to me. He says, well, just, just not, just not yet. Apparently, he wants to make sure that it's, it's real clear. I mean, his thoughts are down, and --

HENRY: Um-hum.

STEVE SCHNEIDER: He said he was already work-- he's already working on the second one.

HENRY: He did say that?

STEVE SCHNEIDER: Yeah, he did.

HENRY: Okay.

STEVE SCHNEIDER: I don't know if he, he means he's, he's just begun it or what, but he said he started working on the second. I heard him say that.

HENRY: Okay.

STEVE SCHNEIDER: And I, I've been waiting to get in there this morning. And now, of course, here it is five after two and I still haven't seen him. So, I'm waiting to hear -- or see if he's going to give it to me or whatever else.

HENRY: Okay. Additionally -- well, you said that the fourth seal is probably the deepest one, so that's probably going to be the longest one.

STEVE SCHNEIDER: Well, that -- I wonder myself what he's going to do with that. In the past

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I guess it's down to two of them that she would be using.

HENRY: Okay.

STEVE SCHNEIDER: We checked them all over here real quick. And, and here she is.

HENRY: Okay.

JUDY SCHNEIDER: Hello?

HENRY: Hi, Judy.

JUDY SCHNEIDER: Hi. Who's this?

HENRY: Henry.

JUDY SCHNEIDER: Henry. How are you doing?

HENRY: Just fine. How are you?

JUDY SCHNEIDER: Good.

HENRY: How's the finger?

JUDY SCHNEIDER: Good. What I have is a Sharp word processor. The number is PA --

HENRY: Hold on. Hold on. PA --

JUDY SCHNEIDER: Dash W1410.

HENRY: W1410?

JUDY SCHNEIDER: Yeah. That's the name of the machine.

HENRY: Okay.

JUDY SCHNEIDER: It's a Sharp word processor, PA-W1410.

HENRY: Now, is that a, a manual?

JUDY SCHNEIDER: A manual? No. It's

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HENRY: -- if you wound up with some kind of a problem, you know.

JUDY SCHNEIDER: I don't want to mess with it.

HENRY: Okay. Now, do you know how far David is with the, with the seals?

JUDY SCHNEIDER: Well, I, I don't know how much there is to go. You know?

HENRY: No, no.

JUDY SCHNEIDER: I don't know where he's on the seals.

HENRY: I mean on the first one, on the first one.

JUDY SCHNEIDER: Do I -- I just know what he -- you know, what I've been doing already. So, I don't know --

HENRY: Okay.

JUDY SCHNEIDER: -- how far he is. I haven't talked --

HENRY: And, and --

JUDY SCHNEIDER: -- to him yet today.

HENRY: And have you, have you been typing?

JUDY SCHNEIDER: Yeah.

HENRY: Okay. How far are you?

JUDY SCHNEIDER: How -- well, that's what I'm telling you. I don't know how far I'm into anything.

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you know.

HENRY: No. But I'm saying, you know, have you typed half a page, three pages, ten pages?

JUDY SCHNEIDER: I've got some things on disk, yeah.

HENRY: Okay. But would you say you have ten pages, five pages?

JUDY SCHNEIDER: Let's see. One, two, three -- I've got a couple -- maybe a couple pages.

HENRY: Oh, okay. Okay. Okay. Well, let me see what I can do from this in. Okay?

JUDY SCHNEIDER: And what I'm doing too is I'm trying to get some of the scriptures that I know he's going to be using, even though he hasn't told me, I'm trying to get them on disk so I can just pull them up.

HENRY: Oh, okay. I see what you're saying.

JUDY SCHNEIDER: And then I'll insert what his manuscript --

HENRY: Okay. So, you're typing some of that ahead?

JUDY SCHNEIDER: Yeah. I'm just going ahead on my own right now for -- till --

HENRY: Okay.

JUDY SCHNEIDER: -- till he gives the word.

HENRY: Okay.

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DAVID KORESH: And they get offended. So, then, he leaves. And evidently -- I think I was talking to John Cox or somebody, they were saying that he's down there in the jail. So, he thought he was going to get out and get out.

DWAYNE: Uh-huh.

DAVID KORESH: You know. And, of course --

DWAYNE: Well, you know --

DAVID KORESH: -- Jesse Amen smokes that wild weed stuff and things like that, and that was another influence on him. It, it had been awhile since he'd been around that stuff and he wanted to get back to it.

DWAYNE: Yeah. And that'll certainly affect your thinking. The only thing that concerned is you -- with, with your constant assurances and Steve's that anybody who wants to come out can, it appeared that this time Louis was, was, was arguing with someone about coming out. That's why we're asking for clarification on it.

DAVID KORESH: Oh, no.

DWAYNE: Now, now, just for you, David, can you tell me how the seals are coming? Are you still working on it --

DAVID KORESH: I'm, I'm working on them and working on them and --

DWAYNE: Can you give us a progress report?

David agrees to send out 1st. Seal Chapter.

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We -- I think we've gotten from Steve --

DAVID KORESH: Well --

DWAYNE: -- that you feel you're finished with the first seal.

DAVID KORESH: I'm finished -- well, actually, I'm starting to finish up the second seal now.

DWAYNE: Okay. So --

DAVID KORESH: So --

DWAYNE: So, you're finishing writing the second seal. What about the editing inside? Do I understand that someone may edit and --

DAVID KORESH: Well, well, I'll probably get -- oh, what we was wanting to know was is that --

DAVID TO JUDY: Well, did you ask him yet, Judy?

JUDY TO DAVID: I gave them (indiscernible).

DAVID KORESH: Judy gave a list of some things that we were asking if we might have. I mean --

STEVE IN BACKGROUND: (Not discernible.)

DAVID KORESH: Are they --

JUDY IN BACKGROUND: You're right.

DAVID KORESH: Steve says that ya'll suggested it first. What was it, some ribbons?

DWAYNE: Yeah. Well, I think we can get the typewriter ribbons in.

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JUDY IN BACKGROUND: (Indiscernible).

DAVID KORESH: Okay.

DWAYNE: Yeah.

DAVID KORESH: He says they -- (child crying) -- that would help out a lot.

DWAYNE: Yeah.

DAVID KORESH: Because --

DWAYNE: What would help us too, David, is, you know, some sort of indication that things are moving along, because we're having, having a hard time getting a clear statement. You're telling me you're, you're near finishing the --

DAVID KORESH: The completion of the --

DWAYNE: -- the, the second seal.

DAVID KORESH: -- second seal, second chapter.

DWAYNE: Yeah. Okay. Does that mean those two, as soon as Judy types them, would be ready to, to come out?

DAVID KORESH: Well, that, that could be, but I, I figured I was going to bring it all out as one volume.

DWAYNE: Okay.

DAVID KORESH: I mean, I could, I could do that.

DWAYNE: Yeah.

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DAVID KORESH: And that way, when I do, when I do come out --

DWAYNE: -- to, to, to give to our bosses is, you know, I -- what sort of progress is he making? We'd like to give them as accurate a, a representation that is possible.

DAVID KORESH: Well, at least --

DWAYNE: That's why we keep saying -- all right, you're saying now you're finished with two -- can you give us any --

DAVID KORESH: I'm, I'm, I'm coming to the completion of the second one. Now --

DWAYNE: Yeah.

DAVID KORESH: -- let me explain. See, one thing that, that, that is a difficulty for me is like, you know, in, in every thing that we converse on in regards to, to our work -- is it -- you know, everything's like a push, push, push, push. I am pushing and I don't need any, any other outside influence --

DWAYNE: Yeah.

DAVID KORESH: -- to push, because, you see --

DWAYNE: Well, see, we're not trying to --

DAVID KORESH: In the --

DWAYNE: -- push you, David. Rather, just

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get a clear estimate from you of --

DAVID KORESH: Well, you obviously think --

DWAYNE: -- where you are and --

DAVID KORESH: -- I'm lying. I mean, the other day, day, the guy says I don't believe he's written 10 words.

DWAYNE: Well, that's why we suggest perhaps, if you do have the first two -- the first one completed and the second one near completion, to, to bring that product out with, with --

DAVID KORESH: Okay. Then --

DWAYNE: -- something you show the --

DAVID KORESH: In so doing --

DWAYNE: -- the progress has been made.

DAVID KORESH: -- this is what you have to do. Remember to make sure that these things get in the proper hands.

DWAYNE: Um-hum.

DAVID KORESH: You know, they have to go to these two scholars. And this is -- or Dick DeGuerin's promised me --

DWAYNE: Yes.

DAVID KORESH: -- that he would give it to the scholars. This is not a book to be sold.

DWAYNE: I understand.

DAVID KORESH: This is a book to be -- as I

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DWAYNE: -- certainly show the progress.

DAVID KORESH: I could do that.

DWAYNE: All right. Would you be willing to do that?

DAVID KORESH: Yeah, I'd be willing to do it.

DWAYNE: Okay. So, you have the first one --

DAVID KORESH: Could you --

DWAYNE: -- finished now. Will you --

DAVID KORESH: -- could you send us a, could you send us a typewriter in?

DWAYNE: I -- we're, we're ready to se-- I think we're going to go out and get the ribbons for you. I thought you had a typewriter.

DAVID TO STEVE: What, what is the --

DWAYNE: Judy gave us the --

DAVID TO STEVE: -- status on that, Steve?

STEVE TO DAVID: We have (indiscernible) right now that (indiscernible).

DAVID TO STEVE: Okay. What kind are they?

DWAYNE: Yeah.

STEVE TO DAVID: Ah --

DAVID TO STEVE: Are all the ribbons the same?

STEVE TO DAVID: Ye--

[illegible] TO STEVE: No.

Send out first seal separately

Monday morning

STEVE TO DAVID: No. (Indiscernible).

DAVID KORESH: See, we have -- mainly, we have electric typewriters. Well, they said we've got a couple of --

DWAYNE: Yeah.

DAVID KORESH: -- you know, pusher type.

DWAYNE: Yeah. Judy gave us -- David, Judy gave --

DAVID KORESH: Uh-huh?

DWAYNE: -- us kind of a laundry list or shopping list, I believe yesterday, and she described, actually, three different machines -- a word processor, an electric typewriter, and, and a -- something else. I, I don't think there will be a problem sending in ribbons for those. And she gave us particular models and --

DAVID KORESH: Okay.

DWAYNE: -- so forth. So, I don't see a problem with the ribbon. Maybe we could do this. As soon as we get the ribbons ready, when they're ready to go in, the first seal manuscript would be ready to come out.

DAVID KORESH: No. Well, it's got to, it's got to be put into, into, into the typed form.

DWAYNE: Oh, you want to get it typed? Okay. She hasn't written it. You --

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DAVID KORESH: No.

DWAYNE: -- you have just written it, you have just written it?

DAVID KORESH: Yeah. I wrote it.

DWAYNE: Okay. So, you're saying that as soon as Judy gets the first one typed, that the -- then it could come out --

DAVID KORESH: Sure.

DWAYNE: -- and it'll be given to Mr. DeGuerin and go on?

DAVID KORESH: Now, how -- what's the means whereby you're going to, to show on the TV that these men have these manuscripts?

DWAYNE: How -- well --

UNIDENTIFIED SPEAKER IN BACKGROUND: They'll distribute it.

DWAYNE: Yeah. We will give it to Mr. DeGuerin, and I'm sure, although I can't -- we ca-- we don't control him or the media, that he would indi--

DAVID KORESH: DeGuerin can call or --

DWAYNE: -- that he would indicate to the media that he's given it to him. If necessary, we could patch a call through so he can confirm that he's giving it to Mr. Arnold or whoever else you wanted to. But I have a feeling once it's in his hands, just based on what I've seen when he gets back to the hotel or

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wherever, the media will be there and he can hold up the package and say here is the -- you know, the, the first manuscript that is going -- or the manuscript of the first seal that is going to Mr. Arnold. And I'm sure you'll hear about that.

DAVID KORESH: And he could, and he could send back a copy too, right?

DWAYNE: Send back a copy to you?

DAVID KORESH: Yeah, because, you know, what -- I'll -- you know, the whole thing needs to be together also somewhat as -- I mean --

DWAYNE: Yeah. Of course, you'll use --

DAVID KORESH: -- the manuscript.

DWAYNE: You'll, you'll -- I think Judy said she'd be sending a disk, so you'll have it there on disk. I'm sure those -- I'm s--

DAVID KORESH: A disk? We don't, we don't have a -- we don't have no electricity.

DWAYNE: She said you --

DAVID KORESH: It would be nice if you could plug us back up.

DWAYNE: She said you had -- it was battery-operated. This is what Judy was telling us.

DAVID TO STEVE: Oh, she's got a battery-operated one, Steve? Where, where's Judy at?

DWAYNE: Yeah, because she was asking for

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batteries. David?

DAVID KORESH: I'm here.

DWAYNE: You know, I, I believe these sorts of logistical issues can be worked out quite simply, if, if we're agreeing that it's -- as soon as we can get the, the, the ribbons that she described to us yesterday, you'll get the --

DAVID KORESH: Well --

DWAYNE: -- she -- have her type the first manuscript.

DAVID KORESH: Runs off of batteries. I need to get that -- see, another thing is, is -- what you, what you guys fail to understand is what, you know -- you ever read the Bible yourself?

DWAYNE: Briefly.

DAVID KORESH: Okay. You know, it's, it's got a passionate tonality to it, doesn't it?

DWAYNE: Yes.

DAVID KORESH: I mean, even from, even from the Greek manuscript. But, you know, inspiration is, is the highest form of communication there is.

DWAYNE: I can imagine --

DAVID KORESH: And --

DWAYNE: -- this is -- it's, it's not easy. I've written a few articles myself.

DAVID KORESH: No, no. It's easy. It's,

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you here in a second.

DWAYNE: If there's something we could do to facilitate this, and I think --

DAVID KORESH: You can send some --

DWAYNE: -- we think we talked --

DAVID KORESH: -- milk in too, you know.

DWAYNE: To --

DAVID KORESH: I know.

DWAYNE: Yeah, you snuck that in on me.

DAVID KORESH: Well --

DWAYNE: But perhaps the type-- I mean, we were trying to achieve to reach a common goal here. Now, at least we're working with the same goal, which is to get the manuscript of the seven seals written. And if there's something we could do to facilitate that, and particularly if, by us sending in the ribbons, that would get the first -- the manuscript of the first seal typed and out, that would show progress. It would go to Mr. DeGuerin, just as we discussed. I think that would be a, a, a great step forward.

They were sent on Sunday night - ribbons

DAVID KORESH: Okay. Well --

DWAYNE: All right?

DAVID KORESH: -- let, let me, let me get back up there then and, and --

DWAYNE: Okay.

DAVID KORESH: Here, you can talk to Steve

STEVE SCHNEIDER: Right.

DWAYNE: -- seal that I'm --

STEVE SCHNEIDER: Okay.

DWAYNE: -- giving to Mr. Arnold. So, that's the way I understand it. Is that the way you understand it?

STEVE SCHNEIDER: Yes, the same, the same.

DWAYNE: Well, that sounds good. I'm glad we have a common understanding now.

STEVE SCHNEIDER: Okay.

DWAYNE: So, we'll work on getting those ribbons and we'll be getting back to you as soon as we work something out on that.

STEVE SCHNEIDER: Okay.

DWAYNE: And we've agreed that -- I think all three of us now, you and I and certainly David and I, that as soon as the manuscript of the first seal is typed, it will come out separately.

STEVE SCHNEIDER: Well, that's what I heard him say also.

DWAYNE: Okay. That sounds great. It's nice to -- sometimes I get a bit redundant, Steve, but maybe it's good to be redundant to, to --

STEVE SCHNEIDER: Well, don't -- you know, I mean -- yeah. What happened --

DWAYNE: -- to make sure --

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JUDY SCHNEIDER: -- for if I don't use --

DWAYNE: You heard the press conference just as well as we did.

JUDY SCHNEIDER: Yeah.

DWAYNE: We will be willing to send in --

JUDY SCHNEIDER: Well, you know, I, I could be working on this for a year then. Because if I can use my --

Using the manual typewriter

DWAYNE: Well, wait a minute, Judy.

JUDY SCHNEIDER: -- word processor --

DWAYNE: See, you're, you're going off on what David and I just agreed to. Now, you'd better check with David.

JUDY SCHNEIDER: I'm the typist. I am a professional.

DWAYNE: Well, I'll tell you what, then.

JUDY SCHNEIDER: Okay. I know --

DWAYNE: I'll, I'll talk with --

JUDY SCHNEIDER: -- how you do --

DWAYNE: -- Steve and tell Steve to tell David -- or I'll tell David -- that David and I had an agreement that we would send in the ribbon --

JUDY SCHNEIDER: Uh-huh.

DWAYNE: -- to allow you to type the manuscript of the first seal, that'll be sent out to DeGuerin.

JUDY SCHNEIDER: I'm saying I'll do that. I'm just going to tell you it's going to take me a long time. Because if I have a word processor, I can change --

DWAYNE: Judy --

JUDY SCHNEIDER: -- paragraphs and sentences --

DWAYNE: Judy --

JUDY SCHNEIDER: -- and it only takes me a minute.

DWAYNE: Judy --

JUDY SCHNEIDER: But if I have to use a manual, it's going to take me a long time because I'd have to change every page, you know.

DWAYNE: Let me talk to Steve.

JUDY SCHNEIDER: If I have to change the first page --

DWAYNE: Judy, you're --

JUDY SCHNEIDER: -- that's going to affect (indiscernible) --

DWAYNE: -- whining and you're raising your voice. Let me talk to Steve.

JUDY SCHNEIDER: Yeah. I'm typing it. So, what, what --

DWAYNE: Let me talk to Steve.

JUDY SCHNEIDER: He doesn't want to talk to

Mr. SAGE [reading]. "Dick: Have you got, have you got Chapter 1 edited yet?"

And I don't mean to editorialize here, pardon the pun, but this is Dick Wren, part of the inquiry we have referred to probing regarding production.

Steve's response: "Chapter 1.

"Dick: The first seal.

"Steve: Does he have?

"Dick: Has he—

"Steve: I don't even know because——

"Dick: No, see—you know, I'll bet you 5 bucks, and you'll have to come out to, to get this resolved——

"Steve: David just came down. He just, he just came——

"Dick: I'll be he hasn't written 10 words."

Steve talking to David, apparently.

"He says, I'll bet he hasn't written 10 words. He just came into the picture just now.

"Dick: Great. I'm happy for him. Listen.

"Steve: On the first seal.

"Dick: Yeah, he's on the first seal now?"

David's voice in the background, that's parenthetical.

"I thought you guys had gotten, you know, through the fifth seal or some such thing.

"Steve: No, no, not at all.

"Dick: No, where are you now——

"Steve: That was never stated.

"Dick [continuing]: The first seal.

"Steve: No, here's what happened.

"Dick: I mean listen. You know, truthfully, where are you?

"Steve: Clint, Clint is the one——

"Dick: Pardon me?"

I hope this is making more sense to you than it probably is to the public.

"Dick: Pardon me?

"Steve: Clint was the one that asked questions about——

Dick's response: "No.

"Steve [continuing]: Where in regards are we in relation to time with the seals? Like what, what seal are we in?

"Dick: No, I understand that.

"Steve: Okay, okay.

"Dick: We've talked about that. But I was——

"Steve: Right.

"Dick [continuing]: Talking about the manuscript, the writings. What seal are you currently reviewing and writing?

"Steve: I believe he's still working on the first.

"Dick: He's working on the first seal?

"Steve: Yes."

David's voice in the background, not discernible.

"Dick: How long——

"Steve: Oh, he says no. He says he's on the second.

"Dick: He's on the second seal.

"Steve: Yeah.

"Dick: Has the first seal been edited yet? I mean is this——

"Steve: No, it hasn't.

"Dick [continuing]: A rough draft?

"Steve: Not that I'm aware of. Because I, I'm the one that is probably going to be doing that. And that's not been done.

"Dick: Well, can you give me any kind of time frame at all?

"Steve: Well, from, from my part? From my part it will take no time at all.

"Dick: No, I'm not talking about your part. I'm talking about David's part.

"Steve: I—he can't give you—I really—can you give him a time frame as to when the Seven Seals will be finally in manuscript form?"

Parenthetically, David's voice in the background not discernible, close parens.

"Considering the Bradleys running into the building and all the——

"Dick: They may never get done, right?

"Steve: Listen. With all those—no, it, it slows the process. No, he's doing it, Dick. But you know the noises and all that, you know, of course, it's harder to concentrate. It's harder to get the very"——

I skip to page 44.

Your production is missing three pages.

Mr. ZELIFF. I think that that's a reasonable extension of your time, Mr. McCollum.

Mr. MCCOLLUM. Very well.

Mr. SAGE. Would it be of any value for me to give you some—I've reviewed these at length, including this past weekend, trying to be able to give you the most candid and insightful response. If you're interested in that, I stand prepared to do it.

Mr. ZELIFF. OK.

I think you will have an opportunity to do that before the questioning is completed.

Mr. SAGE. Fine.

Mr. ZELIFF. The Chair recognizes Mr. Schumer from New York for 5 minutes.

Mr. SCHUMER. I'm going to yield 2 of my minutes to Mr. Scott and then I'll give Mr. Sage time to respond on my time.

Mr. SCOTT. Well, first, Mr. Chairman, I am not sure what we are reading. Mr. Sage was—Mr. Sage, were you a party to this conversation? Was your name mentioned?

Mr. SAGE. No, sir, I was not.

Mr. SCOTT. Thank you.

So I don't know what he was reading or why he was selected to read it.

Mr. Jamar, there was in terms of progress being made on the—this interpretation of the seals, apparently there was a computer disk that was taken out that was used to support the idea that work had been done on it. And I think you had mentioned the effect that no electricity might have had on that theory.

Can you restate what the significance of that disk coming out that had some interpretation of the seals on it and whether or not that might have supported the idea that he was in fact following through with his word this time?

Mr. JAMAR. Well, that disk was on Ruth Riddle's person when Agent McGee took her out of the burning compound. The disk was

provided days after the event on the 19th and it was transcribed and I heard—I read in the newspaper that the scholars gave it some significance.

I think there's two things to keep in mind with this disk. Judy Schneider is telling us on either the 16th or the 17th that she can't type because she needs a laptop computer. Apparently, they had some sort of thing because if they produced that disk during that period, somebody had some means of word processing.

I know now they had batteries. The electricity was turned off as of March 12 and not turned back on, but they had a generator and they had batteries and it very well could be within the realm of possibility for them to have a processor that could work off batteries or a generator. That's within the realm of possibility.

Mr. SCOTT. What's the longest those batteries could have lasted?

Mr. JAMAR. With a generator, you can—you can keep them going. But my point is, why does Judy Schneider tell us, "Don't expect much from me soon, I'm doing the typing, don't expect anything because I don't have a laptop," and they have one?

Mr. SCHUMER. Thank you.

You want another minute, Mr. Scott?

Mr. SCOTT. I was going to ask Mr. Jamar and Mr. Sage, since we're repeating some of the things, to remind us of all the times that Mr. Koresh had promised to do something and had failed to do it.

And let me just close that questioning and yield back and you can get as much of that answer out of your time as you would like.

Mr. SCHUMER. He is rescinding the question. I'm going to re-ask it along with just Mr. Sage, you said you thought a lot about things over the weekend, including that transcript and other things and wanted a few minutes to give your views. So let me ask both those questions.

Could you please reiterate, as Mr. Scott had asked, all the times that Mr. Koresh—and maybe others on the panel could help you, although some of them, it wasn't their jurisdiction—Mr. Koresh promised to come out and didn't, and then could you tell us your thoughts given your thinking of the situation over the weekend?

Take your time because I, uncharacteristically, have no further questions at the moment.

Mr. SAGE. Thank you.

There were obviously several times that there were promises, very specific promises made, several of us very hopeful that they would in fact be carried to fruition, including and probably the most glaring one, his guarantee to us if we would play that 58-minute tape on the 2d of March that he and all of the Branch Davidians would exit. We all know that that was not carried forward.

He stated on multiple times that he would come out. I'm not sure if this preparation has been provided to the subcommittee. If it has, I can refer in passing to various excerpts that are specifically listed——

Mr. SCHUMER. Why don't you read them? Read them.

Mr. ZELIFF. We have not been provided that on our side that we are aware of.

Mr. SCHUMER. Well, I would ask, we have gotten it, so I would ask——

Mr. ZELIFF. That's not unusual.

Mr. SCHUMER. Right. OK. I don't know how usual or unusual it is, but I'd ask that we just make it part of the record so everyone can see it and provide it to the other side.

[The information follows:]

A) BROKEN PROMISES TO COME OUT

Date: 3/2/93

HENRY: Okay? I, I know that you're, that you are a man of your word number one. And number two, I know that you know what you're talking about in terms of theology. I'm not as -- I'm not nearly versed as you are, okay? But one of the concerns that I have is I am taking you to your word and that is that you're going to come out and that everybody is going to come out and this thing is going to be resolved without anybody --

DAVID: Getting hurt.

HENRY: Getting hurt. That includes you.

DAVID: Except for what crimes we have to pay for what we've committed that is that. The world so speaks.

HENRY: And that includes you. Am I correct in assuming that --

DAVID: No, it's not an assumption. It's a fact.

HENRY: Okay. Everybody's going to come out, and everybody's going to be fine, and there's going to be no shooting, and there's going to be nothing to, to cause anybody to do anything to hurt you. I don't want anybody to hurt you. Am I, am I correct in my assumption?

DAVID: You're correct on that.

Date: 3/2/93

DAVID: I, David Koresh, agree upon the broadcasting of this tape to come out peacefully with all the people immediately.

Date: 3/2/93

STEVE: I mean he was told to wait. He said, so the same God that showed him the seals and gave him the seals is the same one that said, wait. So, that's -- right at this moment, that's all he can do, right at this moment.

Date: 3/2/93

HENRY: -- based on what I'm hearing on

KORESH: -- exonerates Jim.

HENRY: -- from T.V. and radio,that your credibility is being questioned. We need to get you out. Can you come out? Yes or no?

KORESH: I will be coming out.

HENRY: Okay. Can we --

KORESH: But when my --

HENRY: -- start coming out?

KORESH: No. When my father tells me to come out.

Date: 3/2/93

STEVE: But the only thing he says, just wait. He says I was told to wait and that was -- you know, that's all.

HENRY: Okay. Does he have any sense of how long this wait is?

STEVE: No. In honesty, no, he doesn't.

Date: 3/7/93

DAVID: I do not mind coming out to you. I'm ready to come out to you.

JOHN: Oh, I'd love to sit down and talk to you.

DAVID: The thing of it is, though, John, is that my Father tells me to wait. And I cannot go beyond his commandment.

JOHN: Okay.

DAVID: I love him. And I'm (indiscernible).

JOHN: Then wait.

DAVID: It may not be that long.

Date: 3/11/93

SCHNEIDER: So he's -- He says well, look, you know, he says I'm waiting. He said I can do nothing else. He says I'm waiting, but he says you know, you people have waited now for -- I guess,as he says, it's been over a week, so he's been talking with them himself and I've been trying to do my best.

Date: 3/26/93

JOHN: Several times. He said he was coming out. He didn't come out. You know? He said, we're all going to be coming out of here soon and --

STEVE: Well he, he means that.

JOHN: -- it's two more weeks.

STEVE: That, he means that.

JOHN: Oh, he means that but he hasn't kept his word.

STEVE: When he says he's coming out, when he say's he's coming out, he's going to come out.

Date: 4/2/93

JOHN-5: Okay, David, what can we expect, any sort of activity before or after Passover from you folks?

DAVID: Well, we're hoping to have discussions with the attorney and stuff like that.

JOHN-5: Are you planning on coming out before or after Passover?

DAVID: First of all, the, the attorney, the attorney -- well, after Passover, naturally.

JOHN-5: It's going to be after Passover? Okay.

Mr. ZELIFF. Great.
Mr. SAGE. OK.
I can submit this in as part of the record; is that correct?
Mr. ZELIFF. Absolutely. Without objection, so ordered.
Mr. SCHUMER. I would ask that you go over the highlights.
Mr. SAGE. There are several in here and I'll mention them just in passing. On March 2, Koresh states that it's a fact that he is coming out. March 2, Koresh agrees to come out after the tape is broadcast. March 2, again Schneider states that God told Koresh to wait. March 2, Koresh states he will come out when his father tells him to. March 2, Schneider admits that Koresh doesn't know how long the wait will be. March 7, Koresh states he won't—it won't be that long. March 11, Schneider states Koresh can do nothing but wait. March 26, Schneider states Koresh will keep the promise to come out. And then April 2, 1993, Koresh states that they are coming out after Passover.

Now, these I would have to stress to you are just a few, and that's an understatement. But it did not deter our commitment to continue to try to work with both Mr. Schneider and with Mr. Koresh to resolve the matter and to successfully facilitate their coming out of the compound at any time.

And I would stress that they had that opportunity 24 hours a day, 7 days a week for 51 days, including the 19th of April. They could have stopped that operation at any time, and I made several broadcasts to that regard during the course of the morning of the 19th of April, that all they had to do was demonstrate any type of a signal and we could facilitate the safe and orderly exit from the compound.

There are other excerpts here. I don't know how much you're going to want me to read into the record, but for the sake of brevity and in summation, I would try to put it in this context: From the moment that we heard from the attorneys that there was some possibility that he had shifted his focus and intended to come out after the manuscripts were prepared, we had addressed that issue and followed it diligently. Had that been a viable option, we all would have jumped at the opportunity.

The fact of the matter is we pressed him for signs of good faith, particularly demonstrated through work product. Time and time again he did make reference, he did make reference to the fact that David Koresh—and in fact on occasion Koresh specifically stated that he had finished the First Seal, was using the First Seal to work on the Second Seal, therefore he couldn't send it out.

My recollection is we volunteered to not only duplicate it so that we had some demonstrated proof to bring forward to the onscene commander, but more importantly, we kept stressing to him, "David, we can facilitate that work. If this is your message, if this is your ministry, we will facilitate you producing that document. We'll get you word processors and so forth. Once you come out, it will be provided to you."

And we had that commitment from the McLennan County Sheriff's Department as well as from the U.S. attorney's office and so forth. That was never a hindrance from our standpoint. We stood ready to try to provide him with typists, word processors, dictionaries, whatever he needed, because there was a number of com-

ments made that he didn't know how to spell, his grammar was improper, and so forth.

We were prepared to try to help him over whatever obstacle he faced to try to get that work done, if in fact that was a truthful key to getting those people out safely. We stood prepared to do it then.

I mentioned it again during the broadcast on the 19th of April about 10—10:30 that "David, you've said that you're working on the Seven Seals. We still stand"—and I can read that for you if that's of interest to this joint subcommittee. But we never dismissed it. We addressed it as a potential viable option. But again, we also did not lose sight of the fact that David Koresh, if he had any track record whatsoever, the track record was deception.

Mr. ZELIFF. Thank you, Mr. Sage.

The Chair now yields to Mr. Souder from Indiana.

Mr. SOUDER. Before yielding, I would like to make a brief comment and that is I earlier had asked about the milk question and that Mr. Koresh had asked about the milk, then had released a hostage the next day, and then the FBI report says that he didn't release multiple hostages and we had some discussion.

And at that point, I was told that you didn't negotiate per se, that you kind of you said one thing and they said one thing. And I was kind of confused by that because I kind of let that pass because that was one of the points that they had made that there was a breaking of agreement from their end, too.

And I just wanted to put that in the record because it's kind of murky as to what kind of negotiations you do in that kind of situation on both ends, and clearly both sides thought that there was some not following through.

Mr. SAGE. Can I clarify that for you?

Mr. SOUDER. Yes.

Mr. SAGE. Ultimately, milk was sent in to the children on three separate occasions, up to and including the evening of the 18th of April, still in hopes that we would be able to resolve this matter.

Our intent was to try to negotiate initially and all the way through, frankly, in a classic negotiation posture, that is a demand or a request is made by a hostage taker. Efforts are made to try to provide something that is of value to him in exchange for something of value to us, namely in this instance, the children.

We never had a classic quid pro quo exchange: We'll give you this, you give us that. In fact, when we pursued that tangent on multiple occasions, David Koresh in particular became extremely irate and stated on more than one occasion, "This is not a game we're playing." Whereupon we made it perfectly clear to him that we were fully aware that this was not a game. Parenthetically, there were 4 Federal agents dead, 16 wounded, and we weren't attempting to engage in games.

We did attempt to meet him time and time again at least halfway through the exchange of things that we felt might be productive to him, and in the instance of milk, frankly, productive to us because of our concern for the welfare of the children. I hope that sheds some light on it.

Mr. SOUDER. That expands from the first milk incident and carries it on through.

Mr. SAGE. Yes, sir. Also the first milk, we mentioned during the course of testimony here, we also facilitated the delivery of that milk utilizing Sheriff Jack Harwell. Jack Harwell was selected as a potential third-party intermediary because the Davidians because of their involvement in an altercation, a gun battle in 1987 and subsequent resolution to their best interests in court in McLennan County in 1988, they had expressed some willingness to deal with Jack Harwell.

We specifically orchestrated it so that Jack was the facilitator, Sheriff Harwell was the facilitator getting that milk into the compound, trying to build his bona fides, if you will, as being in a position to not only promise to get things done but to actually deliver.

We would—if Jack Harwell could have facilitated the safe release of those people, if the Ranger Service, if anyone, any legitimate entity could have facilitated it, we would have embraced that opportunity and gone forward with it. I am absolutely certain. That was not the case.

Mr. SOUDER. Thank you.

I yield to Chairman McCollum.

Mr. MCCOLLUM. Thank you, Mr. Souder.

I want to do the quoting myself with the limited time that's here if I can, rather than yield to Mr. Sage. This transcript we were starting to read a moment ago about conversations during conversations regarding bringing out in progress on the interpretation of the seals.

On the same date, the 16th of April, there was a question asked by the negotiator later on, "how are you working," to David Koresh, "You doing well on your manuscript? Are you, you moving along on that." David said, "Yeah. The first one's been completed."

On the same day a little bit later, Steve Schneider is asked about all of this:

"He said he is ready on the second, but I haven't seen the first one. Myself, I haven't seen, so I'm being totally, you know, frank with you.

"Dick: Well, why don't you do some research on it and get over there and try to assist him as best as possible."

Later on the same afternoon, Schneider in answering says: "But, you know, last night between one conversation and the other one with Dick, the incident"—which by the way was the tank bumping into the building—"you know, it took a lot of time where he would have been working."

The next page there is a question being asked, Schneider responding again about these: "You know, what I already know myself with the seals like, say, one, two, three, four, five, they're all different. And I think—like the fourth seal, as you'll learn, is a very deep seal. It's, it's one of the deepest of the first four, in fact, is the deepest. The first one, I—it would seem like he's got his done. He hasn't handed it to me. I don't know why yet."

Then, "Um-hum," says Henry. Schneider says, "And I think he said there was like somewhere around—I don't know if he counted real carefully, but he said it's between 28 and 30 pages or something like that, he told me, and"——

Henry says, "Uh-huh."

And Schneider says, "And I know I saw the papers all over the place and"——

"Henry: Yeah."

"Steve Schneider [continuing]: I asked him when he wanted to give them to me. He says, well, just, just not, just not yet. Apparently, he wants to make sure that it's, it's real clear. I mean, his thoughts are down. He said he was already work—he's already working on the second one.

"Henry: He did say that?

"Schneider: Yeah, he did.

"Henry: OK.

"Schneider: I don't know if he, he means he's just begun it or what, but he said he started working on the second. I heard him say that."

Through this process, then there's some discussion about Judy Schneider on the same day about a word processor——

Mr. ZELIFF. The gentleman's time is expired.

Mr. MCCOLLUM. Very well. Thank you.

Mr. ZELIFF. Thank you.

Mr. SAGE. Mr. Chairman, can I just make one brief comment from a negotiation standpoint?

Mr. ZELIFF. Sure.

Mr. SAGE. We've just heard the Congressman read in the fact that Steve Schneider reports during negotiations that he saw the papers, quote, all over the place.

On the 2d of March, Steve Schneider also quoted that he saw the kids lined up at the front door. Neither one were produced.

Mr. ZELIFF. Thank you.

We see the ATF Agent Jerry Petrilli in the audience who was wounded in the ATF raid, and I think Chief Heineman would like to acknowledge him and perhaps have him stand.

Chief.

Mr. HEINEMAN. Yes.

Jerry, could you stand up a minute?

We've had a lot of things during these hearings being showed, assault rifle, very effective, and that .50-caliber round, very effective. Of course, Mr. McGee has given his story on the day of the fire and I just—I mentioned you and I did not see you in the audience today as you had been last week.

But Officer Petrilli had sustained 43 entry wounds in his body both from gunfire and shrapnel from a handgrenade and I just felt you need to be recognized, not only here in the committee but to the American people.

Thank you, Jerry.

Mr. PETRILLI. Thank you, sir.

Mr. ZELIFF. Jerry, on behalf of all of us up here, too, as well we appreciate your service to your country.

Thank you.

Mr. PETRILLI. Thank you, sir.

Mr. ZELIFF. The Chair now recognizes Mr. McCollum for 5 minutes.

Mr. MCCOLLUM. Thank you, Mr. Chairman.

I'm going to continue to read from these transcripts because I don't know any other way to communicate the flavor of what was

going on with regard to the issue of whether or not anybody should have been paying attention or should have listened more carefully to what was being said about the progress of the writings of the seals during the last day or two.

This is still the 16th of April, 3 days before the CS gas assault. Judy Schneider, who was supposedly typing these documents on page 44, tape 236 says, she has not spoken to him yet today. She hadn't talked to David Koresh.

Henry says: "And have you, have you been typing?

"Judy Schneider: Yeah.

"Henry: Okay. How far are you?

"Schneider: How—well, that's what I'm telling you. I don't how far I'm into anything, you know.

"Henry: No. But I'm saying, you know, have you typed half a page, three pages, 10 pages?

"Schneider: I've got some things on disk, yeah.

"Henry: OK. But would you say you have 10 pages, five pages?

"Schneider: Let's see"——

Mr. CONYERS. Mr. McCollum, what page are you on?

Mr. MCCOLLUM. "One, two, three—I've got a couple—maybe a couple pages."

I'm on page 45, tape 236.

Mr. CONYERS. Thank you.

Mr. MCCOLLUM. "Henry: Oh, OK. OK. OK. Well, let me see what I can do from this in. OK?

"Judy Schneider: And what I'm doing too is I'm trying to get some of the scriptures that I know he's going to be using, even though he hasn't told me, I'm trying to get them on disk so I can just pull them up.

"Henry: Oh, OK. I see what you're saying.

"Schneider: And then I'll insert what his manuscript——

"Henry: OK. So, you're typing some of that ahead?

"Schneider: Yeah. I'm just going ahead on my own right now for—till——

"Henry: OK.

"Schneider [continuing]: Till he gives the word.

"Henry: OK."

Now we move on to the afternoon. This is still April 16 to April 17, tape 237 is where we are in the afternoon of the 17th.

Dwayne talking to David Koresh: "Now, now, just for you, David, can you tell me about the seals, how are they coming, are you still working on it?

"David Koresh. I'm, I'm working on them and working on them and"——

Mr. WATT. Mr. Chairman, parliamentary inquiry.

Mr. MCCOLLUM. Tape 237, top of page 48.

"We—I think we've gotten from Steve——

"David Koresh: Well——

"Dwayne [continuing]: That you feel you're finished with the first seal.

"David Koresh: I'm finished—well, actually I'm starting to finish up the second seal now.

"Dwayne: OK. So——

"Koresh: So——

"Dwayne: So, you're finishing writing the second seal. What about editing inside? Do I understand that someone may edit and——

"Koresh: Well, well I'll probably get—oh, what we was wanting to know was is that"——

I'm going to skip another page over to page 49.

Dwayne says: "What would help us, too, David is, you know, some sort of indication that things are moving along, because we're having, having a hard time getting a clear statement. You're telling me you're, you're near finishing the——

"Koresh: The completion of the——

"Dwayne [continuing]: The, the second seal.

"Koresh [continuing]: Second seal, second chapter.

"Dwayne: Yeah. OK.

Does that mean those two, as soon as Judy types them, would be ready to, to come out?

"Koresh: Well, that, that could be, but I, I figured I was going to bring it all out as one volume.

"Dwayne: OK.

"I mean, I could, I could do that," Koresh says.

"Dwayne: Yeah.

"Koresh: And that way when I do, when I do come out——

"Dwayne [continuing]: To, to give to our bosses is, you know, I—what sort of progress is he making? We'd like to give them as accurate a, a representation that is possible.

"Koresh: Well, at least——

"Dwayne: That's why we keep saying—all right, you're saying now you're finished with two—can you give us any—

"Koresh: I'm, I'm, I'm coming to the completion of the second one. Now——

"Dwayne: Yeah.

"Koresh [continuing]: Let me explain. See one thing that, that is a difficult for me is like, you know, in, in everything that we converse on in regards to, to our work—is it—you know, everything's like a push, push, push, push. I am pushing and I don't need any, any other outside influence——

"Dwayne: Yeah.

"To push because you see"—Koresh says.

"Dwayne: Well, see, we're not trying to——

"Koresh: In the——

"Dwayne [continuing]: Push you, David. Rather, just get it get a clear estimate from you——

"Koresh: Well, you obviously think——

"Dwayne [continuing]: Where you are and——

"Koresh [continuing]: I'm lying—I mean, the other day, day, the guy says I don't he believe he's written 10 words."

Later on Koresh goes on to say at the same page: "You know, they have got to go to these two scholars. And this—or Dick DeGuerin's promised me."

Later on on Saturday afternoon, there is more of a discussion about this.

"Would you be willing," Dwayne says to Koresh, "to do that?" Talking about show the progress. Koresh says, "Yeah, I'd be willing to do it."

And as we go on through this process through quite a bit more discussion about this on Saturday before this raid was conducted, to talking about the absence of a battery. Apparently, Koresh wants to get batteries for the typewriter, he doesn't have any electricity in here and the typist can't get the thing typed. She's talking about it running off batteries throughout this process and there is lot more discussion with regard to that fact. They asked for the ribbons to come in for this typewriter which was an electric typewriter apparently with ribbons.

So consequently the bottom line is simply this: I wanted this into the record. I think it's important to show the flavor of this. Obviously, I understand, Mr. Sage, that you have discounted it, that Koresh had broken his word before, that he hadn't come out and you didn't believe that this was really progress and you thought he was still manipulating, and maybe he was.

But it makes a lot of sense to a lot of people reading the transcript that there was indeed some evidence of progress being made, at least some sign it was there, and it is worrisome for that reason and I thought the transcript ought to be put in the record verbatim.

Mr. ZELIFF. Thank you, Mr. McCollum.

Mr. WATT. Mr. Chairman, parliamentary inquiry.

Mr. ZELIFF. State your parliamentary inquiry.

Mr. WATT. Are we into the second round?

Mr. ZELIFF. No, we are not. We have two on our side, Mr. Chabot—three, Mr. Chabot, Mr. Bryant, and myself.

Mr. WATT. I'm wondering whether we might release this panel while Mr. McCollum finishes reading these transcripts.

Mr. MCCOLLUM. I'm finished.

Mr. ZELIFF. I think he's already finished, as you probably realize. Thank you.

The Chair now yields to Mr. Chabot.

Mr. CHABOT. Thank you.

Mr. Chairman, early on the gentleman from New York read a letter that he had gotten that was sent to you and that was from a lady who happened to be a Republican, had some question about this side's commitment to law enforcement.

I think it might be nice to review at this point on this side of the aisle we have former U.S. attorneys, we have prosecutors, we've got a former police chief here. And I don't think there's really any question about the ardent support of law enforcement that this side has taken over the years.

But again, we not only had—we had the loss of four law enforcement personnel's lives. We had the loss of over 80 civilians' lives, some of them certainly not coming into this with clean hands that were firing at law enforcement personnel.

I have no sympathy for those people but we do have sympathy for the law enforcement personnel. We do have sympathy for the children. So the whole purpose of these hearings—once again, I think we have to keep hitting this home—is to make sure that we learn from the mistakes that were made in this particular incident both at the initial raid and the second one and to make sure that we protect the lives of law enforcement personnel and civilians. We

obviously, I think, we all agree on both sides of the aisle that we never want to have a repeat of anything like this in the future.

Now, just a couple of questions in the remaining time that I have.

Mr. Dennis, you put together the Justice Department's report of this whole situation; is that right?

Mr. DENNIS. Just one of the four reports that you have there. Mine was a critical evaluation of the standoff at Waco.

Mr. CHABOT. OK.

Now, Mr. Sage, let me get to you for a minute here. I want to return to a concept that you were discussing earlier. As I understand it, the final CS gas plan required you to basically call in to the compound and speak with the Davidian, Mr. Schneider, that we've heard his name bandied about a number of times here, and to ensure that the message got through to him and that he would then convey that message to the other people and the message basically was that gas was going to be coming in but this was not an assault; is that correct?

Mr. SAGE. Yes, sir, that is.

Mr. CHABOT. OK.

Now, it's my understanding that the call was made at about 5:59 a.m.; is that right?

Mr. SAGE. Yes, sir.

Mr. CHABOT. OK.

Now, the tanks started rolling fairly shortly after that. Wasn't it around 6 o'clock or so?

Mr. SAGE. I'm not sure of the exact time. I know that it was worked out that I was—there was to be formal notice to the HRT commander that that call had been effected before—before the first track vehicle rolled into the facility.

Mr. CHABOT. You actually made the call yourself?

Mr. SAGE. That's correct.

Mr. CHABOT. And it was Mr. Schneider that you were supposed to contact within there?

Mr. SAGE. Schneider or Koresh. When I first called in, I got a third individual. He said both of them were asleep. I said please—something to the effect of, please, wake them up, it's an important call, they'll want to hear this.

Mr. CHABOT. Do you know who it was that you talked to?

Mr. SAGE. The first person?

Mr. CHABOT. Yes.

Mr. SAGE. No, sir, I don't.

Mr. CHABOT. And you never did talk to Schneider or Koresh.

Mr. SAGE. I did talk to Schneider. He came on the phone about two minutes later maybe.

Mr. CHABOT. Two minutes later. OK.

Let me read again this—because there may have been some confusion here and you may be able to shed some light on this. This is from the report, the Justice Department report. It says: At 5:59 a.m., an individual answered the phone where Sage had been waiting on the other end of the line. The ensuing conversation was short. Sage said: We're in the process of putting tear gas into the building. This is not an assault. We will not enter the building.

The individual responded: You're going to spray tear gas into the building? Sage replied: In the building, no, we are not entering the building. The telephone was subsequently thrown outside.

There seems to be some confusion in that as to whether the person that you were talking to may not have understood what was going on in that conversation. Could you——

Mr. SAGE. There was no confusion.

Congressman, according to my watch that I was keeping, which we—there may be a minute or two disparity with some of the logs, but——

Mr. CHABOT. Is this right in the report, that language, because again let me get back to that language. It says, the individual responded—excuse me. You said: We're in the process of putting tear gas into the building. This is not an assault. We will not enter the building. That's you talking.

Then it says the individual responded: You are going to spray tear gas into the building? And then here's the part. Your response to that is: In the building, no, we are not entering the building. And so it sounds like there may have been some confusion back and forth there.

Is this correct the way this is?

Mr. SAGE. It is correct as it is. The first call went in at 5:56. At 5:59 Steve Schneider, and I'm certain that it was Steve Schneider I had talked to him for 51 days, got on the phone. There was some pleasantries exchanged by him and I immediately got into the prepared text, that we were in the process of delivering nonlethal CS gas—I can read it verbatim if you would like.

Mr. CHABOT. I just read from the Justice Department report.

Mr. SAGE. I'm sure that's accurate.

Mr. CHABOT. And then finally one followup question because I see the time is off there for me.

Relative to that conversation about—did you report to anybody higher up that there had been any confusion or were you satisfied in your own mind that wasn't any confusion?

Mr. SAGE. I was satisfied there was not any confusion. At the same time, I was speaking to Mr. Schneider on the phone, there was a microphone on my bulletproof vest that was also broadcasting to all the occupants inside the compound as soon——

Mr. CHABOT. Let me stop you there again because I'm out of time. It seems like the timing there, that there really wasn't much time for that person. If the phone call was at 5:59, and the report says the tanks started moving at 6, that there really wouldn't have been much time for whoever was on the other line to convey that information to everybody else as to what was happening there. Do you think that——

Mr. SAGE. I think the loudspeakers conveyed it quite vividly when we immediately started broadcasting the prepared text that I can go over with whatever brevity you like. It was very clear. It was very straightforward.

It was the first information relay to the compound that we were in the process of delivering the tear gas, that it would temporarily render the compound unhabitable and that they should exit immediately, according to the surrender plan which had been in effect since the 2d of March.

Mr. CHABOT. But you were satisfied that it was clear with the man on the other end of the line?

Mr. SAGE. Yes, sir, I am.

Mr. CHABOT. Thank you.

Mr. ZELIFF. Thank you.

The Chair now recognizes Mr. Bryant, 5 minutes.

Mr. BRYANT of Tennessee. Thank you, Mr. Chairman.

Good morning, gentlemen. I was a little late for the hearing this morning, I flew in from Tennessee. And making the rounds over the weekend back in my district, I can say that the people, at least in my State, are very much interested in what's going on here and are all for what we're doing.

As Mr. Chabot said, many of us have a law enforcement background. All of you are very committed public servants and I think, too, y'all are as concerned as we are about the alleged black mark that law enforcement has as the result of several recent matters over the last few months, and certainly this is again not a blanket indictment of law enforcement but again our oversight requires us to look into these situations.

Mr. Sage, let me ask you, I don't think—you've been here several times, I'm not sure I've addressed a question to you. Could you just quickly, because, again, I only have 5 minutes, tell me what your religious experts told you was the Branch Davidians' theology in regard to suicide? Did they believe in suicide or not?

Mr. SAGE. The—they did apparently believe in——

Mr. BRYANT of Tennessee. They did not?

Mr. SAGE. Sacrifice which was another area that we got into.

Mr. BRYANT of Tennessee. You're talking about not sacrificing, throwing kids into volcanoes, you're not talking about that kind of sacrifice, human sacrifice.

Mr. SAGE. No, sir. They could cut a very fine line as far as semantics, which we've seen demonstrated here as well, and their concern on several occasions was that when we would suggest the possibility of suicide, they would totally discount it. We did have warnings periodically from a number of experts, both theologians, psychological experts, and so forth, throughout the entire siege that we also needed to be concerned that it may in their context be the possibility of a sacrificial ending, instead of a suicidal ending. All of this was taken into account during the course of the dynamics of this thing for a full 51 days.

Mr. BRYANT of Tennessee. I recall, I believe it was one of the Davidians that testified here or someone familiar with their cause understood that their theology did not allow for suicide, and I just wanted—again, I realize you were under circumstances where you had to consider all options. But I just wonder if there was not undue influence placed on that possibility and maybe undue information given to the Attorney General that there might be really a possibility of mass suicide when certainly these very, very adamant believers of whatever philosophy, whatever theology they had——

Mr. SAGE. Undue influence by us on the——

Mr. BRYANT of Tennessee. Whoever was passing information up to the ultimate decisionmakers in Washington. I would assume that was——

Mr. SAGE. Suicide was obviously a very serious concern of ours right from the onset. And the best way to address it, according to all the behavioral scientists that I talked to, is straight on. And that's exactly what we did, try to resolve it, get a definitive posture from them both through direct questioning, and as I believe I mentioned to this panel before, through indirect, to see if their responses were survival-oriented or terminal in nature, terminal indicating that they may well be considering a path of suicide, sacrifice, whatever.

Mr. BRYANT of Tennessee. OK.

Let me go back to, I guess, Mr. Jamar, there are two points that I raised after you left, I don't know if you watched television the next day or heard any of the accounts, but I expressed concern on a couple of issues, and I'll talk to you about very quickly, probably only one of them, as I see the yellow light is on.

The Attorney General was monitoring as y'all went in that morning with the gas from Washington, and as I understand you, actually had to send in extra gas that morning and actually ran out of gas about 9:30. And you had to order new rounds to come in from Houston, or wherever. But you really were almost out of gas at 9:30. And about that time, I know we're talking semantics, but it appears to me you did shift strategies and advance this 48-hour plan to the point where you did knock down the gym. I know you've talked about that already today, knocked down a portion of the gym.

I asked the panel last week that followed you whether or not the Attorney General, who was on her way to give a speech, had left the command headquarters that was monitoring this and gone out to give a speech. I'd asked had she been made aware of that and again everybody seemed to say, well, that really wasn't a major shift or a major change, and to me it appeared to be that it was, that you basically run out of ammunition and you were—here again, advancing this plan by 42 hours by starting to tear down buildings which to me would have ventilated the buildings even more.

I know y'all were having a difficult time really that morning, that's why you used your rounds up so quickly is because of the winds and the ventilation, and here you knock down a gym and put a big hole in the building. It seems to me the real purpose was to begin the systematic destruction of the building that as the plan called for just 42 hours earlier.

Mr. JAMAR. That's not the case. The—what was happening on the ferret rounds, they were not penetrating. I think the estimate we expended about 3 or 350 and only maybe a third to a half even entered the home—entered the compound.

The—there was information that they were apparently able to go to a place, and places without masks. We either—heard that on the overhears and it was reported. So we got together and said, what can we do to make sure we get into this area?

So discussion was had and we said we'll penetrate the front and we'll go around and send one CEV around the back without gas to make a penetration in order to if we choose to gas in the back later, that there'll be a path.

What happened as he was penetrating that gym, very high ceiling, he knocked over the main support, and the whole ceiling came down, and it was laying sideways. In order to make the path that he was sent around to do, the agent driver backed out and began to just break up that roof so a path would be able to go through it.

But for the construction, but for the fact it was held up for just by one standard, we would have not had that come down. The idea was just a simple path through. It was certainly not a departure, certainly not a leap toward destruction of the building by any stretch of the imagination.

Mr. ZELIFF. Mr. Bryant, your time is expired.

Mr. Taylor from Mississippi for 5 minutes.

Mr. TAYLOR. Thank you, Mr. Chairman.

And I apologize for taking a while to get up here from Mississippi but I have something that I've noticed in the testimony earlier today I believe some of my colleagues have forgotten, why the FBI was there in the first place. So perchance, we can go down the list and you can refresh the memories of my colleagues who have come to think of Mr. Koresh as some sort of a martyr and tell them why the FBI was in Waco that morning.

Yes, sir, please.

Mr. JAMAR. We were requested to come to Waco in response to—request by ATF that they had been engaged in a fire fight with ATF—I mean, with the people in the compound, and four of their agents had been killed and 16 wounded, and we were asked to come in and help them with negotiations, and to ultimately take over to resolve the crisis and resolve the standoff there at the—at Mount Carmel.

The point is that when we arrived, we had—we followed a 45—a minimum of 45-minute gun battle with people in the compound using automatic weapons, possibly .50 calibers and certainly hand grenades. And there were four dead ATF agents and 16 wounded. And we were asked to help resolve that situation and we did it to the best of our ability.

Mr. TAYLOR. Does anyone else have something to add to that?

Mr. SAGE. I would like to also mention that when we got there, we were faced with virtually an insurmountable task from a negotiation standpoint; February 27, we would have been looking at the possibility of negotiating these people out to face 5- to 10-year gun charges.

The afternoon or 11 o'clock on the February 28 when I rolled up as the first FBI negotiator, we were looking at the possibility of trying to negotiate these people out to face multiple charges of first degree murder; entirely different situation, ultimately an insurmountable task, unfortunately.

Mr. TAYLOR. Anyone else?

Mr. ROGERS. Mr. Taylor, I'd like to say that, you know, one of my key objectives was to have no further loss of life among law enforcement and we also wanted no further loss of life among the Davidians. I think if you look at the record, look at everything that was done, each of our efforts was geared in that direction. We were successful in that we lost no more law enforcement. Unfortunately,

we didn't control the events on April 19 and we had those 80 Davidians perish at the hands of David Koresh.

Mr. TAYLOR. Yes, sir.

Mr. MORRISON. Sir, I will take a couple of minutes. I'm low on the food chain in this exercise. I'm a special agent with FBI. I just got a couple of things to say. I've been waiting 2 years. I love this country. I love the flag. I love saying the Pledge of Allegiance. I still cry at the national anthem. I hope, not only law enforcement, but I hope everyone does that.

The FBI is not, as we've been labeled for the past 2 years, antireligious rights or antipersonal rights. We have plenty of freedoms in this country, which I love. We have the freedom to stockpile weapons. I don't see a need for that, but if someone wants to, I don't think there is a law against that.

I know I'm a Christian. I like practicing my Christian beliefs. I know I'm going to heaven when I die with my kids. I teach—in charge of the nursery. Used to do Sunday school. Youth group leader. If someone tries to stop me from doing that, obviously, I'm going to be upset.

Mr. TAYLOR. Mr. Morrison.

Mr. MORRISON. I'm getting to your point.

Mr. TAYLOR. My time is running out, but you can continue after I ask the second question, because we do have some new people.

I want to ask you the same I've asked every panel: Is there anything you've seen or read or heard as a result of these hearings to justify the murder of those four ATF agents and wounding of 20 more by David Koresh and his followers or in any way absolved David Koresh of the death of the 80 of his followers who were used as human shields? Please continue.

Mr. MORRISON. I apologize for taking so much time.

We have plenty of freedoms in this country, I just discussed them, but that does not give me the right to go kill someone, go to my house, using my children as shields, and say I'm not coming out. I've broken the law, I'm not coming out until God tells me to. That is wrong.

I honestly believe with my heart that one of the problems our country is now facing is people love freedoms, but with freedom comes responsibility. There's more than one person responsible for what happened at Waco. It's not Vernon Howell's mom who spanked him when he was 6. It's not the Catholic school teacher who raps his knuckles. It's Vernon Howell and every other shooter that murdered those people that day and attempted to murder the others. And I just want to say that there's nothing absolves—he's guiltier than sin for that, as are those other people.

And one last thing, I promise I'm closing, is you all are legislators. I am not. I don't profess to be. The hearings have been going on for 9 days or so, and I'm going to say this as nicely as I can, because a couple of people have said what can we learn?

In 9 days, I can't learn to be a legislator. In 9 days, y'all can't learn to be law enforcement officers. Byron Sage, Floyd Clarke, Jeff Jamar, Jeff Rogers. Like them or not or like what they do for a living or not, they have been law enforcement officers, some of them longer than I've been alive, and with that comes a lot of experience. Just like a 16-year-old daughter—an 18-year-old daughter. She has

the brain of an adult, the body of an adult, but she doesn't have y'all's life experience.

What I'm saying, you have to trust the people in charge at the time. I'm low on the food chain, so I'm standing by what they did because I do what I'm told as long as it's legal and moral. All I'm saying is as legislators please be circumspect and if—you're the oversight people. Exercise that authority if something gross—by that I mean obvious—stands out. But you have to trust who's in charge, and the people then that did all that stuff had the experience. And that's all I'm saying.

Mr. ZELIFF. Thank you very much.

Your time is expired, Mr. Taylor.

I just make a comment that——

Mr. TAYLOR. Mr. Chairman, as I recall, two people on the panel would be allowed to answer.

Mr. ZELIFF. I think you called—you asked, did you not, everybody?

Mr. TAYLOR. The light turned red, which I recall under the rules which I'm trying to abide by, two people would be allowed to answer.

Mr. ZELIFF. You allowed him to finish answering your first question after you had asked your question, I believe. You asked—he was in the middle. You held him up. You asked your question. They answered the question. Then he finished up his statement. I think that we've been very fair with the time.

OK. I would just like to make a quick comment that our role here is oversight of the Department of Defense, ATF, and FBI. We have tremendous respect for our law enforcement officers in this country and we believe that we're doing the right thing by asking the questions in day nine, and we will do the same tomorrow.

This is not an easy job for you to be here or for us here to be asking the questions, frankly, but we have to get to the truth and we have to somehow make a commonsense answer and report to the American people, how did Waco go wrong, what happened, who did it, why did it go wrong? And hopefully, if somewhere along the lines mistakes were made, they want it fixed. They want to correct it.

And we can't correct that within our own self. We can't write our own internal reports and expect it to be accepted. So what we're doing now is a painful oversight process that makes our country strong. It makes democracy what it is. And I think it will continue to make the law enforcement agencies themselves much stronger in the end. I hope that that is certainly our goal. So I thank you for bringing that up.

I think at this point I would like to do my questioning.

This is for Mr. Jamar and Mr. Rogers. We had probably the best listening devices money could buy in that compound and if you can just describe to me what we were listening to, who was listening, how effective was that, and what were we hearing, not necessarily the transcripts, but what were we hearing relative to any work being done, any of the things that—particularly the 14th and 15th and 16th, were we hearing anything at all.

Mr. JAMAR. I reviewed those transcripts. The thing you need to understand, the best equipment available is very accurate, but it's

not like you're doing a microphone in an organized crime figure's office or house where you put it in and you know where it is, you know whether you are receiving anything.

When we sent microphones in, we weren't sure, No. 1, where they were going to end up. We had no control over that and we weren't certain where they were in the compound. So I mean a lot of times when you look at the transcripts you will see "unidentified male." The—I've described it in the past, because we can't be—you know, in the past we couldn't talk about many of these things. We are not going to talk about the techniques, you're well aware of that.

Mr. ZELIFF. Right.

Mr. JAMAR. What we always said was our intelligence from that sort of thing was always uncertain and inconsistent. But I read as a promise—Mr. McCollum, I read the transcripts for those days and I didn't see anything in there and I looked at it with as broad a point of view as I can, but these are people just talking. And there weren't—there were other references that struck me that we didn't know at the time that we learned later, the reference to, during the same period of time you're reading your transcripts earlier, where Steve is making comments to people, Steve Schneider, making comments, "Do you want to be a briquet," that sort of thing. I don't know what that means. I have no idea.

My point to you is I didn't see anything in there that would lend any—would put any light on—I would love to have an unguarded comment, because I can tell you the ones you read were absolutely guarded because one thing you always tell with Steve, when Koresh was standing there watching what he was saying, listening to him and watching him, if you go back 51 days and have a linguist look at it, Steve always stutters. Steve can't pull it off with David standing there putting the pressure on him. It was happening when you were reading while ago. It just rang true as—I mean, that memory came back to me when it came in the past.

Mr. ZELIFF. Thank you.

I think you were helpful because a lot of people have those kind of questions and you did a good job of answering. I'm just going to read you a couple of questions here. Maybe we can come together with one answer.

Once the assault began, did you at any time receive instructions regarding how to proceed, or was the execution of the plan entirely up to you; in other words, if anything went wrong, did you have a number to call? Did anybody higher up in Washington follow this? Did—was there any indication—I mean, did you have any set of numbers in your pocket that you were supposed to inform people or did you just have complete authority to do anything you wanted to do as you saw fit?

Mr. JAMAR. We maintained an open line with one of the other SAC's the entire period with our command post in Washington. There was an open line maintained.

Mr. ZELIFF. Who was in that command post?

Mr. JAMAR. At Mount Carmel?

Mr. ZELIFF. In Washington.

Mr. JAMAR. I'm sorry. In Washington, I believe the Attorney General was there for a period of time. Floyd Clarke, Larry Potts, I think the Director, there was a staff as well.

Mr. ZELIFF. So when you proceeded to move forward, as far as the back of that building goes, and you recognized the gas wasn't getting in, you had full authority from the command post?

Mr. JAMAR. To make that—to drive around and drive through and——

Mr. ZELIFF. Start going through that building——

Mr. JAMAR [continuing]. Make a path.

Mr. ZELIFF [continuing]. And some of us said demolishing and you said make a path and——

Mr. JAMAR. Well, we didn't—there was one standard holding that thing up. This thing was built with not—I don't think it could handle any inspection of any sort. But that one standard knocked down but, no, there were—I'm certain that they were notified that we're going to do—No. 1, we're going to have Mr. Craig do an insertion of gas in the front and we're going to do a penetration in the back to see if we can make a path for a possible insertion of gas in the back. That's what that was.

Mr. ZELIFF. What happened with the phone line being severed and at what point was it severed and how was it severed and what did that do with your communications?

And the only other question I would throw in that's driving me crazy, that if you expected a fire, how come we didn't have fire equipment on the scene?

Mr. JAMAR. Let me answer your second one. We did not expect a fire. Fire was a definite possibility. There was no question the place was a tinder box, but we did not expect a fire. Had we expected a fire, we would have had a whole another approach. We would have started talking fire with them right then. The other is? What's the——

Mr. ZELIFF. Telephone line.

Mr. JAMAR. I'm sorry. After Byron made his communication that's been described earlier, it was observed that the phone was thrown out. The—in the past, we always worked hard to maintain communication with them. We worked hard to get the phone line around where we would never run over it.

In this instance we lost contact and we had reached out to them to, we need to communicate, we need to communicate. We didn't hear from them that the phone was definitely out until about 9:30. So we said let's find a way to get back in communication with them.

But remember in the past we would approach the compound, put wires out and everything else, but today we're taking hundreds of rounds of automatic fire. And so we had to do a survey to figure out how can we get phone lines back in touch with those people safely. And that was a great concern. We just never accomplished it.

Mr. ZELIFF. Obviously, the phone lines were critical.

Did a tank cut the line?

Mr. JAMAR. I think what happened was that the—they were throwing the phone out. Ultimately, as time passed, maybe I did

cut it, because we permitted Graeme Craddock to go out and get the line so we could try to get hooked up.

Once we discovered that, then we said we—let's get back in communication. But it wasn't as simple as it had been in the days before because they never shot at us before and I was not going to risk an agent's life without feeling real good about how we were going to accomplish that and we never got that opportunity.

Mr. ZELIFF. Thank you very much.

My time is expired.

Mr. CRAIG. I can comment more on that phone line, if you like.

Mr. ZELIFF. Please. I think the phone line was very important.

Mr. CRAIG. That's what we were told. I will explain the steps we took to protect that. From the headquarters came down the word we need to protect the phone lines, so you guys figure out a way to do that. And so we went down to a local vo-tech school and got a 20-foot-long piece of quarter-inch steel and we rigged this up, welded some supports on it and drug it out there.

On either side, we laid timber down first, laid the phone lines in between the timber and covered this up with the quarter-inch plate of steel. We did this all within about 25 yards of that compound. We did it while we were being focused on behind rifles. We protected that phone line. We marked it. We marked the plate with chem lights at night. The drivers all went through that every time they passed through.

Now, when they threw the phone out, that's their business.

Mr. ZELIFF. OK. So you're sure that it was not the tanks that cut the line. It was they who threw the phone out and the lines were cut or were not cut?

Mr. CRAIG. Even on the 19th when we were taking fire we passed—to the best of my knowledge I did, I drove over that steel plate.

Mr. ZELIFF. And the lines weren't cut then?

Mr. CRAIG. I can say that I drove over that steel plate, sir.

Mr. ZELIFF. So we don't know whether the lines were cut?

Mr. CRAIG. I was not the only driver out there.

Mr. SAGE. Excuse me, Chairman.

It wouldn't have made any difference, cut or not. They had thrown the phone out the window. The Davidians did not come out to engage in negotiations from out front of that compound; they were too busy firing at the tanks. So when they first brought it to our attention that they needed their phone fixed, it was 3 hours after the incident started.

Mr. ZELIFF. Was it possible that they threw the phone out because the lines were cut? We don't know.

Mr. SAGE. No, sir. I don't believe so. When I got on the phone with Steve Schneider, we had clear conversation. In fact, his first comment to me was it's nice hearing from you, and then I launched into the prepared text. He was the one that terminated the phone. I'm not a technically trained agent, but I've been hung up on before in my life and that's how it was.

Mr. ZELIFF. Thank you very much.

Ms. Slaughter, would you like your time or would you like to pass to our side.

Ms. SLAUGHTER. I would like to pass.

Mr. ZELIFF. You pass to our side.

OK. Mr. Ehrlich from Maryland.

Mr. EHRLICH. I yield my time to Mr. McCollum, Mr. Chairman.

Mr. MCCOLLUM. Thank you very much, Mr. Ehrlich.

I would like Document No. 3 passed out to Mr. Jamar, if you could, and while you're doing that, I want to ask a question both to you, Mr. Jamar, and to you, Mr. Sage, and I guess Mr. Rogers as well.

Did any of the three of you talk to anyone at the Justice Department after April 15, that is on the 16th, 17th, or 18th, and before the 19th—in other words, those 3 days in between the 19th and the 2-hour discussion that Mr. Sage had on the 15th? And quite a bit of activity went on on the 14th and 15th, but did any one of the three of you talk to anybody, not the FBI now, but at the Justice Department whether that would have been Hubbell or whomever on the three days, the 16th, 17th, or 18th?

Mr. JAMAR. No, sir.

Mr. MCCOLLUM. Mr. Sage, did you?

Mr. SAGE. Starting from the bottom, absolutely not. My briefings went to Mr. Jamar. I was not in communication——

Mr. MCCOLLUM. Mr. Rogers, you didn't either.

Mr. ROGERS. No, I did not.

Mr. MCCOLLUM. That's fair enough.

Did any one of the three of you discuss the status of the negotiations with anyone in Washington, not the Justice Department now, anyone in Washington after the 15th? Mr. Jamar.

Mr. JAMAR. I'm certain I discussed them with Larry Potts, the Assistant Director at the time. And at night I probably discussed them with Danny Coulson who was his deputy.

Mr. MCCOLLUM. What would you have told them?

Mr. JAMAR. The status, what's happening right now. This is——

Mr. MCCOLLUM. Basically, it was still an impasse, you didn't see any progress.

Mr. JAMAR. No, the impasse we'd already described. I'm saying we had nothing new. Mr. McCollum, we would discuss two or three times a day, you know, what's going on so far. So this is where—we described where we are.

Mr. MCCOLLUM. What I was really trying to get at was that there wouldn't have been any transcripts of these conversations that I was reading from made and shipped up there by that time and this was an ongoing thing. You didn't have overnight transcriptions of the discussions of the negotiations, I'm sure.

Mr. JAMAR. No, sir. We had shift reports of significant events.

Mr. MCCOLLUM. All right.

Nothing stands out in your mind particularly that you said to them about the negotiations, nothing—no significant event in the negotiations took place that just strikes you that you told them about during those 3 days?

Mr. JAMAR. I would tell them what was going on. It would be some of the stuff you read earlier.

Mr. MCCOLLUM. About the ribbons and the typewriter ribbons?

Mr. JAMAR. We would have told them we were sending in ribbons on Sunday. We would have told them that probably, yes.

Mr. MCCOLLUM. Let me ask you about this document No. 3 that you have got. This appears to be a memorandum dated April 17 from Park Dietz to Jim Wright. Who is Jim Wright?

Mr. JAMAR. Jim Wright is a behaviorist assigned to that—Quantico, the same unit that Mr. Smerick was in.

Mr. MCCOLLUM. Have you seen this document before?

Mr. JAMAR. Yes, sir.

Mr. MCCOLLUM. All right. This is a very, very careful discussion by Dr. Dietz, who I know was a consultant on all of this, pretty well saying he didn't see any chance for these negotiations to go anywhere.

What I'm concerned about particularly is at the end of it and in his third paragraph, he outlines a number of points and he says:

I do not believe negotiating in good faith will resolve this situation as it now stands. If everything continues as it has been going, I expect the following

And then he lists a bunch of stuff here.

The last two are what I really am interested in, though I don't mind your commenting on any of them, but it says:

The authority of the FBI in all of its operations will continue to weaken if these negotiations continue and the impasse isn't broken.

And the second one is:

The press will focus increasingly on the cost of the operation and begin asking questions about the White House role in the operation, how the expense can be justified, and whether the situation might have called for a more courageous approach.

First of all, what I'd like to know is, is this an accurate portrayal of what you were thinking or was this just Dr. Dietz's thinking? Did these observations have any bearing, as far as you know, on the reason why you went forward on the 19th, either one of these latter two?

Mr. JAMAR. Well, the business about the press and all that certainly not. The costs were not a concern. I take it back. We were concerned about—we didn't throw money around. We didn't waste things. We were very conscious of that. We didn't have planes flying all over and all that.

That was not a concern to us at that time. The concern was to resolve the matter peaceably. The part about it will weaken, that was not a concern at all. We were there to resolve that matter there in the best way we could do it and these are issues that were not even——

Mr. MCCOLLUM. You did not believe that continuing to have the impasse out there for an extended period of time beyond where you would have affected negatively the operations and authority of the FBI generally?

Mr. JAMAR. Sir, I had a lot of other things on my mind. I was not concerned about that at all.

Mr. MCCOLLUM. Just for what it's worth, this was part of the Attorney General's briefing book, and I just thought you might shed some light on that.

Thank you.

Thank you, Mr. Chairman.

Mr. ZELIFF. Thank you.

Ms. Slaughter.

Ms. SLAUGHTER. Yes. Thank you, Mr. Chairman.

I will only take a few minutes. I think I've spent more time with you gentlemen in the last week than I have my staff, but I would—and I wish I could have asked this last week to try to follow up a little better with people who were here that might know.

Were any of you involved with Mr. Doyle at all as he escaped from house—the compound?

You were, Mr. McGee?

Mr. MCGEE. Yes, I was.

Ms. SLAUGHTER. Mr. McGee, there were a couple of things that he said to me that I would like to give you a chance to elaborate on.

First was that he had camp fuel, stove fuel on his shoes and that he had cigarette lighter fluid on his cuffs. Now, when you first saw him, were his hands burning, were his hands on fire?

Mr. MCGEE. Yes, they were.

Ms. SLAUGHTER. He complained as well that he was badly manhandled and was not well-treated and he cut himself on wire.

Would you comment on his treatment?

Mr. MCGEE. Well, I can. To articulate what happened to Mr. Doyle, he was one of the group that came out from the red side right after the fire had begun, and after he came out, they amassed in a huddle on the red-white corner.

Ms. SLAUGHTER. The people who came out.

Mr. MCGEE. All the Davidians who had come out of the fire. It was at that time that I noticed all of them were wearing some form of woodland cammy pant, top, cover, something like that, and to my knowledge, all of them were wearing a holster or carrying a sidearm or a shoulder weapon, magazine.

Ms. SLAUGHTER. Including Mr. Doyle?

Mr. MCGEE. Well, unfortunately, at that time, they were all huddled together. I could see them dropping their weapons. At the same time, I was worried about more than just watching who had a weapon, who didn't, just the fact that they were dropping their weapons——

Ms. SLAUGHTER. So the point is as you saw these people coming out, obviously some of them burning, the first thought you had was they were armed?

Mr. MCGEE. Yes.

Ms. SLAUGHTER. Subsequently, you found that many of them were?

Mr. MCGEE. Yes, and because I was unable to specifically put a weapon on Mr. Doyle, he escaped prosecution, but the bottom line is I was also worried with people who were firing at us still from inside the compound and the fact that maybe other individuals would be coming out. So we had our attention somewhat, you know, directed on several different ways to include watching this mass of Davidians who were disarming themselves.

Ms. SLAUGHTER. Mr. McGee, Mr. Doyle also stated that he—there was no fuel inside, which I think we have proven is not so. But he claimed that he got it walking outside as he came outside the compound.

Do you have any knowledge at all of any fuel being spilled on the ground outside that compound?

Mr. MCGEE. Well, there was fuel on the ground in fact——

Ms. SLAUGHTER. Camp stove fuel.

Mr. MCGEE. Yes. The whole place was like a toxic waste dump, not only attributed to fuel but the fact that they had no sewage disposal system and they never had.

Ms. SLAUGHTER. So he could have not gotten the oil on his shoes until after he escaped?

Mr. MCGEE. In one way David Koresh deceived us, the negotiators and FBI and the American people and his followers. He would negotiate to allow one of his Davidians to come out and pick up maybe a pair of glasses, milk——

Ms. SLAUGHTER. Let me ask about that as well. In the 51 days people were not allowed to go in and out of there, does anyone have knowledge whether the Branch Davidians had access to leave, come and go in that compound as they pleased? One said he did. It is my understanding that is not so.

Mr. MCGEE. No, they negotiated and allowed—occasionally, one of the Davidians would come out and go to one of the vehicles that were parked in front to get a personal item. But then, conveniently, they would divert and on the way back in with that personal item they would pick up items left by ATF when they were fired upon to include 9-millimeter handguns, magazines of ammunition, ballistic helmets and ballistic shields, all these items, to go in and further fortify their position.

Ms. SLAUGHTER. Let me yield the rest of my time to my colleague from New York, Mr. Schumer.

Mr. SCHUMER. Mr. Scott.

Mr. SCOTT. Thank you. We have a very difficult situation here, because I don't think anybody could have predicted that David Koresh would burn the place down and the children would not leave, notwithstanding the tear gas. We know what happened, and we knew that there was a chance children might die.

The ranking member has indicated that one question is, if the Attorney General had all this information what other decision should she have made at that time. I think there is another question that I would like to ask and that is: If we were faced with the same situation, knowing what we know now, what would we do different? I would like some level of comfort that we would get a different result than dozens of children dying as a result of us trying to serve a search warrant or arrest someone.

Now, the ATF, when they were asked the question, pointed out there was no question they were subjected to an ambush by David Koresh that was his fault, but they went to great lengths to say what mistakes they had made and how they could have gotten a different result. And Secretary Bentsen, when asked that question, went on for about 5 minutes to say how they could have achieved a different result.

Can someone, knowing what we know now, say whether or not children would have to die if we try to arrest a person bent on burning the place down and possible mass suicides? Is there anything we could have done different so the next time we get a different result?

Mr. ROGERS. Sir, we have already answered that question when I testified previously that, had I known that this was going to take place, we would not have inserted gas on the 19th. There is no way

that I or any other law enforcement officer can sit here and say there is a way to prevent those children from dying when the individual who made that decision to kill them is David Koresh.

In other words, if we did nothing—if you look at the options, one option would be for us to do nothing. If we did nothing and then Koresh decides to bring about this apocalyptic ending, then we will be criticized for sitting there and doing nothing, but the children still die.

I guess what I am trying to say is, there is no way that you can absolutely guarantee the results when you have a standoff with the kind of weaponry in there that we faced at that compound.

Mr. DENNIS. That is one of the questions I tried to answer, at least in the abstract, in my report.

One thing to keep in mind about this situation is that Koresh dealt in sort of a disinformation campaign. He never expressed his true intentions, even with regard to the question of suicide. He denied that he would commit suicide on eight separate occasions when asked specifically by the negotiators.

There were Branch Davidians that came out during the 51 days, and many of them were interviewed. A number of them spoke of suicide plan involving poison. Others talk about gunshots. Others talk about explosives.

There were psychiatrists that interviewed the children in the compound, and they had overheard discussions about suicide. But then the former Branch Davidians, who were also interviewed on this point, stated that it was Koresh's teaching that only if law enforcement brought about his death would his prophecy come true.

So you had all this conflicting information about what Koresh's true intentions were, and it is my belief that when the Bureau made the decision to go forward they realized that suicide was a risk, but they did not believe that Koresh would respond to the tear gas assault with the fire and a mass suicide murder.

Mr. ZELIFF. Thank you.

The Chair now recognizes Mr. Shadegg.

Mr. SHADEGG. Thank you, Mr. Chairman.

Let me ask a question, Mr. Jamar, of you. As I understand it, the gas plan began at 6 a.m., following the telephone conversations that Mr. Sage had with Mr. Schneider that morning, is that right?

Mr. JAMAR. Correct.

Mr. SHADEGG. As I understand the record, by 6:04 you had begun taking rounds, and at that point you switched to the more aggressive plan?

Mr. JAMAR. Mr. Rogers described that earlier. At least at 6:04—Mr. Craig may be able to add to when he thought he was receiving fire—but it was reported on the radio to Mr. Rogers that there was fire, either by observation of the people in the CEV—he then, rather than order the change, checked it again and verified. Approximately 4 minutes later, as he testified, then is when he said the compromise plan—and that is when the ferrets were used to primarily put gas up in the tower there.

Mr. SHADEGG. From that point, the ferrets were used to insert gas, and the pace of inserted gas increased dramatically. At what point did the pace of inserting gas increase?

Mr. JAMAR. The pace increased in order to suppress the fire, hopefully.

As far as the sequence by the CEV's to insert gas from the Mark V system, the original plan was to insert gas at the green and white corner there and then back away and discuss matters, but that was preempted by their firing upon the CEV.

The sequence of the next order of putting gas in the building was the same as we had planned in an incremental insertion of gas. It was to bring them to the middle, take the place away from them and make it uninhabitable as best we could.

Mr. SHADEGG. I am trying to get to the issue of timing. How soon was a decision made to fire the ferret rounds and in what quantities?

Mr. JAMAR. I think it was immediately, is that each of the Bradleys had an assignment. Once that was given, those various windows and/or other openings were the targets for the ferrets.

Mr. SHADEGG. You mentioned in your testimony earlier that, apparently, a significant number of the ferret rounds were not, I think you used the word, penetrating.

Mr. JAMAR. My impression was they didn't enter the compounds. They hit the wall. They thought that maybe they could go through plywood, very light plywood, or hit a drape. If it hits a drape, it may drop straight down.

Mr. SHADEGG. The testimony or the evidence we had was that the ferret rounds would go through three-quarter-inch plywood.

Mr. JAMAR. We thought so. But it was 4 to 5.

Mr. SHADEGG. So what you are saying is either they were not getting in or that they were not going far enough into the building to reach the area you wanted?

Mr. JAMAR. No. They were either not penetrating fortified plywood——

Mr. SHADEGG. So they were hitting the building and dropping on the outside?

Mr. JAMAR. Yes.

Mr. MCGEE. Maybe I can offer some explanation on that. That was my responsibility. I was the grenadier. I was manning the M–79's inside one of the Bradleys during the gas insertion.

The Davidians, because they had been forewarned that we were going to have gas insertion, they had further fortified a lot of windows, hung blankets up, laid mattresses against the windows, stacked boxes of dry goods, bales of hay to, basically, prevent the rounds from coming in. When I fired the ferret rounds, they would bounce off.

Not to mention the fact that a lot of the walls, which I didn't realize, I thought they were maybe a CDX plywood, maybe two layers, they were concrete all the way back to the gymnasium on the red side. The whole wall was fortified concrete wall.

Mr. SHADEGG. Mr. Jamar, in questioning last week, I believe on Thursday, going over the timing of when you went to the decision to do the construction or to take the standing into the gymnasium at the back, Mr. Clarke became perturbed and asked if we had read this report, which it appears we did not have this report, but his point was that in the operations plan, which is in this report, there is a line that says, if at any time the subject opens fire, the

FBI rules of engagement will apply, and appropriate deadly force will be used. That was his explanation for the use of the tank on the gymnasium and that that was a part of the disassembly of the building which is discussed in the operations plan.

From what I understand from your testimony this morning, Mr. Jamar, he is just dead wrong about that. That was not a part of the disassembly of the building. It was rather to get the tank through to that center section from the back. Is that correct?

Mr. JAMAR. It was not part of the plan to disassemble the building, no way it was. It was to get a path through so if we decided we want to get gas in the back that we could bring in our CEV with gas. The CEV that made that penetration did not have capability of inserting gas. We never got that far to decide to insert gas back there. That was not part of that. It was to make a path. It turned out we knocked the standard down, and the whole thing came down.

Mr. SHADEGG. We watched a tape, and we have seen how the building did come down. But the purpose of the tank, at that point, was to get a path to what is called the bunker.

Mr. JAMAR. The area. The bunker was way inside. There was a large room there, the kitchen eating area.

Mr. SHADEGG. And there was insufficient room between the side of the building and the swimming pool.

Mr. JAMAR. Yes. We were very fearful of the swimming pool, because the concrete was so bad, that the CEV would collapse and tumble in.

Mr. ZELIFF. Your time has expired.

Mr. Coble, the gentleman from North Carolina.

Mr. COBLE. Thank you, Mr. Chairman. I yield my 5 minutes to the Chair.

Mr. ZELIFF. Thank you.

A March 5, 1993, memorandum from Special Agent Smerick and Special Agent Young to the Special Agents in Charge at Waco, which is included in the Attorney General's Waco briefing material, states the following: It should be noted that more children have been released from the compound when tactical forces were maintained at a greater distance than when they had been moved closer. If these forces continue to move closer to the compound, the increased paranoia of these people could result in their firing weapons, thus encouraging retaliation, leading to an escalation of the violence.

The question is, this observation recognizes the strong possibility that an aggressive move against the compound could lead to more violent confrontation. Why was this information disregarded, Mr. Jamar?

Mr. JAMAR. It was not disregarded. Remember that most of the children came out before March 2. There was no armor visible until the evening of March 2, because we would do nothing to interfere with the flow of children coming out of there. It was also the day of his promise to bring himself and all of his followers out.

During that period, we had no perimeter, so we had to establish a perimeter safely. We described to you before and earlier today that we would get close to that place. We would not subject our agents to gunfire, as they had demonstrated only the previous Sun-

day morning. We would not subject them to that gunfire without as much protection as we could provide.

About the only protection we had at hand was the Bradleys. That protection was used and did go to the Sierra One, which was that house across the street, not on their property, and we did establish around the back, which became Sierra Two, which was the dairy barn which was their property. But that was the minimal thing to establish—to try to establish a perimeter and to protect our agents. That was a minimal contact. They complained about it, but children still came out after that. Children still came out as of March 5. He announced to us on March 7 no more children would be coming out.

Mr. ZELIFF. On March 9 the memorandum from Smerick and Young to the Special Agents in Charge at Waco recommends that certain nonoffensive actions be taken against Koresh with the aim of demonstrating to Koresh that he was no longer in charge.

Recommended actions are advocated because they would buy time, the most critical factor in successfully resolving hostage barricade situations. The passage of time tends to physically and psychologically wear the subject down and makes him more willing to surrender. The memo clearly recognized the importance of the passage of time in seeking to resolve the crisis; yet within 41 days of the memo, a relatively short time span from Koresh's perspective, tanks were crushing in the walls of the compound. The FBI neither waited nor refrained from offensive actions. Why did the FBI choose to not follow the advice of Smerick and Young?

Mr. JAMAR. I had difficulty hearing you. But the memo he did with all these recommendations on the 7th, I think the one you are talking about is the 9th.

Mr. ZELIFF. Yes.

Mr. JAMAR. That is the one he said he was told to change, didn't he say that the other day? Or he got the impression he should change it. I don't think there is anything that we did that did not follow his recommendations.

The presumption is that we began doing tactical operations immediately. We did not. We didn't do anything other than to establish that perimeter and have the armor to protect our agents until 15 March when we moved some debris from the back that they were going out and using to fortify the place, and they were also coming out. We worried about something being provoked by them.

I think Chief Heineman asked me and several others what message do I want to get across here. The message I want to get across, more than any other, is that we were extremely deliberate, extremely careful and with absolute restraint on everything we did. We walked on eggshells in the beginning, Mr. Chairman. There were things we were doing in late March that we didn't dream of doing the first 2 or 3 weeks.

David became immune, probably, to the tanks. They became immune to the activity. It was just part of life to them. Sometimes he would complain because it gave him something to complain about, but, at the end, the sounds, the activities of the tanks meant nothing to him.

The only time Koresh complained about all—the removal of all that debris and automobiles was on the Sunday the 18th we got his Camaro, and he got upset. It was just towed away.

But the message to get across here is, none of these memoranda were ignored. I think one of his memos here on the 7th, I think he had 20 considerations. I think we did 17 of them. But never did we say there is going to be a tactical solution to this.

We started out on the 19th saying, we will put gas in. If they had started talking to us, that would have been the end of it right there. The last thing we wanted was a tactical solution to this matter, the last thing. Because what it does, it puts everyone in peril, including our people. That is the last thing we ever wanted.

Mr. ROGERS. The reason it took us until April 19 to finally clear out the debris and the cars and fence around that compound is because we listened to those memos, we listened to the advice from Mr. Smerick and others, that we had to be deliberate, that we had to go slowly on this thing so as not to get them riled up and have them initiate something. So it took us almost 2 months to finally clear out the debris around the building simply because we did listen.

Mr. ZELIFF. The only thing I worried about with Mr. Smerick was his changing the tone of his memos. I believe it was the fifth memo to please his superiors that bothered me a lot.

Mr. ROGERS. I think he went over that in great detail.

Mr. ZELIFF. This completes this round of questioning by mutual agreement. Both sides would like—rather than have a full second round, we will do 10 minutes on each side, breaking it up into 5-minute segments. We will break for about 45 minutes for our final panel.

So, Mr. Schumer from New York, you have 5 minutes.

Mr. SCHUMER. All right. Since this is 10 minutes can we break it up in shorter segments? I have more than—I want to yield 2 minutes to Ms. Jackson Lee.

Mr. ZELIFF. Your clock is running on your 5, and I will keep track of your 2 for you.

Ms. JACKSON LEE. Thank you very much.

I had mentioned earlier, because of the furor of responsibility issue dealing with the President of the United States, Mr. Chairman, I ask unanimous consent to submit for the record a document or a page coming out of presidential documents administration of William J. Clinton, 1993—April 20, 1993—the President's news conference, page 461.

Repeating, I was informed of the plan to end the siege. I discussed it with Attorney General Reno. I asked the questions I thought was appropriate for me to ask. I then told her to do what she thought was right, and I take full responsibility for the implementation of the decision.

Some dispute as to what the President of the United States said on this issue. Again, I remind people of the tragedy of Lebanon under the leadership of President Reagan, that these are very difficult and tragic decisions to make. I ask this be submitted for the record.

Mr. ZELIFF. Without objection, so ordered.

[The information follows:]

The White House

Office of the Press Secretary

For Immediate Release April 20, 1993

Remarks By The President
In Question And Answer Session With The Press

The Rose Garden

1:36 P.M. Edt

The President: On February the 28th, four federal agents were killed in the line of duty trying to enforce the law against the Branch Davidian compound, which had illegally stockpiled weaponry and ammunition, and placed innocent children at risk. Because the Batf operation had failed to meet its objective, a 51-day standoff ensued.

The Federal Bureau of Investigation then made every reasonable effort to bring this perilous situation to an end without bloodshed and further loss of life. The Bureau's efforts were ultimately unavailing because the individual with whom they were dealing, David Koresh, was dangerous, irrational, and probably insane.

He engaged in numerous activities which violated both federal law and common standards of decency. He was, moreover, responsible for the deaths and injuries which occurred during the action against the compound in February. Given his inclination towards violence and in an effort to protect his young hostages, no provocative actions were taken for more than seven weeks by federal agents against the compound.

This weekend I was briefed by Attorney General Reno on an operation prepared by the Fbi, designed to increase pressure on Koresh and persuade those in the compound to surrender peacefully. The plan included a decision to withhold the use of ammunition, even in the face of fire, and instead to use tear gas that would not cause permanent harm to health, but would, it was hoped, force the people in the compound to come outside and to surrender.

I was informed of the plan to end the siege. I

discussed it with Attorney General Reno. I asked the questions I thought it was appropriate for me to ask. I then told her to do what she thought was right, and I take full responsibility for the implementation of the decision.

Yesterday's action ended in a horrible human tragedy. Mr. Koresh's response to the demands for his surrender by federal agents was to destroy himself and murder the children who were his captives, as well as all the other people who were there who did not survive. He killed those he controlled, and he bears ultimate responsibility for the carnage that ensued.

Now we must review the past with an eye towards the future. I have directed the United Stated Departments of Justice and Treasury to undertake a vigorous and thorough investigation to uncover what happened and why, and whether anything could have been done differently. I have told the departments to involve independent professional law enforcement officials in the investigation. I expect to receive analysis and answers in whatever time is required to complete the review. Finally, I have directed the departments to cooperate fully with all congressional inquiries so that we can continue to be fully accountable to the American people.

I want to express my appreciation to the Attorney General, to the Justice Department, and to the federal agents on the front lines who did the best job they could under deeply difficult circumstances.

Again, I want to say as I did yesterday, I am very sorry for the loss of life which occurred at the beginning and at the end of this tragedy in Waco. I hope very much that others who will be tempted to join cults and to become involved with people like David Koresh will be deterred by the horrible scenes they have seen over the last seven weeks. And I hope very much that the difficult situations which federal agents confronted there and which they will be doubtless required to confront in other contexts in the future will be somewhat better handled and better understood because of what has been learned now.

Q Mr. President, can you, first of all, tell us why, after 51 days, you decided --

Q Mr. President, can you describe for us what it is that Janet Reno outlined to you in your 15-minute phone conversation with --

The President: I can't hear you both. If one will go first and then the other.

Q Sorry. Can you describe what Janet Reno --

Q Mr. President --

The President: I'll answer both your questions, but I can't do it at once.

Q Can you describe what she told you on Sunday about the nature of the operation and how much detail you knew about it?

The President: Yes. I was told by the Attorney General that the Fbi strongly felt that the time had come to take another step in trying to dislodge the people in the compound. And she described generally what the operation would be -- that they wanted to go in and use tear gas which had been tested not to cause permanent damage to adults or to children, but which would make it very difficult for people to stay inside the building. And it was hoped that the tear gas would permit them to come outside.

I was further told that under no circumstances would our

people fire any shots at them even if fired upon. They were going to shoot the tear gas from armored vehicles which would protect them and there would be no exchange of fire. In fact, as you know, an awful lot of shots were fired by the cult members at the federal officials. There were no shots coming back from the government side.

I asked a number of questions. The first question I asked is, why now? We have waited seven weeks; why now? The reasons I was given were the following:

Number one, that there was a limit to how long the federal authorities could maintain with their limited resources the quality and intensity of coverage by experts there. They might be needed in other parts of the country.

Number two, that the people who had reviewed this had never seen a case quite like this one before, and they were convinced that no progress had been made recently and no progress was going to be made through the normal means of getting Koresh and the other cult members to come out.

Number three, that the danger of their doing something to themselves or to others was likely to increase, not decrease, with the passage of time.

And number four, that they had reason to believe that the children who were still inside the compound were being abused significantly, as well as being forced to live in unsanitary and unsafe conditions.

So for those reasons, they wanted to move at that time. The second question I asked the Attorney General is whether they had given consideration to all of the things that could go wrong and evaluated them against what might happen that was good. She said that the Fbi personnel on the scene and those working with them were convinced that the chances of bad things happening would only increase with the passage of time.

The third question I asked was, has the military been consulted? As soon as the initial tragedy came to light in Waco, that's the first thing I asked to be done, because it was obvious that this was not a typical law enforcement situation. Military people were then brought in, helped to analyze the situation and some of the problems that were presented by it. And so I asked if the military had been consulted. The Attorney General said that they had, and that they were in basic agreement that there was only one minor tactical difference of opinion between the Fbi and the military -- something that both sides thought was not of overwhelming significance.

Having asked those questions and gotten those answers, I said that if she thought it was the right thing to do, that she should proceed and that I would support it. And I stand by that today.

Q Mr. President --

The President: Wait. Go ahead.

Q Can you address the widespread perception -- reported widely, television, radio and newspapers -- that you were trying somehow to distance yourself from this disaster?

The President: No, I'm bewildered by it. The only reason I made no public statement yesterday -- let me say -- the only reason I made no public statement yesterday is that I had nothing to add to what was being said and I literally did not know until rather late in the day whether anybody was still alive other than those who had been actually seen and taken to the hospital or taken into

custody. It was purely and simply a question of waiting for events to unfold.

There was -- I have -- I can't account for why people speculated one way or the other, but I talked to the Attorney General on the day before the action took place. I talked to her yesterday. I called her again late last night after she appeared on the Larry King Show, and I talked to her again this morning. A President -- it is not possible for a President to distance himself from things that happen when the federal government is in control.

I will say this, however. I was, frankly, surprised would be a mild word, to say that anyone that would suggest that the Attorney General should resign because some religious fanatics murdered themselves. (Applause.)

I regret what happened, but it is not possible in this life to control the behavior of others in every circumstance. These people killed four federal officials in the line of duty. They were heavily armed. They fired on federal officials yesterday repeatedly, and they were never fired back on. We did everything we could to avoid the loss of life. They made the decision to immolate themselves. And I regret it terribly, and I feel awful about the children.

But in the end, the last comment I had from Janet Reno, is when -- and I talked to her on Sunday -- I said, now, I want you to tell me once more why you believe -- not why they believe -- why you believe we should move now rather than wait some more. And she said, it's because of the children. They have evidence that those children are still being abused and that they're in increasingly unsafe conditions, and that they don't think it will get any easier with time -- with the passage of time. I have to take their word for that. So that is where I think things stand.

Q Can we assume then that you don't think this was mishandled in view of the outcome, that you didn't run out of patience? And if you had it to do over again, would you really decide that way?

The President: No -- well, I think what you can assume is just exactly what I announced today. This is a -- the Fbi has done a lot of things right for this country over a long period of time. This is the same Fbi that found the people that bombed the World Trade Center in lickety-split, record time. We want an inquiry to analyze the steps along the way. Is there something else we should have known? Is there some other question they should have asked? Is there some other question I should have asked? Can I say for sure that no one -- that we could have done nothing else to make the outcome come different? I don't know that. That's why I want the inquiry and that's why I would like to make sure that we have some independent law enforcement people, not political people, but totally non-political, outside experts who can bring to bear the best evidence we have.

There is, unfortunately, a rise in this sort of fanaticism all across the world. And we may have to confront it again. And I want to know whether there is anything we can do, particularly when there are children involved. But I do think it is important to recognize that the wrong-doers in this case were the people who killed others and then killed themselves.

Q Mr. President, were there any other options presented to you for resolving this situation at any point from February 28th until yesterday?

The President: Well, yes, I got regular reports all along the way. There were lots of other options pursued. If you go back -- you all covered it very well. The Fbi -- you did a very good

job of it. I mean, the Fbi and the other authorities there pursued any number of other options all along the way, and a lot of them early on seemed to be working. Some of the children got out, some of the other people left. There was a -- at one point, there seemed to be some lines of communication opening up between Koresh and the authorities. And then he would say things and not do them and things just began to spin downward.

Whether there were other -- in terms of what happened yesterday, the conversation I had with the Attorney General did not involve other options except whether we should take more time with the present strategy we were pursuing -- because they said they wanted to do this, because they thought this was the best way to get people out of the compound quickly before they could kill themselves. That's what they thought.

Q Did the government know that the children did not have gas masks?

Q -- congressional hearings once the situation -- are you in agreement with that?

The President: That's up to the Congress. They can do whatever they want. But I think it's very important that the Treasury and Justice Departments launch this investigation and bring in some outside experts. And as I said in my statement, if any congressional committees want to look into it, we will fully cooperate. There is nothing to hide here. This was probably the most well-covered operation of its kind in the history of the country.

Go ahead, Sarah.

Q There are two questions I want to ask you. The first is, I think that they knew very well that the children did not have gas masks while the adults did, so the children had no chance because this gas was very -- she said it was not lethal, but it was very dangerous to the children and they could not have survived without gas masks. And on February 28th -- let's go back -- didn't those people have a right to practice their religion?

The President: They were not just practicing their religion, they were -- the Treasury Department believed that they had violated federal laws, any number of them.

Q What federal laws --

The President: Let me go back and answer -- I can't answer the question about the gas masks, except to tell you that the whole purpose of using the tear gas was that it had been tested; they were convinced that it wouldn't kill either a child or an adult but it would force anybody that breathed it to run outside. And one of the things that I've heard -- I don't want to get into the details of this because I don't know -- but one of the things that they were speculating about today was that the wind was blowing so fast that the windows might have been opened and some of the gas might have escaped and that may be why it didn't have the desired effect.

They also knew, Sarah, that there was an underground compound -- a bus buried underground where the children could be sent. And they were -- I think they were hoping very much that if the children were not released immediately outside that the humane thing would be done and that the children would be sent someplace where they could be protected.

In terms of the gas masks themselves, I learned yesterday -- I did not ask this fact question before -- that the gas was supposed to stay active in the compound longer than the gas masks themselves were to work. So that it was thought that even if they

all had gas masks, that eventually the gas would force them out in a nonviolent, nonshooting circumstance.

Ms. Myers: Last question.

Q Mr. President, why are you still saying that --

Q Could you tell us whether or not you ever asked Janet Reno about the possibility of a mass suicide? And when you learned about the actual fire and explosion what went through your mind during those horrendous moments?

The President: What I asked Janet Reno is if they had considered all the worse things that could happen. And she said -- and, of course, the whole issue of suicide had been raised in the public -- he had -- that had been debated anyway. And she said that the people who were most knowledgeable about these kinds of issues concluded that there was no greater risk of that now than there would be tomorrow or the next day or the day after that or at anytime in the future. That was the judgment they made. Whether they were right or wrong, of course, we will never know.

What happened when I saw the fire, when I saw the building burning? I was sick. I felt terrible. And my immediate concern was whether the children had gotten out and whether they were escaping or whether they were inside, trying to burn themselves up. That's the first thing I wanted to know.

Thank you.

Q Mr. President, why are you still saying it was a Janet Reno decision? Isn't it, in the end, your decision?

The President: Well, what I'm saying is that I didn't have a four- or five-hour, detailed briefing from the Fbi. I didn't go over every strategic part of it. It is a decision for which I take responsibility. I'm the President of the United States and I signed off on the general decision and giving her the authority to make the last call. When I talked to her on Sunday, some time had elapsed. She might have made a decision to change her mind. I said, if you decide to go forward with this tomorrow, I will support you. And I do support her.

She is not ultimately responsible to the American people; I am. But I think she has conducted her duties in an appropriate fashion and she has dealt with this situation I think as well as she could have.

Thank you. (Applause.)

End 1:55 P.M. Edt

Ms. JACKSON LEE. On the issue that I was concerned about in my questioning extensively last week, having to do with the holes being placed in by the CEV equipment, that they were holes, in fact, that would have allowed people to come out. Mr. McGee, you were there. You were in a CEV. Was there so much obstruction that individuals could not come out?

I know you have shared with us a lengthy explanation of Ms. Riddle. You did mention that she was somewhat unconscious. I need you to be clear that you got a sense that she was, in fact, protesting not to come out or whether or not she was just hazy because she was near unconsciousness. Would you answer, first, about whether people were able to escape, and then whether or not Ms. Riddle was——

Mr. SCHUMER. I have lots of people who each want 2 minutes or whatever, and I don't want——

Ms. JACKSON LEE. Could he have 10 seconds of a answer?

Mr. SCHUMER. If you could answer as briefly as possible.

Mr. MCGEE. No. 1, I was not in a CEV. I was in one of the Bradleys. Mr. Craig could best comment on that.

I will say when we had the holes punched into the side, typically those areas were where we had prior intel, there was either a 50-caliber or a defensive position where people were going to be shooting at us or were shooting at us, so the CEV would pull up there and try to eliminate that threat to us, in most instances.

Mr. SCHUMER. I yield a minute and a half to Ms. Slaughter.

Mr. MCGEE. The second issue was in reference to Ms. Riddle.

Mr. SCHUMER. Very good. Mr. McGee.

Mr. MCGEE. She was, without a doubt, there to commit suicide and, without a doubt, she protested, struggled, fought, both verbally and physically, to not allow me to bring her out. There was no doubt in my mind.

Mr. Craig can comment on the holes with the CEV.

Ms. SLAUGHTER. Mr. Craig, let's hear your comment, Mr. Craig, on my time.

Mr. CRAIG. Regarding the holes made by the CEV?

Ms. SLAUGHTER. Yes.

Mr. CRAIG. First, they were not made by the blade, just the boom. The reason was just to make a hole big enough for the gas to be put in. We were afraid later they might be barricaded on the inside by Mr. Koresh, and, upon pushing the front door open, sure enough, there was a piano behind the front door maybe to keep us out, maybe to keep them in, I don't know. But the holes were made, one, to allow observation into the building and, two, to let people out.

Ms. SLAUGHTER. You said, first, they were only there to put gas in and then you said, second, they were for observation and to let people out.

Mr. CRAIG. Initially, the CEV–1 was to punch a hole in with the boom where the gas bottles were attached on the end. Once the hole was made, the gas would be released.

Mr. SCHUMER. I yield my remaining time to Mr. Scott.

Mr. SCOTT. I have a couple of quick questions.

Mr. Sage, you were there. We have heard this transcript being read back and forth. Basically, during your 51 days of negotiation, did you think progress was being made during those negotiations?

Mr. SAGE. The short answer is, "no." If we have time at some point I would request the opportunity to read a brief segment from the very end of the of April 19 to show what was going on shortly after the fire.

Mr. ZELIFF. A small amount of time.

Mr. SAGE. This is approximately 12:15 on April 19. These are segments from the actual transcript. I read as follows:

This is Byron Sage. Don't do this to the people that are remaining inside there. Come out of the compound at this time. We can work through this. Don't lose control of this, David. Don't lose control of this. Bring those people out safely. They have depended upon you. This is not the way to treat those people. Bring them out safely.

Don't wait too long. That smoke will not allow you to exit in an orderly fashion, and you will be consumed. It is obvious that this has been torched from several locations and has been preplanned.

David, do not do this to your people. David, do not do this to your people. Bring them out in an orderly fashion. If you have a message to send, David, you need to be sending it. This is not the way to end this.

The very last point, this is just prior to my terminating the transmission after 6 straight hours and 51 days worth of negotiations.

If you cannot see, walk toward a voice from the loudspeaker bank. You need to lead your people out, David. Lead your people out. Don't be a destroyer, be a savior. Come out of that compound. Walk toward the speakers. It is 12:25.

At this point in time, I am just basically reading into the—or quoting into a recorder, trying to memorialize this.

It is 12:25. The compound looks to be totally engulfed in flames. We have been broadcasting continually for quite some time, trying to get at least a few people to come out of the compound, respond. At least to this point it appears it is going to be very doubtful if there is many people left alive in that compound.

I can't tell you the myriad of emotions that went through my mind, the minds of everybody else that was involved in this, including HRT, at that time starting to pull people out, exiting positions of safety in the Bradleys. But I will tell you this matter of factly: There was not one person there that was not totally committed to the preservation of life. And if this hearing finds nothing else, you need to realize that that was our commission, and it was in total contrast to the commission of David Koresh.

Mr. ZELIFF. Thank you.

The Chair recognizes Mr. McCollum for 5 minutes.

Mr. MCCOLLUM. I think all of us understand it must have been a very emotional time for everybody at the scene. It was a terrible ordeal for everyone concerned.

I want to ask a couple of quick followup questions. Mr. Craig, when you rammed the front door, you said there was a piano blocking it. Was the reason you rammed it because you felt something was blocking it and was therefore necessary in order to open the doors?

Mr. CRAIG. There were two times I approached the door, sir. One time was with the boom only. No other part of that vehicle touched the house except the boom. That was to push the front doors open to create a hole, one, to let observers look inside; and, two, to make sure that they had a clear space to come out.

When those doors went in, it was like a prehung door. They all stayed together with the frame, and it just laid over, and they laid on something. I didn't know what it was at that time. I went back and perhaps well over an hour later was the second penetration of the front door.

Mr. MCCOLLUM. Approximately what time was the door penetrated the second time? Do you have any idea? Ten o'clock in the morning? Noon——

Mr. CRAIG. Later than that, sir. I would say about 15 minutes before the fire.

Mr. MCCOLLUM. I have a question for you, Mr. Jamar, about the evidence there. At the site scene, after the fire was over with, at what point was the scene turned over to the Texas Rangers?

Mr. JAMAR. Once the HRT had cleared the area and the firefighters were through.

Mr. MCCOLLUM. So on the 19th?

Mr. JAMAR. Yes. That was the agreement we made.

Mr. MCCOLLUM. The reason I asked that is there were people who explained about the "make-safe" destruction or whatever they did with the bulldozers out there flattening the area, but that was 2 or 3 days after the fire occurred. The Texas Rangers did that. You didn't have anything to do with that, right?

Mr. JAMAR. There were FBI agents there from our laboratory and our evidence response team helping with the search.

Mr. MCCOLLUM. But did you have any decision with what was called the make-safe maneuver the Texas Rangers did a few days later where they apparently leveled the area? It wasn't safe to leave it up. In other words, a number of outside experts have complained about what they called destruction. I don't know if it was or not.

Mr. JAMAR. I am certain it was not destruction. I think they were trying to figure out what they had there. We had nothing to do with that. That was their crime scene.

Mr. MCCOLLUM. Were overtime costs ever a concern to you?

Mr. JAMAR. At FBI, it is fixed.

Mr. MCCOLLUM. I didn't think so, but somebody asked me to ask you that, and I thought we ought to clarify that for the record.

The other day you responded to some question I think Mr. Schiff raised of Dr. Stone's comment that you had talked to him about the ATF entry on the 28th, the so-called ambush. Stone had indicated something about it during his interviews with you. You had commented to him and indicated that maybe it really wasn't an ambush that the ATF went into that day. I gathered his comment to be a concern over the fact that he thought that the ATF could have been shot from those windows when they first went there in the cattle trailers. And they were not shot in the trailers. They were shot outside. It has nothing to do with who shot first. Could you clarify that?

Mr. JAMAR. I had one discussion with Dr. Stone on the telephone, and the context was it could have been a lot worse. It was never the context that it would imply there was not an ambush. I think my answer to Mr. Schiff was that, to try to find something redeeming, that was not part of the discussion.

Mr. MCCOLLUM. Let me read a quote from today's New York Times and ask you if you would care to comment on it. They say in this editorial,

> Time was always on the side of law enforcement both before the warrant-serving fiasco and during the 51-day siege that ended with fiery destruction of the compound and the deaths of more than 80 men, women and children. David Koresh was not going anywhere. Soon thirst and hunger would have delivered his followers into the hands of the authorities without such huge risks to Federal law enforcement agents, not to mention the children in the compound. The Federal authorities ignored the central reality of the situation.

Would you care to comment on that editorial from today's New York Times?

Mr. JAMAR. I think the reference to food and water—they had 2 years food, and if they had told us they needed water for the children we would have brought water in. We would have done that.

Time was not the problem so much. As time passed, the dangerous situation would increase; and, in my opinion, based on his actions of the 19th, that was the end that Koresh wanted; and he would find a way to find that end before it was over with. He would find that way.

But time worked against us. By the danger increasing all the time, it would lead to the possibility of some provocation or some incident. But I am convinced absolutely that he would find a way to find the same end that he had on the 19th. Time was not it. It was the increasing danger.

After 7 weeks, what is 2 or 3 more weeks when you think about it? But as that time passed the pressure on him to have his prophecy fulfilled was increasing. So had we let him do it on his schedule, as we testified last week, then we would not have been nearly as prepared as we were medically and every other way.

But I think their reference to time and food and water demonstrates they don't understand the circumstances that were in place during that period of time.

Mr. ROGERS. I tried to make a point a while back that when they went in and did the crime scene they still found 40-some automatic weapons that had not been reconverted back to semiautomatic, the very best evidence that ATF or anyone could have if they had come out to face trial—in other words, there was no preparation on their part to come out and to face a court of law with those weapons still in there.

The other point is, there was plenty of water in there. We had monitored a water tank, seen the thing go up in level of water, and it would drain down. So we felt they probably had some kind of electric pump into a well that they could periodically start up a generator and get water. They had lots of food and lots of water, and the New York Times doesn't understand the situation out there, and that is why they wrote that kind of editorial.

Mr. CRAIG. They were doing their laundry all the time and hanging their laundry out the window. So if they had water to do laundry, they could drink.

As I testified when I penetrated the middle of the white side with half of that CEV into that first room, there were huge cans of tuna fish from the ground to ceiling. Also, military C-rations or MRE's stacked up also to the ceiling. There was a lot of food in that compound.

Mr. ZELIFF. Mr. Schumer.

Mr. SCHUMER. In the remaining 5 minutes I am going to try to apportion it 2 minutes to Ms. Lofgren, 2 minutes to Mr. Taylor and the last minute to myself.

Ms. LOFGREN. This is to Mr. Dennis, because if there is value to this hearing today it is to look forward to how we can be prepared as a Nation to avoid an event such as this that no one was happy about.

Looking at the information available to the Department, I note in your report, page 52, the psychiatrist called Koresh a paranoid and indicated that he is prepared to do whatever he has to do to fulfill his ultimate game plan. His clock is running. He is fully capable of creating the circumstances to bring this matter to a magnificent end, taking the lives of all his followers and as many authorities as possible.

That was received before the event. We have had a report indicating not quite so much. I think it would be very difficult—and I think these were honorable people who were trying to bring a peaceful resolution, to try and figure out what was going to happen.

So my question to you in the recommendation section is: Do we need, as a country, to put some effort into analysis of violent cults in a systematic way so that we might do some early interception of these things? I noticed that was not in your report.

Would that include a more aggressive work on child molesting, which tends to be, from what I have read, very much included in many of these kinds of violent cult efforts? As I heard from Mr. Jamar, because of staffing nationwide, that doesn't have a high priority. Do you think we are prepared for the next type of situation?

Mr. DENNIS. I do think—and some of this has come about in the last 2 years in terms of thinking about this, as I was on a short turnaround with regard to the report that I did. I do think that it would be valuable to focus upon group situations that present a high risk of mass suicide as this one did. We have had Jonestown. We have this. We have had a couple of MOVE incidents in my home town of Philadelphia.

And I think, to kind of address an issue Mr. Scott raised about are we prepared to deal with this situation now, I don't think we are. I don't think we know the answers to the questions that we need to know in terms of being able to evaluate when you have a clear case, and this was not a clear case of a high likelihood of a mass suicide. I think that that needs to be studied as a separate issue.

Ms. LOFGREN. I agree. We are not going to learn how to be police officers in this hearing; but, as legislators, should we make that a legislative priority to put some resources——

Mr. DENNIS. Absolutely; yes.

Mr. SCHUMER. Mr. Taylor.

Mr. TAYLOR. Thank you, Mr. Chairman.

Mr. Dennis, Mr. Craig and Mr. McGee, the same question I have asked other panelists. Is there anything that you have seen or read or heard or anything in your experiences that in any way justifies the murder of those 4 ATF agents and the wounding of 20 more by David Koresh and his followers or in any way absolves David

Koresh from the deaths of 80 of his followers that he used as human shields?

Mr. DENNIS. It was cold-blooded murder.

Mr. CRAIG. No, sir.

Mr. MCGEE. Most definitely not.

Mr. TAYLOR. Mr. Dennis, I have spent entirely too much time on airplanes. Could you make your first statement again, please, because my ears are kind of stopped up?

Mr. DENNIS. That it was cold-blooded murder on the part of the Davidians.

Mr. SCHUMER. I yield 30 seconds to Mr. Scott.

Mr. SCOTT. Mr. Rogers, I think you said you would not have gone in if you had known they were setting a fire. We have had audio evidence of when they were setting the fire. Did you have any warning that they were going to burn the place down?

Mr. ROGERS. Absolutely none.

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. SCHUMER. Final question that I have; we have heard that in the 51 days the FBI was involved they did not fire a single shot. I would just like to ask two questions about that. First—and whoever can answer it, but I would like Mr. Jamar, Rogers and Dennis for sure. First, that would mean, quite certainly, that 27 of the people who died in the compound—I think the autopsy reports show 27—who died of bullet wounds, those were self-inflicted or inflicted by other members within the compound.

Second, what implication does that have about the first siege? In other words, as I understand it according to the testimony of the agents here, the CEV's approached and were met by a fusillade of bullet fire. How would that in your professional opinion, Mr. Dennis, in particular, reflect on whether Koresh fired first, in the first situation with the ATF, which is in more dispute. Both questions, please, sir.

Mr. DENNIS. I think that is a key issue. The fact that Koresh was capable of setting the fire, of killing his own followers, that parents were capable of killing children or adults were capable of killing children really says more about the mentality of the individual that you were dealing with and the difficulty in trying to figure out the best way to talk he and his followers out of that compound. I am not resolved in my own mind to this day, having gone through the negotiating tapes, given the way this event played out, that I had any clear vision of how it could have been done differently with a different result.

Mr. SCHUMER. Thank you.

I would ask unanimous consent of the chairman to put into the record each of the individual autopsy reports which show the bullet wounds that I mentioned to Mr. Dennis and the fact that no trace of CS gas was found on any of the victims.

Mr. ZELIFF. Without objection, so ordered.

[The information is in the subcommittees' files.]

Mr. ZELIFF. Mr. Jamar, you have publicly stated your reservations about how the ATF planned and executed the original raid. Let me ask you how you at the FBI would have proceeded, what would you have done differently? And, again, this is a Monday-morning quarterback, but what would you have done different?

Mr. JAMAR. The only time I ever said anything public about ATF is that I was asked on a news program, if they had consulted us, what would we have said? I have said to them, when asked why we were in Waco, the thing that was most disturbing to me, when you read the search warrant affidavits, is someone with 100 automatic weapons, is you would do everything in your power to avoid a confrontation.

I didn't know what ATF knew, I don't know what their thought processes were, and I am not going to second guess them. But had they consulted us, I would have urged them—the same thing we told them in 1985 at CSA—is find a way to resolve this without having to confront 100 automatic weapons and handgrenades. Avoid that at all costs.

Mr. ZELIFF. And maybe even include looking at arresting David Koresh outside the compound?

Mr. JAMAR. I don't know about that. I am saying, find a way. I don't know that that is a solution, because I didn't know what they knew. It is their business. If they wanted our opinion, they would have asked us for it.

Mr. ZELIFF. Certainly, when the cover was blown, would you at FBI have stopped or would you have continued?

Mr. JAMAR. It is hard to discuss that. I wouldn't even think about being near a place with 100 automatic weapons.

Mr. ZELIFF. I think that goes to the nut of what happened and how it started. Didn't the assistant U.S. attorney, Mr. Bill Johnston, complain to the Attorney General that three times he witnessed destruction of the crime scene evidence? How would you react to that?

Mr. JAMAR. From his point of view, he had a perfect right to complain. I think part of that provoked his letter to the Attorney General which led to Mark Richard's coming out and Jahn's. He had every reason to complain. Jahn complained. I was going to resolve that as safely as I could. All of us worked very hard at it. Jahn was understanding—hardly agreeable but he understood what we were trying to accomplish there. It was not an easy decision.

Mr. ZELIFF. What is troubling to me, in addition to the ATF question, in terms of moving forward with the raid, we heard compelling testimony about an April 14 surrender plan. I listened to all of you, and you are very sincere, and you, too, make very persuasive arguments. I wish I knew the answer. I wish I knew whether you were listening, whether you heard what they were trying to say.

I don't know who was right or wrong. Hopefully, we will be able to figure it out. Whether you were committed to a gas plan that you presented on March 27, whether there was flexibility built in there, that is the thing that really drives me, and I don't have the answers. I am sure you all have your individual questions in your own minds.

I guess the question I would like to ask Mr. Sage, Mr. Rogers——

Mr. JAMAR. Mr. Chairman, judge my attitude by my actions. I sent the gas plan on March 27. I permitted DeGuerin to enter the compound on March 29. Had I given up, I would not have gone out on a limb like that. I was attacked by everybody except Bob Riggs for that decision. Did you believe that Mr. DeGuerin was absolutely

committed to the fact that the course was going to come out after Passover? Yes, he believed that absolutely, and I was for it.

Mr. ZELIFF. Can I interrupt you for a second?

The question was asked before, and what did we learn from your end of this? With children in that compound, would it have been better to wait it out? What would you do different now that it is a Monday-morning quarterback.

Mr. Rogers, Mr. Sage, Mr. Jamar, what would you do different? Would you have waited?

Mr. JAMAR. I think if I knew about his plans to burn the place we would have had another approach. We know about your plan to burn the place and destroy your people. We would have been broadcasting it. We would not even have come close to approaching that place.

We would have done nothing to provoke the idea in his head, No. 1, to do it. If we believed he was close to doing that, we would do nothing to provoke him, absolutely not, and work on that issue. You tell us you are not going to commit suicide. You say you want to save your people. But we know you have this plan. If we knew that, we would have done nothing to provoke that.

Mr. ROGERS. Unfortunately, I don't have another plan that I can tell you we would have pursued.

Mr. ZELIFF. I am saying, did you learn anything at all based on Monday-morning quarterbacking? With new information, would you have done anything different?

Mr. ROGERS. Knowing what I know, of course I would not have gone forward and had those kids die. At that time, we did the very best we could with available information.

Mr. SAGE. In hindsight, which is a valuable thing which we did not have at Waco, we have determined that our analysis, based on testimony of some of the Branch Davidians that have come out, the information based upon the efforts that went forward, extensively upholds and endorses the accuracy of the findings at the time.

There are no guarantees. This is not an exact science. We brought the best experience we possibly could to this effort. We will do that again next time. We will do the very best job that we can, because that is our job. I don't know what we could have done differently from a negotiation standpoint.

Mr. ZELIFF. Thank you all very much. We have a deep respect for what we have put you through.

It has been a long session. We thank you for being here. We thank you for trying to help us to try to get at the answers of Waco so we can explain to the American people what happened.

To the degree that mistakes were made, if they were made, hopefully we will be able to come out with a report to that effect. Thank you all very, very much for your commitment and for your service to your country.

We will take a 5-minute break and recess until 2:30. The next witness will be Ambassador Holmes, and we will be talking about military questions at that time.

[Recess.]

Mr. ZELIFF. Ambassador Holmes, if you'd be willing to take your seat at the table.

The joint subcommittees studying the Waco situation will now come to order.

We're very happy to welcome back Ambassador H. Allen Holmes. Mr. Holmes currently serves as the Assistant Secretary for Special Operations and Low Intensity Conflict. In his current capacity he is responsible for the overall supervision, including oversight of policy and resources of the Special Operations and Low Intensity Conflict activities at the Department of Defense.

Mr. Holmes previously served as a U.S. Ambassador to Portugal from 1982 to 1985. I know you appeared before us last week. We have some additional questions that we'd like to ask you. We thank you for coming back.

I understand that you have an opening statement. OK.

Before you start, if you would, it's customary to swear you in, so if you'd please stand, raise your right hand.

[Witness sworn.]

Mr. ZELIFF. Thank you very much. Please be seated. Let the record show that the answer is in the affirmative.

Ambassador, please proceed with your statement.

STATEMENT OF AMBASSADOR H. ALLEN HOLMES, ASSISTANT SECRETARY OF DEFENSE FOR SPECIAL OPERATIONS AND LOW INTENSITY CONFLICT

Ambassador HOLMES. Thank you, Mr. Chairman. I am here before you again to help you and the American people understand fully the role of the Defense Department in supporting civil authorities——

Mr. ZELIFF. Excuse me one second. There's a—do you have copies of a statement that you can pass out?

Ambassador HOLMES. I can, we can make copies immediately.

Mr. ZELIFF. All right. Thank you very much. Please proceed.

Ambassador HOLMES. I am here before you again to help you and the American people understand fully the role of the Defense Department in supporting civil authorities in general, and in particular the support the Department gave to the Federal Bureau of Investigation near Waco, TX, in March and April 1993.

As I explained during my testimony on July 20, the Congress has vested the Secretary of Defense with several means of providing assistance to civilian authorities and law enforcement agencies. You will recall that during the session on the 20th, the focus was on the so-called drug nexus and the fact that certain types of the Department's support may be available on a nonreimbursable basis.

I noted at the time, though, that much of the day-to-day support that the Department gives to Federal, State and local law enforcement agencies is provided pursuant to statutes that require agencies to reimburse the Department for their use of our equipment and the services of our personnel. As is the case with many departments of the Federal Government, DOD has well-defined authority, for example in chapter 18 of title 10 of the United States Code, or under the Economy Act in title 32 of the Code, to provide support to other agencies on a reimbursable basis.

On February 28, 1993, and during the weeks that followed, the Department received numerous requests for support from the Department of Justice, specifically from the FBI, for assistance at

Waco. We responded to these requests by providing the equipment and expert advice pursuant to the Secretary's statutory authority.

The support included 2 M–1 Abrams tanks, 5 combat engineer vehicles, and 10 Bradley fighting vehicles that were operated by FBI personnel. While DOD personnel were present at Waco, they did not perform law enforcement functions.

The support provided was totally consistent with our statutory authority and with the congressional intent that DOD's equipment be used in a manner that ensures its return to the Pentagon in a combat ready status. We are still working on a response to the chairman's request for a list of the equipment provided by DOD to law enforcement.

But I can give you the following general summary. As I mentioned, DOD support to the FBI included tanks, CEV's and Bradleys. Additionally, we provided about 12 HMMWV's, helicopters for both observation and possible medical evacuation, and some heavy trucks. They were either loaned to the FBI under the Economy Act and operated by FBI personnel, or in the case of standby medical equipment, offered with the understanding that DOD's costs would be reimbursed.

Although DOD personnel provided maintenance and training with respect to those vehicles, no DOD personnel operated these vehicles as part of the FBI's law enforcement activities during this period, including on April 19. In fact, the Department was meticulous in advising the military personnel who provided support as to the legal limitations on that support. We also provided some specialized support.

The FBI asked for and we provided certain specialized equipment. We provided special video equipment and prototype automated reconnaissance equipment, again, operated by FBI personnel to assist the FBI in its operations.

Although throughout the period as many as 10 DOD technicians, active military or civilians, advised the FBI on the installation, capabilities or use of this equipment, no DOD personnel directly participated in any law enforcement operations involving the use of this equipment. In addition, from March 10 to 17, we provided equipment to interfere with television reception within the compound, and we provided civilian personnel support to operate that equipment. The equipment was removed from Waco on March 18.

Finally, at the FBI's request, recognizing the potential for injuries resulting from the FBI operations, the Department, as it does in other civilian operations ranging from natural disasters to crisis situations, provided medical support to the FBI. Under a 1991 memorandum of agreement between the Uniformed Services University for Health Sciences, which is DOD's medical school, and the FBI's Hostage Rescue Team, we provided a team of medical specialists who would be ready to provide emergency medical care to any casualties of the law enforcement operations.

These medical professionals were located in the vicinity of the Branch Davidian compound, but did not directly participate in the law enforcement operations. As an added precaution, the FBI requested and we made available three medical evacuation heli-

copters and medical personnel on standby at Fort Hood, TX, should they be needed. They never left Fort Hood.

The Department provided other support to the FBI during March and April 1993, such as gas masks, night vision devices, and training. I reiterate, though, that no DOD personnel performed any law enforcement functions.

For example, we provided essentially driver training to ensure that the FBI personnel were properly qualified to operate the vehicles we provided. We also provided maintenance support and emergency medical support. Our support to the FBI was within congressionally-directed limits and in keeping with Congress' intent that we share our specialized expertise and resources with civil authorities.

Finally, I know there are questions among members of the joint committee concerning a meeting of four DOD personnel with the Attorney General and others on April 14, 1993, and particularly the role of two Army officers consulted by the Attorney General. The Department of Justice requested that the two Army officers attend the meeting and DOD approved the request.

Before coming to Washington, one of the officers flew to Waco, visited the area adjacent to the compound, and met with an FBI representative. They then overflew the compound in a helicopter before boarding an FBI aircraft to fly to Washington.

At the meeting, the Attorney General's questions centered on two general areas, the effects and risks associated with CS gas, and the plan that the FBI had prepared. You have received testimony from one of the four DOD participants in that meeting, Dr. Harry Salem, a civilian employee of the Army, as to the information he provided about CS gas.

As for the two Army officers, they related that they had experience with CS as a result of their military training. They advised the Attorney General that people's reactions to CS will vary. Some may panic.

Others may try to continue to function normally by using expedients such as wet cloths to overcome the effects of the gas. When asked by the Attorney General about the FBI's plan, one of them pointed out that they were not qualified to pass judgment on law enforcement operations.

They were not authorized to, and they did not approve or disapprove the plan. The two officers did point out that the plan differed from what they would plan if this had been a military operation. They emphasized that military operations call for the application of surprise, speed and violence of action.

In that light, they pointed out that in a military operation, CS gas would be inserted into the whole compound at once, not incrementally, as planned by the FBI.

With respect to these Army officers, I am convinced that they acted professionally and appropriately at all times. I will conclude by stressing that the Department takes its statutory authority seriously.

We are fully aware of the special charge given us by the Congress and the American people to support civil authorities. In this case, our support complied with that charge and none of the DOD personnel who assisted law enforcement agencies during this dif-

ficult episode participated directly in any law enforcement operations.

I am ready to answer your questions.

[The prepared statement of Ambassador Holmes follows:]

PREPARED STATEMENT OF AMBASSADOR H. ALLEN HOLMES, ASSISTANT SECRETARY OF DEFENSE FOR SPECIAL OPERATIONS AND LOW INTENSITY CONFLICT

Mr. Chairman and Members of the Joint Committee:

I am here before you again to help you and the American people understand fully the role of the Defense Department in supporting civil authorities, in general, and, in particular, the support the Department gave to the Federal Bureau of Investigation near Waco, Texas, in March and April 1993.

As I explained during my testimony on July 20th, the Congress has vested the Secretary of Defense with several means of providing assistance to civilian authorities and law enforcement agencies. You will recall that, during the session on the 20th, the focus was on the so-called "drug nexus" and the fact that certain types of the Department's support may be available on a non-reimbursable basis. I noted at the time, though, that much of the day-to-day support that the Department gives to Federal, state, and local law enforcement agencies is provided pursuant to statutes that require agencies to reimburse the Department for their use of our equipment and the services of our personnel. As is the case with many departments of the Federal Government, DoD has well-defined authority, for example in chapter 18 of title 10 of the U.S. Code or under the Economy Act in title 31 of the Code, to provide support to other agencies on a reimbursable basis.

On February 28th, 1993, and during the weeks that followed, the Department received numerous requests for support from the Department of Justice, specifically from the FBI, for assistance at Waco. We responded to these requests by providing equipment and expert advice, pursuant to the Secretary's statutory authority. The support included two M-1 Abrams tanks, five Combat Engineer Vehicles, and ten Bradley Fighting Vehicles that were operated by FBI personnel.

While DoD personnel were present at Waco, they did not perform law enforcement functions . The support provided was totally consistent with our statutory authority and with the Congressional intent that DoD's equipment be used in a manner that ensures its return to DoD in a combat-ready status.

We are still working on a response to the Chairman's request for a list of the equipment provided by DoD to law enforcement, but I can give you the following general summary. As I mentioned, DoD support to the FBI included tanks, CEV's and Bradleys. Additionally, we provided about twelve HMMWV's ("HUM-V's"), helicopters for both observation and possible medical evacuation, and some heavy trucks. They were either loaned to the FBI under the Economy Act and operated by FBI personnel or, in the case of standby medical equipment, offered with the understanding that DoD's costs would be reimbursed. Although DoD personnel provided maintenance and training with respect to these vehicles, no DoD personnel operated these vehicles as part of the FBI's law enforcement activities during this period, including April 19th. In fact the Department was meticulous in advising the military personnel who provided support as to the legal limitations on that support.

We also provided some specialized support. The FBI asked for and we provided certain specialized equipment. We provided special video equipment and prototype automated reconnaissance equipment -- again, operated by FBI personnel -- to assist the FBI in its operations. Although throughout the period as many as 10 DoD technicians--active military or civilians--advised the FBI on the installation, capabilities or use of this equipment, no DoD personnel directly participated in any

law enforcement operations involving the use of this equipment. In addition, from March 10 to 17, we provided equipment to interfere with television reception within the compound, and we provided civilian personnel support to operate that equipment. The equipment was removed from Waco on March 18.

Finally, at the FBI's request, recognizing the potential for injuries resulting from the FBI operations, the Department, as it does in other civilian operations ranging from natural disasters to crisis situations, provided medical support to the FBI. Under a 1991 memorandum of agreement between the Uniformed Services University for Health Sciences--DoD's medical school--and the FBI's Hostage Rescue Team, we provided a team of medical specialists who would be ready to provide emergency medical care to any casualties of the law enforcement operations. These medical professionals were located in the vicinity of the Branch Davidian Compound, but did not directly participate in the law enforcement operations. As an added precaution, the FBI requested and we made available three medical evacuation helicopters and medical personnel on standby at Fort Hood, Texas, should they be needed. They never left Fort Hood.

The Department provided other support to the FBI during March and April of 1993, such as gas masks, night vision devices, and training. I reiterate, though, that no DoD personnel performed any law enforcement functions. For example, we provided essentially "driver training" to ensure that the FBI personnel were properly qualified to operate the vehicles we provided, maintenance support, and emergency medical support. Our support to the FBI was within Congressionally-

directed limits and in keeping with Congress' intent that we share our specialized expertise and resources with civilian authorities.

Finally, I know there are questions among members of the Joint Committee concerning a meeting of four DoD personnel with the Attorney General and others on April 14, 1993, and particularly the role of two Army officers consulted by the Attorney General. The Department of Justice requested that the two Army officers attend the meeting, and DoD approved the request. Before coming to Washington, one of the officers flew to Waco, visited the area adjacent to the Compound, and met with an FBI representative. They then overflew the Compound in a helicopter before boarding an FBI aircraft to fly to Washington.

At the meeting the Attorney General's questions centered on two general areas: the effects and risks associated with CS gas and the plan that the FBI had prepared. You have received testimony from one of the four DoD participants in that meeting, Dr. Harry Salem, a civilian employee of the Army, as to the information he provided about CS gas. As for the two Army officers, they related that they had experience with CS as a result of their military training. They advised the Attorney General that people's reactions to CS will vary: some may panic; others may try to continue to function normally by using expedients such as wet cloths to overcome the effects of the gas. When asked by the Attorney General about the FBI's plan, one of them pointed out that they were not qualified to pass judgment on law enforcement operations. They were not authorized to, and they did not, approve or disapprove the plan.

The two officers did point out that the plan differed from what they would plan if this had been a military operation. They emphasized that military operations call for the application of surprise, speed and violence of action. In that light, they pointed out that in a military operation, CS would be inserted into the whole compound at once, not incrementally as planned by the FBI. With respect to these Army officers, I am convinced that they acted professionally and appropriately at all times.

I will conclude by stressing that the Department takes its statutory authority seriously: we are fully aware of the special charge given us by the Congress and the American people to support civilian authorities. In this case, our support complied with that charge, and none of the DoD personnel who assisted law enforcement agencies during this difficult episode participated directly in any law enforcement operations. I am ready to answer your questions.

Mr. ZELIFF. Thank you, Ambassador.

The Chair yields to Mr. Clinger.

Mr. CLINGER. I thank the chairman for yielding to me and I would be delighted to yield back to the chairman my time.

Mr. ZELIFF. Thank you.

Ambassador, one—I am trying just to clear up the record. When you were here with a panel last week, JTF–6 forces, the request that was made, was that made directly to the drug czar?

Ambassador HOLMES. No. The request came from Operation Alliance, the committee, the clearinghouse of law enforcement agencies to the commanding general of JTF–6.

Mr. ZELIFF. And I'm trying to remember exactly what the answer was that was given. There was some confusion. Was the—was the money that was used at Waco charged to the drug effort?

Ambassador HOLMES. During the first phase leading up to February 28, when the ATF was involved, there was a so-called drug connection and the request was received through that channel. And we do have funds to spend on counterdrug operations. And so that activity was not reimbursable.

Mr. ZELIFF. Well, while that—you know, I think the military responded based on the information they were given, and I understand that. But the significance here is that if there was no drug connection—I think we pretty well proved that there wasn't one—then charging the Nation's drug war for the resources they have, the limited resources for those kind of operations, needs to be avoided in the future.

And I just—I was just really concerned. We've covered all that ground before, but I just wanted to make sure. Why was the jamming equipment used at Waco? You indicated in your testimony, your opening statement, March 10 to March 17, then it was removed on the 18th.

Does the use of such equipment need presidential approval or anybody's approval?

Ambassador HOLMES. That equipment that was used to interfere with the TV reception is approvable by normal DOD authorities. It is equipment that was requested, and we responded to that under existing authority.

Mr. ZELIFF. We—you got a partial list, and our subcommittees have asked repeatedly for a full accounting of all military personnel and assets used at Waco. It's been two years now since the incident and we're still trying to come up with an accounting.

Do you have any idea how long this will take?

Ambassador HOLMES. We're very close to completing that. We just want to be absolutely certain that it is totally accurate and we have circulated our reply among various parts of the Defense Department so that we are able to give you a totally accurate accounting. And we will send it to you.

Mr. ZELIFF. Because I think as we try to do our report, it's vital that we have very definite, specific information, on not only assets, but—not only fixed assets from tanks to HMMWV's and everything else, but also personnel itself needs to be diagramed.

Ambassador HOLMES. We will do our best to get an accurate accounting of the personnel, as well. Let me hasten to add here that it may be extremely difficult to give you an exact accounting of the

number of people on any given day. But I think we can come very close to giving you a total picture of the personnel that were there essentially to provide maintenance and training and so forth.

[Information was not received by time of printing.]

Mr. ZELIFF. In your advice to Attorney General Reno, can you just describe what the folks there said to her relative to their assurance that CS gas was harmful or not harmful to children? Any information relative to the military's experience?

Ambassador HOLMES. Based on the experience of the two military, the two Army officers concerned, who have used CS gas in training on many occasions, their response to the Attorney General's question was that reactions vary according to the individual person concerned. Some people panic and want to leave the vicinity as quickly as they can.

Others are able to exercise more control and stay there and use such expedients as might be at hand, such as a wet cloth, to try to overcome the effects of the gas. But basically their point was there is no way of knowing exactly how any two people would react to it.

Mr. ZELIFF. But specifically, and I just—since I know the red light's on, but my question was to little children, the people who were very little, 2 years old, less than 2 years old, any reference to your concerns?

Ambassador HOLMES. I'm not aware that they were asked, nor did they respond directly to the effects on children, which obviously from the point of view of their military training and experience, would not have been relevant.

Mr. ZELIFF. So just to make the record clear, you were never asked the question to comment relative to children, you were just asked on the use of CS gas?

Ambassador HOLMES. With respect to people.

Mr. ZELIFF. To people, assuming adults, and your experience has been with adults and you would assume that, you know, adults could have gas masks and work them, but you weren't looking at children?

Ambassador HOLMES. To the best of my knowledge, that was the extent of their exchange.

Mr. ZELIFF. Mr. Scott from Virginia.

Mr. SCOTT. Thank you, Mr. Chairman.

Ambassador Holmes, as I understand it, you can get military assistance in a number of different ways, and depending on which category you ask, you have to reimburse or not reimburse. As you do this accounting, will that include who was reimbursed, who for what, so that we can figure out under what category the assistance was obtained?

Ambassador HOLMES. Well, if I understand your question, if you would like a basic division as between the support——

Mr. SCOTT. Well, let me ask it another way. Has the military been reimbursed for any expenses at Waco?

Ambassador HOLMES. I can't answer that. I assume that——

Mr. SCOTT. Who could answer?

Ambassador HOLMES. Well, I'll have to ask the question of the Department of Defense. But I believe that a great deal of the ac-

counting has taken place, but I can't give you a definitive answer as to who and what and how much.

Mr. SCOTT. If you could follow up on that, I'd appreciate it.

Does the military have experience dealing with cults and people who you're engaging with that might have beliefs that are totally different than——

Ambassador HOLMES. I didn't understand the first word you said, experience with?

Mr. SCOTT. With dealing with people involved in cults.

Ambassador HOLMES. Oh, cults.

Mr. SCOTT. So that the reaction may not be what you'd expect it to be. Is there any expertise in that area?

Ambassador HOLMES. Not to the best of my knowledge.

Mr. SCOTT. You indicated that the military would have gone in all at once and not incrementally. Has anyone evaluated the possibility of that working as opposed to what was actually done, to your knowledge?

Ambassador HOLMES. Not in the Department of Defense.

Mr. SCOTT. OK. Back to the gas. We were told that, by a number of different people who had a background in CS gas, that in the annals of history they don't know anybody who has experienced long-term medical problems or death as a result of CS gas, and it's the safest thing out there.

It's very traumatic while you're under the CS gas, but as soon as it's gone, everybody recovers. Did—was anything told to the Attorney General different than that?

Ambassador HOLMES. I don't believe so, but I'm not sure that the question as you posed it was posed to the two Army officers in that way.

Mr. SCOTT. The question I think that you answered was that the psychological reaction is totally unpredictable, that people under gas, you just——

Ambassador HOLMES. I didn't use the word "psychological." I just simply related that the two officers said that any two individuals could react in totally different ways. Some might panic and some might be more controlled and attempt to use expedients for controlling the effects of the gas.

Mr. SCOTT. And is your reaction that because of that, there's just no way to predict what people might do?

Ambassador HOLMES. Yes.

Mr. SCOTT. That is your recollection?

Ambassador HOLMES. That is basically what the Army officers were saying——

Mr. SCOTT. OK.

Ambassador HOLMES [continuing]. To the Attorney General.

Mr. SCOTT. Do—you indicated the law enforcement—the military were not involved in the law enforcement. Do military officers have expertise in civilian law enforcement?

Ambassador HOLMES. Generally not. Although clearly within the military police function, for carrying out the Uniformed Code of Military Justice on military bases, obviously military police and their officers are schooled in those techniques.

Mr. SCOTT. But that's not appropriate for civilian?

Ambassador HOLMES. No, it's not appropriate and it's not used.

Mr. SCOTT. OK.

Thank you, Mr. Chairman. I yield back.

Mr. ZELIFF. Thank you, Mr. Scott.

The Chair yields to Mr. McCollum.

Mr. MCCOLLUM. Ambassador Holmes, I'd like for you to confirm for us or corroborate a fact that I believe is correct which is that all of the vehicles you provided to the FBI for the Waco siege period, the combat engineering vehicles, the Bradley fighting vehicles and the M1A1 tanks, had had their weapons systems disabled or removed before you provided them to the FBI; is that correct?

Ambassador HOLMES. That is correct, Mr. Chairman.

Mr. MCCOLLUM. Thank you. I also want to go back to the meeting that the two senior Army officers had with Attorney General Reno in discussing the CS gas and the plan. Am I not correct that among other things they said to her with regard to the CS gas plan that there was a statement concerning risks associated with the gas, and that mothers may leave their children when it's inserted?

Ambassador HOLMES. I do recall that one of the officers concerned, involved, in the context of explaining the different reactions, said something like some mothers might abandon their children.

Mr. MCCOLLUM. All right. Also, I am concerned about the question about whether or not they gave any advice to the Attorney General regarding taking out the leader at the beginning of the operation. Am I not correct that in a military operation, as opposed to a law enforcement operation, these two Army officers advised the Attorney General there would be that type of action?

Ambassador HOLMES. The two Army officers concerned did not advise the Attorney General in this regard. They simply stated that were it a military mission, that they would use speed, surprise, violence of action, and go for the leader.

Mr. MCCOLLUM. All right, thank you.

Also in that same discussion, am I not correct that these two Army officers advised the Attorney General of their opinion that the Hostage Rescue Team needed to be pulled off line at some point to restore their perishable skills so they would not deteriorate further, both mental and physical?

Ambassador HOLMES. Let me rephrase that in replying.

They didn't advise the Attorney General that they should do that. They said that, again, if it were a military operation, they would have their soldiers rotated off the site in order to maintain their perishable skills.

Mr. MCCOLLUM. All right, that's all I wanted. I'm not trying to put words in your mouth. Just need to get the answer out somehow or another.

Ambassador HOLMES. Just want to get it accurate.

Mr. MCCOLLUM. I want you to, also.

And with regard to the meeting itself and its initiation, am I—let me ask it this way. Do you know who actually asked the two Army officers to come to this meeting with Attorney General Reno? Who was the contact person?

Ambassador HOLMES. The contact point was an FBI official.

Mr. MCCOLLUM. Was it Dick Rogers?

Ambassador HOLMES. I believe it was—Rogers was the head of the Hostage Rescue Team. I believe it was Rogers who was the contact point.

Mr. MCCOLLUM. Now, with regard to the jamming equipment that was used to prevent the Davidians from receiving television signals, you indicated that the operation of this equipment was by civilians.

Did you mean the FBI? You did not mean civilian military personnel, did you?

Ambassador HOLMES. No: let me just check something here. The equipment to interfere with the reception of the TV signals was operated by DOD civilians.

Mr. MCCOLLUM. It was by DOD civilians?

Ambassador HOLMES. Yes.

Mr. MCCOLLUM. Let me ask you another question just to receive an explanation here on the Hostage Rescue Team perishable skills issue.

At any time, to your knowledge, after the comment was made this the military would pull them back the renew there skills if it were a military operation was there a response from the Attorney General or from any of the FBI present as to what their position was with respect to this observation?

Ambassador HOLMES. Yes, I recall that the Army officers concerned, mentioned that the FBI officials in charge said that they were confident that their people were prepared, because they had used makeshift training facilities in the vicinity to keep their training up. Something to that effect.

I would not try to characterize precisely how the FBI replied, because I work for the Defense Department. I think to be absolutely accurate on that, you might want to ask the FBI. But I——

Mr. MCCOLLUM. No. I thank you. I just wanted to get your response.

Ambassador HOLMES. I recall it pretty much that way.

Mr. MCCOLLUM. The response of how the military officers observed or remembered that conversation is all I was trying to get.

Thank you, Mr. Chairman.

Mr. ZELIFF. Time is expired, thank you.

Ms. Slaughter from New York for 5 minutes.

Ms. SLAUGHTER. Thank you, Mr. Chairman.

Mr. Ambassador, it's nice to see you again. I'm not altogether clear why you're back either to try to prove once again the Attorney General didn't understand this issue. What I hear more and more is that she tried every way in the world to consult everybody that she could find about the gas.

And that then given every kind of—and frankly, we heard it all here. There were a couple of people who said that nobody really knew, but experts who'd really worked with it said, as we pointed out before and it's on the record, that no person has suffered any debilitating conditions or death from the use of CS gas.

As a matter of fact, I'm not sure that you're aware this morning it was put into the record that the autopsy reports from all the people who died on that unfortunate day, that not a single one died from CS gas. Did you know that?

Ambassador HOLMES. I did not.

Ms. SLAUGHTER. No matter how often we say it, we still come back to say did CS gas kill anybody. Sort of like Alice in Wonderland, we'll believe six impossible things before breakfast, I guess.

One of the things that concerns me is the difference in law enforcement and the Defense Department. I think you're trying to make this very clear, and that the chain of events here sometimes gets forgotten, because we talk all the time about whether you need to know all about cults, does law enforcement need to understand all about cults. You were not there because this was a cult.

In the first place, the law enforcement was called in by the local sheriff because of illegal weapons; isn't that correct?

Ambassador HOLMES. I only know, frankly, from, publicly available information.

Ms. SLAUGHTER. Is it your understanding that they were called in because they were stockpiling machineguns and handgrenades and other weapons that were illegal to have?

Ambassador HOLMES. That's what I've heard. But I don't have any direct personal knowledge of that.

Ms. SLAUGHTER. Well, my—my concern is if every law enforcement agency decides it has to understand every cult, that's going to be a pretty difficult problem, because we've heard from numbers of various experts here who disagreed completely with each other and who are to this moment still giving reports on how they differ from what other members have said.

But the Defense Department, I think we need to restate what you said before, you feel that you were there on legitimate grounds?

Ambassador HOLMES. We feel that we were responding according to our statutory authority to requests from civil authorities, from law enforcement, for help from DOD, because of our specialized expertise and resources.

Ms. SLAUGHTER. And as we keep talking about the two officers who spoke to the Attorney General, it was not their position to tell her how to run the operation because the military itself was not in charge of it; isn't that correct?

Ambassador HOLMES. Absolutely true. They were not in charge and they were not trying to tell her how to run the operation.

Ms. SLAUGHTER. The advice on whether she should take out Koresh or this kind of thing would not be the kind of advice that we would expect from the military, is that correct, in a civilian operation?

Ambassador HOLMES. Well, they did not advise her—they did not seek to advise her on whether to take out Koresh or not.

Ms. SLAUGHTER. Isn't it the absolute truth that there is a wall between civilian military and the control that they have over populations, and that their—that the roles and missions that they have are entirely different and that the military is not allowed to do civilian police patrolling in the United States?

Ambassador HOLMES. It is true that the military are enjoined by statute, particularly the Posse Comitatus Act, from acting as law enforcement, and they're prevented from, arrests, searches, seizures.

Ms. SLAUGHTER. And unless called in, and particularly National Guard which can from time to time be called in by a Governor for

riot control or some sort of things, it's not normal for the Department of Defense in any way to be involved?

Ambassador HOLMES. Well, it's not normal for the Department of Defense under title 10. But it is my understanding that under title 32, that National Guard, working under the authority of a Governor, has more latitude in that regard.

Ms. SLAUGHTER. Correct, and I stated that already.

But what I would like to hear you say, Ambassador Holmes, before my time expires, are you satisfied to the best of your knowledge that everything that was done here was done correctly and was done by the books and was done by the law of the United States and under no kind of conspiracy theory?

Ambassador HOLMES. A hundred percent, I totally agree. And I am satisfied that everything was done according to the statute and according to legal delegated authority of the officials of the Department of Defense, responding to the requests.

Mr. ZELIFF. The gentlelady's time is expired.

I assume, Mr. Ambassador, that includes the question of ATF's request for the military, with the drug connection as well?

Ambassador HOLMES. Well, yes, because that request came through Operation Alliance, which was a clearinghouse of all law enforcement agencies whose responsibility it was to pass requests, vetted by them, to the joint task force.

Mr. ZELIFF. The Chair will now recognize Mr. Buyer.

Mr. BUYER. I have several questions, but I have to state a particular confusion I have at the moment by the gentlelady's questions of New York, to say that isn't it the reason there were automatic weapons is why the DOD was brought in.

Ms. SLAUGHTER. No, no.

Mr. BUYER. That kind of discounts the fact that we went through all these hearings about a drug nexus.

I'd yield to the gentlelady.

Ms. SLAUGHTER. Just a moment, sir. I did not say that. I said that the law enforcement, the county sheriff had called in law enforcement, ATF specifically, because of the stockpiling of illegal weapons. It was not the fact that there was a cult there.

Mr. BUYER. Cult? I didn't hear you say that. Taking back my time.

Ms. SLAUGHTER. Well, I——

Mr. BUYER. Let me move in, because I think part of the problem we went through is this whole thing about whether there was a ruse about a drug nexus, to gain access to the military treasure trove. Let me move into the other thing that bothered me about your opening statement, when you referred to M–1 tanks, 10 Bradleys, 12 HMMWV's, and CEV's, some helicopters.

When you say DOD, are you putting National Guard under that umbrella?

Ambassador HOLMES. Yes.

Mr. BUYER. OK. I think that's pretty important.

Ambassador HOLMES. That's because the 10 Bradleys were actually from the Texas National Guard at Fort Hood.

Mr. BUYER. I think it would be very helpful for the committees, Mr. Holmes, if when you provide the list to us, that you make a separation between that which is provided from the active and that

which is coming out of the National Guard, and especially on the issues of reimbursement. Because I know that, looking at the National Guard After Action Report, it says in here that Federal LEA's have agreed to reimburse the Texas National Guard for consumables and loss, damage and repair to Texas National Guard equipment in the amount of $205,752.

So then—so it will be helpful to us to know whether or not there were active duty equipment that were damaged or lost and that you sought reimbursement. And then hopefully you'll begin to ask this question, too, that now that we're learning that there was this ruse to create access, as I said, to the military treasure trove, that you, sir, will analyze that.

I know that the President or the Secretary of Defense has appointed you this task force to look at the access question, but hopefully you'll begin to look at also this question about I know you don't always want to say, well, gees, is this Federal agency asking me or are they being truthful in their requests, but now that we know that perhaps it wasn't as upfront, are you going to be seeking reimbursement or are you going to just say, well, had they asked for the request through other access means, they could have gotten it, therefore we'll just discount it? So I'll appreciate you look into that.

Ambassador HOLMES. We will look into that. We will include that for the record in our response. I'd like to point out, however, that the more detail that is required in this response of that sort, means that it will take longer.

Mr. BUYER. All right. One thing that I do also want to get into, is that the military did, in their advice to Ms. Reno, advise to bring the—about the advice to withdraw the HRT team. Now that, in fact, happened, correct? The advice to withdraw the team, in fact, happened?

Ambassador HOLMES. No, they did not advise her to withdraw the HRT team.

Mr. BUYER. So the Justice report is incorrect?

Ambassador HOLMES. I covered this earlier. Let me rephrase it.

Mr. BUYER. Well, let——

Ambassador HOLMES. The question was asked, and they responded that if it were a military operation, that they would rotate their people off the site in order to maintain perishable skills.

Mr. BUYER. See, but the——

Ambassador HOLMES. They did not advise her to do the same with the HRT.

Mr. BUYER. Mr. Holmes, what we have here is a situation where Mr. Hubbell, and though Mr. Sage says that it was, quote, overstated, Mr. Hubbell is advising the Attorney General that on the scene in Waco, law enforcement personnel were getting tired, their tempers were fraying.

Even in the After Action Report from the National Guard, they said that considering the magnitude, severity, and scope of the particular support mission, few if any major problems were encountered. However, personalities, vanities, and opinions did surface to near problematic degrees that can be attributed to stress and sleepless and concerned personnel.

So what we have is in fact that predicament, where you have the highly perishable skills that are in fact perishing and the military says if this was one of our actions, when we move in with speed and violence of action and surprise, we would do it now. But I'll tell you what, because of the readiness concern, we recommend withdrawing from the scene.

Now that's a—that in fact occurred, correct?

Ambassador HOLMES. No.

Mr. BUYER. Geez.

Ambassador HOLMES. No, I don't——

Mr. BUYER. Convey it, please.

Ambassador HOLMES. Congressman, don't expect me to comment on the nature of the conversation between Mr. Hubbell and the Attorney General. I will comment on what our military officers advised.

They did not advise them to withdraw the HRT. And I repeat, they said if it were a military operation and these were our people, we would rotate them off so as to train and maintain their perishable skills.

Mr. BUYER. Well, I—I was hopeful that others wouldn't have to come in and testify. I prefer to consult with the Chair here in just a moment.

Thank you.

Mr. ZELIFF. Ms. Jackson Lee.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman.

And I'm sorry, Ambassador, that we seem to have a directed effort to put words in your mouth and allegations of who's pro and con. I hope I'm just here to get facts and to help us be able to recoup for, on behalf of the American people, both the truth and ways to avoid the loss of these terrible—this terrible tragedy and loss of lives, both with ATF and certainly members of the Branch Davidians.

I want to ask you to call off what your actual title is. I'm reading it here and I want to make sure that I've got the right information. Listed as Ambassador M. Allen Holmes and what is your title, sir?

Ambassador HOLMES. Actually, I'm Mr. H. Allen Holmes. And I am Assistant Secretary of Defense for Special Operations and Low Intensity Conflict.

Ms. JACKSON LEE. All right.

Mr. Holmes, and we certainly conferred upon you, maybe because of your demeanor, Ambassador, but what the American people, I understand, are sensitive to, is the fact that we are in a democracy, and whether or not we are in a situation where the military can be put out into the field to put the American people under siege. Is this title that you've just given to me and the responsibilities there under a covert operation to put the American people under siege?

Ambassador HOLMES. Certainly not.

Ms. JACKSON LEE. Would that be absolutely——

Ambassador HOLMES. The Special Operations and Low Intensity Conflict has to do with my oversight responsibilities for policy and the resources of Special Operations Forces. I should add that beyond that, I also have responsibility for the counterdrug operations

of the program of the Department of Defense, and Humanitarian and Refugee Affairs.

Ms. JACKSON LEE. So we should not read into that a concerted and directed effort to move about these contained United States and territories and act upon American citizens lawfully following the law?

Ambassador HOLMES. Absolutely not. The Department of Defense is there to provide national security, to fight and win our Nation's wars. Obviously we're not operating against the American people. We're operating in support of the American people.

Ms. JACKSON LEE. Did you have—not you, but do you have an understanding whether military came on the scene after Oklahoma City?

Ambassador HOLMES. Yes, I have an understanding.

Ms. JACKSON LEE. Were they—what mode were they in? Were they in an assistance mode? What mode do you understand that they might have been in?

Ambassador HOLMES. Absolutely in an assistance mode. There had been a terrorist attack. They were basically helping with what we call consequence management of that great tragedy, and provided a range of support that was requested by civil authorities to help, help with the people, look for people, dog teams.

Ms. JACKSON LEE. Assistance mode?

Ambassador HOLMES. All kinds of assistance to help with that tragedy.

Ms. JACKSON LEE. Quite a different set of circumstances, but many of us in the South remember it, Hurricane Andrew, great loss of life. Do you believe that military might have been on the scene there after the fact?

Ambassador HOLMES. That is another, another one, another category of support that we provide to civil authorities. When there are natural and manmade disasters, yes.

Ms. JACKSON LEE. Not in any conspiratorial way.

Let me get my last question in, get back to the drug nexus question. That seems to have been the draw on what would have drawn military assistance.

Let me give you my understanding, sir, and you can give me your answer. I understand that the drug nexus emphasis was that if you provided assistance, then because of legislation that you would operate under, the agency would not have to reimburse.

It does not mean that that was the only basis upon which you could enter upon the scene. It had to be with not having to reimburse.

I want to finish my question so you can answer. And there was a variety of activities, including past felons or convictions of people that were inside and various other issues that the ATF may have brought to the military's attention. But in any event, if you can again explain the drug nexus situation that would have caused the military to be involved.

Ambassador HOLMES. Maybe it would be helpful to approach it from a different direction.

Ms. JACKSON LEE. I welcome that.

Ambassador HOLMES. Since 1989, we have been given legislation to participate in the national fight against drugs. And for 5 years, we have received appropriations from the Congress to do this.

And so these appropriations cover a wide range of activities of military support to law enforcement in going after the drug dealers. Joint Task Force Six is solely engaged in that activity.

When they receive a request from Operation Alliance, which includes all law enforcement agencies—because all law enforcement agencies in one way or another, at one time or another are involved in going after drug dealers—they examine it, they look at it from the legal point of view, and from the command point of view. There's always a general officer who looks at it. When they are satisfied, they then execute that military support to civil authorities.

Ms. JACKSON LEE. Joint Six was——

Ambassador HOLMES. It is not necessary to reimburse because there is a program to pay for that, which is appropriated by Congress.

Ms. JACKSON LEE. That's the nexus that we were talking about, that's the door that was opened——

Mr. HOLMES. Yes.

Ms. JACKSON LEE [continuing]. For the participation of the military?

Mr. ZELIFF. The gentlelady's time is expired.

Ms. JACKSON LEE. Thank you, Mr. Chairman.

Thank you, Mr. Holmes.

Mr. ZELIFF. The problem is that the money gets charged to the drug war.

Ms. JACKSON LEE. Mr. Chairman, I understand that.

And I appreciate you saying that and that's why I wanted Mr. Holmes to say that, that the efforts were in good faith, they tracked the inquiry, they looked at what was provided, and they made a good-faith effort.

And you're right, it came out of dollars legislated for the drug war, and that's what I understand the ATF's inquiry was, that they thought there might be drug activity going on inside the compound. Whether that was accurate or not, but that was the basis upon which the first inquiry was made to the military.

Mr. ZELIFF. I think it's since been proved that it was rather inaccurate.

Ms. JACKSON LEE. With hindsight, Mr. Chairman. I hope we can fix all of that for the American people, I really do. I work with you to do so.

Mr. ZELIFF. Thank you.

Mr. Schiff, New Mexico.

Mr. SCHIFF. Thank you, Mr. Chairman. I would just like to use part of my time to continue what the Chair and Ms. Jackson Lee are talking about. I think the evidence is overwhelming that this was never a drug raid by the Bureau of Alcohol, Tobacco and Firearms. It was always a raid for alleged violations of firearms laws.

And the reason BATF told the military that this was drug involved, is that was the only way that they were going to get the training that they received from Joint Task Force Six, because Joint Task Force Six only helps in drug interdictions. And what I think that further shows is the fact that the Bureau of Alcohol, To-

bacco and Firearms was—was committed to this idea of a military raid to be followed by a press conference, regardless of the risk to children inside, regardless of the risk to their own agents who they sent forward.

And Ambassador Holmes, I didn't mean to make you sit through that, but I think it needs to be clarified. Particularly when I see from the Associated Press that Secretary of the Treasury Rubin is throwing verbal bombs at this committee and saying we might be undermining law enforcement, not supporting law enforcement. I think that the Treasury Department didn't support law enforcement to abrogate its oversight responsibility of the Bureau, or what the Bureau helped do to its own agents.

Mr. Holmes, I'd like to ask you this question. I believe you said that Department of Defense civilian personnel were operating some surveillance equipment at the Waco site?

Ambassador HOLMES. No, I said that DOD civilians were operating equipment that interfered with the reception of TV signals in the compound for approximately 5 days in mid-March.

Mr. SCHIFF. All right. Were they operating from some location other than right around the Waco compound?

Ambassador HOLMES. It was operated right there in the vicinity. I don't recall exactly where it was, but it was definitely right there in the Waco vicinity, yes.

Mr. SCHIFF. What agency did those—within the DOD, what agency, what service did those civilians come from?

Ambassador HOLMES. They came from the Air Force.

Mr. SCHIFF. All right. And if we need their names, are you able to provide that at some point?

Ambassador HOLMES. I think we could do that. I don't see why not.

Mr. SCHIFF. OK, thank you. There have been some questions that have come up about what the Attorney General was told and how this plan was proposed. And I'd like to ask you from your knowledge of the military's discussion, if you're able to respond.

One issue is how likely it was that the first vehicle that went forward might receive hostile gunfire from inside the compound, because it's been testified that would trigger an all sides assault on the building to put gas in from many different sides at once. Do you have an understanding of whether the FBI said this was likely to occur, that is, gunfire was likely to occur to this first vehicle, or was not likely?

Ambassador HOLMES. I can't really reply to whether it was likely for the first vehicle, but I can say that the reason that the FBI requested and the Defense Department provided some armored vehicle was for force protection. And therefore, it's clear that they were expecting to receive gunfire and they were interested in protecting the lives of the agents.

Mr. SCHIFF. Well, I want to say the reason that's important, and we'll take this up with the Attorney General tomorrow, is whether there would be gunfire. And it could only be from one person, necessarily, in the compound.

That would change the whole scenario of what was about to happen. That's why I emphasize the point.

On the use of CS gas, I wonder if the military civilians or members who were advising the Attorney General had any examples from anywhere in the world of where they knew CS gas had been planned to be pumped into or was pumped into a building continuously for 48 hours, or was deliberately inserted into a building where children and infants were present. Do you know of any such examples of either of those?

Ambassador HOLMES. I only know that in training, all the services use CS gas in training, and so they're quite familiar with its effects to basically train their soldiers in how to react in these situations.

Mr. SCHIFF. Well, that's soldiers.

Just to follow up briefly, do you know of any examples of either a plan to put CS gas into a building for 48 hours straight, against inhabitants who might be there, anywhere, or a plan to insert gas into a building in any amount for any duration of time where there's children or infants present?

Ambassador HOLMES. I don't know of any such plan.

Mr. SCHIFF. Thank you. Thank you very much, Mr. Holmes.

I yield back, Mr. Chairman.

Mr. ZELIFF. Thank you, Mr. Schiff.

Mr. Schumer, 5 minutes.

Mr. SCHUMER. Thank you, and thank you, Ambassador, for your patience here.

I guess the fundamental question is let us say there was no drug nexus at all. And let us say that the ATF, just suppose, said we don't have any drug nexus and we need your help. Isn't it true that every one of the actions that the military officers and advisors did, would have still been able to have been done, even if with different personnel?

Ambassador HOLMES. I think I may have even said that on my first day of testimony.

Mr. SCHUMER. You did before you——

Ambassador HOLMES. Even without a drug connection, just as in the case of the Pentagon's response to the FBI in phase two, there are many ways that military support to law enforcement can be requested and granted.

Mr. SCHUMER. That is exactly right. That is the point I'm making. So we may have a question here of the credibility of whoever in the ATF asked the military for help in terms of the drug connection, but we have—there is not the slightest scintilla of a doubt that no law was broken; is that correct?

Ambassador HOLMES. Certainly from the Defense Department's standpoint, we certainly did not break any laws.

Mr. SCHUMER. And nothing was done that couldn't have been done with or without a drug nexus; is that right?

Ambassador HOLMES. Well——

Mr. SCHUMER. Am I asking too convoluted a question?

Ambassador HOLMES. No. I would just say simply that the Defense Department will always receive——

Mr. SCHUMER. That's not my question. My question is—I will ask you again. I asked it initially.

Aside from the fact that there is a sort of bureaucratic way of paying for these things, and some comes out of the war on drugs

and some comes out of the defense budget, every single action that any military officer did in connection with Waco would have been allowed whether there was a drug nexus or not under the present law; is that correct?

Ambassador HOLMES. I believe in general that that's correct. But the reason I'm hesitating is that every request for support that comes from law enforcement—I mean obviously we don't just blindly execute it. We would always want——

Mr. SCHUMER. I meant this one.

Ambassador HOLMES [continuing]. To examine every request very carefully from the point of view of law and command and control, and that's the reason it's difficult for me to give you a blanket——

Mr. SCHUMER. I didn't say in every instance. I said in regard to this particular incident, the training that went on with ATF and FBI for preparation of the siege in Waco.

Ambassador HOLMES. I think that's probably so. If those requests had come in and there had been no connection with drugs, they certainly would have been treated as honest, straightforward requests, and they would have been looked at, but I can think of no reason——

Mr. SCHUMER. I'm not asking whether they had been approved. I'm saying let's say now in hindsight we know there was no drug nexus, but could—not would, but every single action have been allowed under present law? If not, we should know about it, too.

Ambassador HOLMES. I haven't done that kind of analysis. But let's say, for example hypothetically, that they had requested some armored vehicles to protect their agents. I think it is safe to say that that would have been granted, whether or not there was a drug connection.

Mr. SCHUMER. How about some training, not for a specific operation but on sort of siege type——

Ambassador HOLMES. Certainly in terms of training for medical emergencies and for communications and that sort of thing, I think that would have all been responded to in a positive way.

Mr. SCHUMER. Well, certainly, summing up, I have not heard a single jot come out of any member of this committee or anywhere else other than, again, you know, some of the conspiracy-type theorists and allegations made or implied in "Soldier of Fortune" and other places like that, not my bible on what is proper and improper, but I haven't heard a single, single allegation that talks about any violation of law.

Mr. ZELIFF. The gentleman's time has expired.

Mr. SCHUMER. Thank you.

Mr. ZELIFF. Mr. Coble from North Carolina.

Mr. COBLE. I thank the chairman.

Mr. Ambassador, I'm going to reiterate a point I made earlier this week—earlier last week, rather. I met with a friend of mine who is one of the foremost attorneys in North Carolina who was up here for a meeting, and, responding to our Waco hearings, he voluntarily told me, he said, "When I first saw the report on television, I called my wife into the den and said, 'Have the Federal agents lost their minds?'"

We've been in the process of applying 20–20 hindsight for the past 7 or 8 days. This was his instinctive response. He was applying no hindsight at all. "Have they lost their minds?" Not being critical necessarily, just a gut feeling that something was wrong, and I think, Mr. Ambassador and Mr. Chairman, I think that's why we had these hearings.

I think many Americans responded in that same vein, not because Koresh was doing things properly, but because they feared the Federal Government was doing things improperly. And since we have saddled you, Mr. Ambassador, with the idea of compiling information, I have one more request for you. And this is one of these things, Mr. Chairman, that nags like at you. In hearings like this, now and again something will stand out that nags at you.

Damage to the tank—tanks. It was reported in the FBI report that one of the reasons why they accelerated the insertion of the gas was because they were being fired upon from inside. The folks inside, conversely, deny that they were firing upon the tanks. Here is what bothers me.

On June 8, this subcommittee requested a copy of the damage report to the tanks. There were obviously no gunfires between March 1 and April 18, so any damage sustained by the tank would had to have occurred on the 19th, and that would, common sense tells me, be reflected in the damage report.

I'm at a loss why we haven't gotten that report. Almost 2 months ago we requested it. Over 2 years have elapsed since this occurred. Surely the damage report had been compiled. I realize—and this is not your fault—I realize the wheels of bureaucracy turn awfully slowly in this town, but after 2 years?

No. 1, can you illuminate for me, and if you can't, can you get that information for us as to why we haven't gotten the report yet?

Ambassador HOLMES. I wasn't aware that there was a request for a damage assessment.

Mr. COBLE. And I'm not whipping up on you, Mr. Ambassador.

Ambassador HOLMES. I'll be glad to look into it and see—see what we can produce.

Mr. COBLE. I presume that the report was—I assume it was directed to DOD, and I'm not blaming you for the fact that we don't have it, but I'm blaming somebody, because it seems to me after 2 months, we ought to have that report in hand and examine what damage, if any, did occur.

I thank you, Mr. Ambassador, for being here.

Mr. Chairman, that's the only question I had. If you want—anybody want my time?

Mr. ZELIFF. Thank you, Mr. Coble.

Mr. Ambassador, the fact that you indicated that the Air Force used jamming devices—and I believe that was for about a week, and then they left on the 18th. Why did they leave?

Ambassador HOLMES. I really don't know why they left, but they did.

Mr. ZELIFF. They just thought it was a good idea to do for a week and then leave?

Ambassador HOLMES. I don't know. Let me consult some of my colleagues here.

Mr. ZELIFF. And I understand they were there keeping surveillance.

Ambassador HOLMES. I think probably the answer to that question should be directed to the FBI.

Mr. ZELIFF. We'll do that.

Ambassador HOLMES. They must have said they didn't need them.

Mr. ZELIFF. My question really is, they were DOD civilians, I think I heard you say.

Ambassador HOLMES. Yes.

Mr. ZELIFF. And they were actually manning those devices?

Ambassador HOLMES. Yes. They ran that equipment.

Mr. ZELIFF. Unlike——

Ambassador HOLMES. I think they were a mixture of DOD civilians and perhaps contractors; I'm not sure of the breakdown.

Mr. ZELIFF. Unlike the situation where the FBI would actually be manning the tanks?

Ambassador HOLMES. That's right. Everything else, all other equipment, was run by the FBI.

Mr. ZELIFF. Thank you very much.

Mr. Taylor.

Mr. TAYLOR. Mr. Chairman, I would like to reserve my time.

Mr. ZELIFF. Mr. Conyers.

Mr. CONYERS. Thank you, Mr. Chairman.

Good afternoon, Ambassador Holmes. We have met before. This is your second time here?

Ambassador HOLMES. Yes.

Mr. CONYERS. You're lucky. There are some who have been back more than twice. You have been here—the last panel you were on, were you here for 6 hours or more?

Ambassador HOLMES. I think it was about 4 hours.

Mr. CONYERS. About 4 hours.

Ambassador HOLMES. On the 20th.

Mr. CONYERS. All right. And so we are sputtering along here. We are just about almost out of gas. We have brought back all the witnesses we could think of to take them through their paces one more time. Believe me, I had nothing to do with this.

Do you have any new and final information that, upon these eager two committees of Congress, you would give us your last and final parting words about this whole sorry incident?

Ambassador HOLMES. I really thank you for that invitation, Congressman, but I really don't have anything to add to the statement that I made at the beginning and to the questions that I have answered during this hearing.

Mr. CONYERS. Well, I had that feeling ever since you've been here this afternoon that we were plowing through the same sort of thing, and I would yield my time, thanking you very much for your courtesy and cooperation with these committees, and if there is no request for my time, I'd yield it back, Mr. Chairman.

Thank you.

Mr. ZELIFF. Thank you.

Mr. Chabot.

Mr. CHABOT. Thank you. I will yield my first 30 seconds to Mr. Schiff.

Mr. SCHIFF. I thank the gentleman for yielding.

As a still-recognized judge advocate in the Air Force Reserve, I want to take just a minute to clarify the issue of drugs and training.

The plain fact is this: Although there may not have been a violation of a statute like the Posse Comitatus Act, Joint Task Force Six, which provided the training to the Bureau of Alcohol, Tobacco and Firearms, would never have done so unless they believed that this was a drug mission, because that was their mission.

Ambassador HOLMES. That's correct.

Mr. SCHIFF. And the argument is—thank you, Ambassador.

The argument has been made, well, BATF could have gotten this training for its agent through another part of the military if they'd been willing to reimburse the military. That is true.

I think the most probable response on that is that BATF did not have the budget it wanted to commit to reimburse the military and that's why they misled the military into believing that this was a drug raid. And I believe they did that so they'd get the training so that they could go ahead with their plan for a military assault on this compound, even though it was a grave risk to the people who were inside and it was a grave risk to their own agents, some of whom paid with their lives for that decision.

With that, I yield back to Mr. Chabot and thank him.

Mr. CHABOT. Thank you.

Ambassador Holmes, first of all, were there any military personnel from any other countries other than the United States at Waco?

Ambassador HOLMES. I'm not aware of any military other than the United States that were there. Certainly not at the invitation of the Department of Defense.

Mr. CHABOT. Let me be a little more specific. When you say you are not aware, I'm not talking about on February 28. I'm talking about, say, from the 1st of March through April 19, and I don't mean necessarily taking part in any of the activities that occurred there, but have you had any discussions with any of our military personnel that might indicate that there were any military personnel from any other countries there?

Ambassador HOLMES. It's my understanding that at the invitation of perhaps the FBI Hostage Rescue Team that there may have been one or two personnel from the British SAS there as observers at some point during the long siege.

Mr. CHABOT. So there were military personnel there from another country?

Ambassador HOLMES. That is what I have been led to believe. I don't have any direct knowledge of that. What I do know is that one or two people from the SAS are supposed to have been there, they were not there as a result of a DOD invitation. So it really——

Mr. CHABOT. OK. Well, I wasn't specifically getting at who invited them there.

Ambassador HOLMES. That's why I can't give you a direct confirmation of that from the point of view of the Department of Defense, but it is our understanding that there were a couple—one or two, I think, SAS personnel there at the invitation of the FBI.

Mr. CHABOT. Let me get away from that for a minute. My time is running out here.

The two officers that you mentioned that went and met with Attorney General Reno, what rank were they?

Ambassador HOLMES. One was a colonel, and one was a brigadier general.

Mr. CHABOT. A colonel and a general?

Ambassador HOLMES. Yes.

Mr. CHABOT. Now, you mentioned, I believe, they flew in a helicopter around the compound at one point?

Ambassador HOLMES. One of them did.

Mr. CHABOT. OK. Was that in the daytime or at nighttime?

Ambassador HOLMES. It was in the daytime.

Mr. CHABOT. And then from that helicopter, they then got on—on another flight——

Ambassador HOLMES. Yes. That officer then flew, after flying briefly over the area, over the compound, the Waco area, just to have a look—

Mr. CHABOT. Did they land several times?

Mr. HOLMES [continuing]. That officer then flew——

Mr. CHABOT. Did they land several times at the compound site?

Ambassador HOLMES. I don't think so. I don't really know, but I think basically they just did one quick fly-around in the helicopter, and then they got in an FBI aircraft and flew to Washington.

Mr. CHABOT. And immediately met with the Attorney General?

Ambassador HOLMES. And met with the Attorney General at FBI headquarters.

Mr. CHABOT. My time is out.

Ambassador HOLMES. On April 14.

Mr. ZELIFF. Thank you very much.

Mr. Watt.

Mr. WATT. Thank you, Mr. Chairman.

Ambassador Holmes, in some of our communities where we have seen the National Guard on various occasions, we never realized that there was this dichotomy between the military and the law enforcement personnel.

I wonder if you might spend a minute or 2 just informing the American people who may be watching today what this—the philosophy of posse comitatus is and what in fact that law consists of.

Ambassador HOLMES. Well, for a really authoritative reading, I would refer you to General Huffman's statement that was entered in the record on the hearing on the 20th. But based on what he explained to me, my understanding is that the Posse Comitatus Act was passed in, I think it was 1878, and basically the purpose was, during the Reconstruction period, to ensure that military personnel were not carrying out civilian law, and therefore, the law proscribes military personnel from carrying out such law enforcement functions as arrests, searches, and seizures.

Mr. WATT. I take it that we have maybe taken a tiny step or two back from that philosophy in our efforts to deal with the drug situation in this country, in our efforts possibly in the upcoming statute to deal with terrorism—domestic terrorism and international terrorism in tandem with each other, I guess.

Is my perception correct that that—that maybe we've taken a tiny step back from that philosophy?

Ambassador HOLMES. Not—not in the prosecution of the counterdrug war. The Posse Comitatus Act remains in place, and I would not say that it represents a step back, no. There is a clear separation here, and whether military are supporting law enforcement authorities within the United States or in those foreign countries where there is a drug problem for example, in the Andean region, we are very careful not to overstep that boundary.

With respect to counterterrorism, it is possible if there would be a serious national crisis within the United States involving weapons of mass destruction, particularly nuclear weapons, I believe that the President would have the authority to send military units into action to support the FBI and the Justice Department in taking care of that kind of very grave threat to the American people.

Mr. WATT. And how does the use of the National Guard in riot situations fit into this whole overall context?

Ambassador HOLMES. Well, if the National Guard is called out by the Governor in a situation and is operating under title 32, then the National Guard is acting, I think, closer to a quasi-law enforcement capacity than would be the case for normal military forces operating under title 10.

Mr. WATT. OK. I used this series of questions just to kind of get the public up to at least a generalized level of knowledge about the separation between the military and domestic law enforcement and leading to the final question which I have, which is, have you had an opportunity since the Waco event to review in some detail the steps that the military took, whatever they might have been, and to determine whether or not the military in any respect engaged in any violation of the Posse Comitatus Act in this separation of authority, and, if so, what have been your findings, if you would?

Ambassador HOLMES. Yes. I and many of my colleagues in the Defense Department have looked at this question very carefully. We have found absolutely no infraction of the Posse Comitatus Act, and indeed our finding is that at all times the military support that was provided was completely in accordance with statute and the procedures laid out in the Department of Defense.

Mr. WATT. Thank you, Mr. Chairman.

Mr. ZELIFF. Thank you.

Mr. Bryant of Tennessee.

Mr. BRYANT of Tennessee. Thank you, Mr. Chairman.

If I might just add on to what Mr. Schiff, my colleague, said, as we have discovered, it is perhaps apparent that the Posse Comitatus Act was not violated here but what was the problem was the fact that the ATF, while they may have used the wrong method to get the military there, the fact was they had to greatly overstate or exaggerate, perhaps even invent, this idea that there was a methamphetamine lab on the premises to do that.

So we are getting lost on whether posse comitatus applies or not and missing the clear point here that the ATF may have overstated their authority in their perhaps overzealousness to get this search warrant, and I think that's the main point we want to remember here.

Mr. Ambassador, thank you for being here today. I wanted to ask you, there's clear testimony from Mr. Hubbell that the military was involved in a meeting with the Attorney General and several others to give advice on the 14th of April 1993.

Was there—were there other occasions that the military was used to brief the people in the White House, perhaps even up to the President, in regards to this particular operation?

Ambassador HOLMES. Not to my knowledge.

Mr. BRYANT of Tennessee. To your knowledge, the highest level then that would be involved would be the Attorney General?

Ambassador HOLMES. The two Army officers that briefed her, yes.

Mr. BRYANT of Tennessee. And I understand she was briefed following the siege and that—would that be—of course that's after the April 14. That would be——

Ambassador HOLMES. April 14 was the date.

Mr. BRYANT of Tennessee. At whose insistence and request was this done?

Ambassador HOLMES. The request came from the Department of Justice and it was approved by the Department of Defense for these two Army officers to consult with her, yes.

Mr. BRYANT of Tennessee. OK. In reviewing the Department of Justice report on this Waco incident, at page 267 of that report it details this April 14, 1993, meeting indicating that the military personnel were present and talking about gas and so forth, and in that it mentions the military officials also said in a military operation the entire compound would be gassed at once, not gradually, and I understand the military's role is much different than law enforcement.

But here's some points I want to make. The military officials—I'm sorry. However, the law enforcement interest was to go step by step, and I want to ask you, after I read all this, was this your understanding of the way the FBI intended this gas insertion to be?

"However, the law enforcement interest was to go step by step, increase the pressure, and make it increasingly uncomfortable inside the structure in an effort to drive them out.

"After discussing the nature of the gas and various tolerance levels to be expected from the occupants, the meeting participants were prepared to wait two or three days for everyone eventually to come out. The action was viewed as a gradual, step-by-step process. It was not law enforcement's intent that this be D-Day.

"Both the Attorney General and Director Sessions voiced a concern for achieving the end result with maximum safety. Clarke"—who would be the FBI—"made it clear that the goal of the plan was to introduce the tear gas one step at a time to avoid confusing the Branch Davidians and thereby maintain the impression that they were not trapped."

Was that—would that be your basic understanding through the military that were there as to what the intent of the law enforcement side was?

Ambassador HOLMES. Well, I read the same report that you did, which is the report to the Deputy Attorney General from within, and I think that's a correct rendition, at least as I recall from reading it again this weekend.

Basically, I can only attest to how the military officers—responded to the Attorney General on what they would do if it were a military operation, which is as I have indicated in my testimony today.

Mr. BRYANT of Tennessee. And as the scenario developed on April 19, 1993, it was a very different one than the one described to the Attorney General on April 14, 1993; is that correct? It did turn out a lot different than what they had projected.

Ambassador HOLMES. My only knowledge of that is the same as yours. Just from watching television and reading public accounts of it. I have no insider knowledge of how the FBI conducted the operation, because basically our people were there only in a training capacity and in fact were enjoined by the FBI from participating, from being in the area, from observing. DOD personnel basically stayed away while the FBI conducted the operation as a law enforcement operation.

Mr. BRYANT of Tennessee. My last question went a little long in the answer to that. My last question would be, was there any other role that the military played in advising in Washington after this April 14, not at Waco but in Washington after April 14, 1993, this particular meeting?

Ambassador HOLMES. Not that I'm aware of, no.

Mr. BRYANT of Tennessee. Thank you, Mr. Ambassador.

Mr. ZELIFF. Thank you. Your time has expired.

Mr. Heineman, Chief.

Mr. HEINEMAN. Thank you, Mr. Chairman.

Getting back briefly, and you may have answered this and I apologize for my redundancy if you have, but the support that ATF asked relative to that methamphetamine lab, was there participation in that from the DEA?

Ambassador HOLMES. Yes. Let me explain. Frequently the questions directed to witnesses have indicated that this is sort of a direct ATF–JTF–6 request, but that isn't the way it happened.

The request was generated by the ATF, and then it went into Operation Alliance, which was the clearinghouse of all the law enforcement agencies, of which the four principal, permanent members, senior members, were to the best of my knowledge, DEA, Customs, Border Patrol, and ATF.

That was when they reviewed the request, they did it collegially within the Operation Alliance and then they passed that request to Joint Task Force Six.

Mr. HEINEMAN. At this time, I would like to yield the balance of my time to Mr. Chabot.

Thank you, Ambassador.

Mr. CHABOT. Thank you, Mr. Heineman.

Just a couple of brief questions. Just one followup, Ambassador, relative to the British military personnel that you mentioned. Do you have any reason why they were there?

Ambassador HOLMES. I don't really know, except that since there is a close professional relationship I am told—between the FBI, HRT and the SAS. Since the SAS, in contrast to our military units, actually do have a quasi-law enforcement authority in certain circumstances when they operate within the United Kingdom—don't take this as factual, this is what I've been led to believe there is

an association there, and I think it was probably one of the professional exchanges that they have on a not infrequent basis.

Mr. CHABOT. Thank you.

Ambassador HOLMES. But I don't know exactly.

Mr. CHABOT. Ambassador, the meeting that took place with the general and the colonel that was referred to before and they met with Attorney General Reno, do you know who else was present at that meeting?

Ambassador HOLMES. You mean on the military side?

Mr. CHABOT. Well, any side. Who else was present that you are permitted to talk about?

Ambassador HOLMES. Well, there was Director Sessions, Deputy Director Floyd Clarke, Special Agent Danny Coulson, Special Agent Larry Potts, Special Agent Dick Rogers, and that was from the FBI. And then of course, the Attorney General, Mr. Hubbell, and two other unidentified individuals. And then on our side were the two Army officers I described, Dr. Salem, and a fourth DOD person, who was an Army officer, who did not participate in the consultations. He was there as a liaison officer from the Department of the Army.

Mr. CHABOT. As you testified, the CS gas was something that was talked about at that particular meeting; is that correct?

Ambassador HOLMES. Oh, yes.

Mr. CHABOT. And in addition to that, the military personnel indicated, did they not, that one thing that they didn't particularly care about, about the plan that was being proposed, was the military would have done it differently because they would have come in from all different sides, very quickly, rather than to drag this thing out over 48 hours; correct?

Ambassador HOLMES. Well, they were asked what they thought——

Mr. CHABOT. I don't have time, but isn't that correct?

Ambassador HOLMES. Well, yes. I mean, as I said——

Mr. CHABOT. Once the firing started, isn't that basically——

Ambassador HOLMES. I'm sorry?

Mr. CHABOT. Once the firing from the Davidians, from the inside, occurred, isn't that pretty much what happened, that they started coming from all sides and pumping gas in and not over a 48-hour period?

Ambassador HOLMES. I don't know. We were not there on the scene, and everything I would say on that is hearsay. I have no direct knowledge of what happened.

Mr. CHABOT. I see I'm out of time. Thank you.

Mr. ZELIFF. Thank you.

Mr. Blute.

Mr. BLUTE. Thank you very much, Mr. Chairman; and, Ambassador, thank you very much for your testimony.

I would just make a statement before I yield back to the chairman that I am somewhat concerned about hearing that even without a drug connection the domestic law enforcement is able to access tanks, Bradley fighting vehicles, helicopters, training—is that accurate—even without a drug connection——

Mr. HOLMES Yes.

Mr. BLUTE [continuing]. As there was in this case, you're saying——

Ambassador HOLMES. That is accurate.

Mr. BLUTE [continuing]. Domestic law enforcement could access all of this.

Ambassador HOLMES. That's all according to statute.

Mr. BLUTE. I think this is an area of the law that perhaps in committee and other committees of jurisdiction could take a hard look at following these hearings. And, with that, I would yield back my time to Chairman Zeliff.

Mr. ZELIFF. Thank you.

Mr. Ambassador, you indicated—and I think I asked you a question. I just want to be clear. The drug czar has responsibility for the Nation's drug war. At any time did he get involved with the use of the drug czar's funds?

Ambassador HOLMES. Well, who do you mean by the drug czar?

Mr. ZELIFF. Dr. Brown.

Ambassador HOLMES. Well, Dr. Brown, head of the ONDCP, who does report to the President?

Mr. ZELIFF. Yes.

Ambassador HOLMES. He is the President's designated representative.

Mr. ZELIFF. Right.

Ambassador HOLMES. And he certainly has an important responsibility——

Mr. ZELIFF. Did he get invited to the meeting?

Ambassador HOLMES. No. His responsibilities generally revolve around policy, the President's overall policy, PDD–14, as well as looking at the overall national budget, and we do submit our various budgets to——

Mr. ZELIFF. He is given a budget of some $14 billion but——

Ambassador HOLMES. That's about it.

Mr. ZELIFF. But he has—nobody contacted him relative to the use of, for example, something as big as Waco. Where military operations resources were used, he had no influence whatsoever?

Ambassador HOLMES. I don't believe so. I'm not even sure whether he was appointed at that time. But in any event, I do not believe that anybody in that office——

Mr. ZELIFF. Would it be possible——

Ambassador HOLMES [continuing]. Was consulted.

Mr. ZELIFF. I vaguely remember some correspondence somewhere—I'm not sure, though, and I want to be very careful—that went to the office of the drug czar. Could you check to see if in fact——

Ambassador HOLMES. I'll be glad to check.

Mr. ZELIFF [continuing]. He was involved in the loop and if in fact they notified you and brought the military before it went to JTF?

Ambassador HOLMES. Yes, we will check.

Mr. ZELIFF. I'd be happy to have you just check it.

Ambassador HOLMES. We will check it.

The deputy assistant secretary for Drug Support for the Defense Department did receive an information copy of the execute order that was signed on by the general in charge of Joint Task Force

Six. And so, yes, there was that connection with the Policy Office in the Office of Secretary of Defense. I was not on board at that point.

Mr. ZELIFF. That's called an information copy?

Ambassador HOLMES. Information copy.

Mr. ZELIFF. So that they were notified and I guess brought into the loop by getting a copy of a piece of paper which told them that this was about to happen?

Ambassador HOLMES. Yes, that this operation was going to happen.

Mr. ZELIFF. February 28 was the day of the original ATF raid, did Texas Governor Richards consult with any military personnel on the 28th of February, and would the military officer be one of the two that attended the briefing with Attorney General Reno?

Ambassador HOLMES. Let me answer that in two parts. These were two totally separate occasions. The officer who was asked by General Taylor, who was the Third Corps commander at Fort Hood, to respond to Governor Richards' request to talk with a knowledgeable military officer about the ATF incident that evening was the assistant division commander of the First Cavalry Division at Fort Hood. And that officer did go and talk with her that evening, answering questions about the kind of materiel that had been used, the kind of materiel that might be subsequently requested, and she asked him to please also consult with the adjutant general, who was relatively new on the job, as I am told.

Mr. ZELIFF. Thank you. I think my time has expired.

Mr. Mica.

Mr. MICA. Thank you, Mr. Chairman.

Mr. Holmes, you are the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, right?

Ambassador HOLMES. That's correct.

Mr. MICA. Are you familiar with this document, the U.S. Department of Justice, and this is the briefing book that was provided to the Attorney General on April 12? Are you somewhat familiar with this document?

Ambassador HOLMES. Is this the after action report?

Mr. MICA. No. This is April 12——

Ambassador HOLMES. No.

Mr. MICA [continuing]. 1993.

Ambassador HOLMES. I'm not familiar with that document.

Mr. MICA. In it, it says—and let me read from page 40—it says, "Experience with the effects of CS gas on children, including infants, has been extensively investigated."

Are you familiar with this information being given to the Attorney General?

Ambassador HOLMES. No, I'm not.

Mr. MICA. You are not.

Did you realize that this information was given by Dr. Salem to the Attorney General in the briefing?

Ambassador HOLMES. No, I was not aware of that.

Mr. MICA. Now, again, you're in the military, but can you tell me any incident in the history of the United States where we have used CS gas and use of the military in some fashion in a civilian

law enforcement incident where there have been children present in a confined area?

Ambassador HOLMES. I'm not aware of any such incident.

Mr. MICA. Now, you've also heard my colleagues here testify—or comment, not testify—my colleagues testify that the CS gas has dissipated in the bodies.

Are you aware of the Department of Justice October 8 report—this is afterwards, not a briefing paper in advance but afterwards—page 312, that says, "It is impossible to know how many of the persons inside the compound inhaled the tear gas because the last gas insertion ended nearly an hour before the fire ended. That lapse of time could have been sufficient for the CS gas to have dissipated from any of the bodies in which it might have been present earlier."?

This is from that report. Are you familiar with that?

Ambassador HOLMES. I'm not familiar with that.

Mr. MICA. Is Dr. Salem—was Dr. Salem consulting to—was he a military individual? He works in the Department of Defense as a civilian employee?

Ambassador HOLMES. He's a civilian scientist.

Mr. MICA. But within the Department——

Ambassador HOLMES. I believe he is a Department of Defense employee, yes.

Mr. MICA. Was anyone outside of the military or Department of Defense employee consulted on the use of CS gas where children are in a confined space?

Ambassador HOLMES. Consulted by whom?

Mr. MICA. By the Attorney General, by anyone that you are——

Ambassador HOLMES. I don't know.

Mr. MICA. If the military were to use CS gas on where there are children and infants present, would he be the only one that would be consulted?

Ambassador HOLMES. Well——

Mr. MICA. I say within the military.

Ambassador HOLMES. That's a situation in which I wouldn't envision the military being involved—a law enforcement situation where children would be involved.

Mr. MICA. Do you think that we should have a change in our policy, given the facts that are now present, we don't know—we had a panel sit right at that same table. Half of them said some of them may have died from CS gas; others said that they didn't.

But in a civilian situation where the military is giving advice and counsel, even with a civilian defense employee, do you think we should have a different policy or look at our policy where we have children and infants present?

Ambassador HOLMES. Well, I don't—really have an opinion with respect to civilian law enforcement in that respect. The only thing I could comment on is to the familiarity that many of our military personnel have with the use of CS gas in training.

Mr. MICA. I think my time has expired. Thank you, Mr. Chairman.

Mr. ZELIFF. Thank you.

Ms. Lofgren.

Ms. LOFGREN. Thank you, Mr. Chairman.

I just have one question. I think you've really answered everything, and in some cases more than once.

In the report from Edward Dennis and the Department of Justice on the whole Waco incident, he has recommendations. I don't know if you've had a chance to read the report.

Ambassador HOLMES. I have not.

Ms. LOFGREN. The last recommendation that he has is to evaluate funding for the development of a chemical means to render individuals unconscious for a period of time without warning. And obviously I could imagine, as a non-law-enforcement, nonmilitary person, the utility of such a gas as opposed to what we currently have available.

I was just wondering—I don't know want you to get into anything that could be a national security issue, but whether there might be some potential in the R&D stage, you think, for the Defense Department and civilians to really develop this kind of means, or whether you think that that is really beyond the realm of possibility.

Ambassador HOLMES. I don't really have an opinion on that.

Ms. LOFGREN. All right. Fair enough.

And I would like to yield the balance of my time to my colleague, Sheila Jackson Lee.

Ms. JACKSON LEE. I want to thank the gentlelady from California, and I probably would say the same thing that she said, that you may have answered these time infinitum, but I am again reminded of the lives that were lost and the seriousness of which, let me say to you, I appreciate the seriousness of which you have answered the questions, no matter how they have seemingly been pointed, that you have been fair in your response.

The question that I'd like to pursue again maybe is to the overlays of decisionmakers, because I keep hearing maybe suggestions that there was a frivolous process and that the military may have come either uninvited or without basis of coming and that their involvement was extremely extensive. And that's why I tried to draw out utilization of military and the tragedy of Oklahoma City and then the great loss of life and devastation of Hurricane Andrew, so that the American people can understand many occasions where the military might be present, involved in a domestic situation.

I have—it's been brought to my attention——

Ambassador HOLMES. Can I——

Ms. JACKSON LEE. Go right ahead, yes.

Ambassador HOLMES. Let me respond to that. I think it is important for the American people to understand the extent of military help to communities throughout our country.

This is a rough statistic, but last year, 1994, the Department of the Army tells me there may have been as many as 7,000 requests for help from military bases and installations up and down the land that range from floods, firefighting, and helping with incidents in communities.

Ms. JACKSON LEE. Coming from the civilian population?

Ambassador HOLMES. Yes, military support to civilian communities. So it is extensive, and it has long been practiced, and, judging from the letters we've received, it is greatly appreciated.

Ms. JACKSON LEE. Thank you.

Let me move now to the Waco situation. There was now the calling out or the pulling out of Dr. Brown's name as the drug czar, making this even more potentially a clandestine operation than what one might think, and I want to at least try to—this is the first time I've heard his name even being called up.

Mr. ZELIFF. If I can just interrupt just for a second and I will give you some extra time, I would like to correct. I was in error when I said Dr. Brown. It should have been Mr. Martinez. But what I was referring to was, was the drug czar's office informed, no matter who it was, but I was incorrect in using Dr. Brown. When you had asked me who, I didn't realize——

Ambassador HOLMES. I didn't think he was onboard at that point.

Mr. ZELIFF. Right.

Ms. JACKSON LEE. Thank you, Mr. Chairman. I was trying to determine that. I appreciate your clarification.

Let me move quickly to the layers of decisionmaking. It is my understanding—you keep saying alliance. I would like, as I leave you time to answer this question, you mentioned alliance. Name some of the law enforcement so we can understand just what you're talking about, and then answer this question.

Isn't it true that the DEA might have been part of evaluating the evidence of a drug nexus presented by the ATF to Operation Alliance primarily because they were involved in it? And then, was it your understanding that the DEA felt there was sufficient nexus to warrant you assistance? Again you may speculate, but they were part of the alliance.

If you could answer the question, bearing in mind there were more decisionmakers than just possibly the ATF, no matter how wrong or right it might have been.

Ambassador HOLMES. I can only tell you that the request came to Joint Task Force Six from Operation Alliance, but——

Ms. JACKSON LEE. Name those groups.

Ambassador HOLMES. I do know that the senior members that participate in these discussions are DEA, Customs, Border Patrol, ATF, and others. There are many law enforcement agencies at the local, State, and National levels that participate in this process. So it is a collegial decision. They discuss it and then they pass on it. We get several hundred of those a year that come to the Joint Task Force Six.

Ms. JACKSON LEE. Thank you very much.

Mr. Chairman, thank you.

Mr. ZELIFF. Thank you very much.

And, Ambassador, I would like to say that we appreciate you coming back. I know this is the second time, and some of these may have been repetitious, but we wanted to make sure we have all the facts before we move forward.

This concludes the 9 days of our joint subcommittees' hearings. Tomorrow morning we will reconvene at 10 a.m., and we now stand recessed until 10 tomorrow morning.

[Whereupon, at 4:33 p.m., the subcommittees adjourned.]

ACTIVITIES OF FEDERAL LAW ENFORCEMENT AGENCIES TOWARD THE BRANCH DAVIDIANS

(Part 3)

TUESDAY, AUGUST 1, 1995

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON CRIME, COMMITTEE ON THE JUDICIARY, JOINTLY WITH THE SUBCOMMITTEE ON NATIONAL SECURITY, INTERNATIONAL AFFAIRS, AND CRIMINAL JUSTICE, COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,

Washington, DC.

The subcommittees met, pursuant to notice, at 10 a.m., in room 2141, Rayburn House Office Building, Hon. Bill McCollum (chairman of the Subcommittee on Crime) presiding, and Hon. William H. Zeliff, Jr. (chairman of the Subcommittee on National Security, International Affairs, and Criminal Justice).

Present from the Subcommittee on Crime: Representatives Bill McCollum, Steven Schiff, Stephen E. Buyer, Howard Coble, Fred Heineman, Ed Bryant of Tennessee, Steve Chabot, Bob Barr, Charles E. Schumer, Robert C. Scott, Zoe Lofgren, Sheila Jackson Lee, and Melvin L. Watt.

Also present from the Committee on the Judiciary: Representatives Henry J. Hyde, John Conyers, Jr., and Sonny Bono.

Present from the Subcommittee on National Security, International Affairs, and Criminal Justice: Representatives William H. Zeliff, Jr., Robert L. Ehrlich, Jr., Steven Schiff, John L. Mica, Peter Blute, Mark E. Souder, John B. Shadegg, Robert E. Wise, Jr., Louise McIntosh Slaughter, Gene Taylor, and Bill K. Brewster.

Also present from the Committee on Government Reform and Oversight: Representatives William F. Clinger, Jr., Cardiss Collins of Illinois, and Gene Green.

Staff present from the Subcommittee on Crime: Paul J. McNulty, chief counsel; Glenn R. Schmitt, counsel; Daniel J. Bryant, assistant counsel; and Audray L. Clement, clerk; Committee on the Judiciary: Alan F. Coffey, Jr., general counsel/staff director, Dan Freeman, parliamentarian; Julian Epstein, minority staff director; Perry Apelbaum, minority general counsel; Melanie Sloan, minority counsel; and Tom Diaz, minority counsel.

Staff present from the Subcommittee on National Security, International Affairs, and Criminal Justice: Robert Charles, staff director and chief counsel; L. Stephan Vincze, defense counsel; T. March Bell, counsel for justice affairs; Marshall Cobleigh, senior policy advisor; Michele Lang, special counsel; and Sean Littlefield, special

assistant and clerk; Committee on Government Reform and Oversight: Kevin Sabo, general counsel, Judith McCoy, chief clerk; Jeffrey Wilmot, professional staff member; Bud Myers, minority staff director; David Schooler, minority chief counsel; Ronald Stroman, minority deputy staff director; Donald Goldberg, minority assistant to counsel; Cherri Branson, minority professional staff member; Ellen Rayner, minority chief clerk; Cecelia Morton, minority office manager; and Eddie Arnold, public affairs officer.

Mr. MCCOLLUM. This hearing of the joint committees on the Waco matter will come to order.

This morning we are embarking on the last day of a series of hearings in which we have spent 9 days looking at what happened at Waco—the who, what, where, and why.

Today marks the end of our major effort to thoroughly examine the actions and events that led to the tragic loss of more than 90 lives at the Branch Davidian compound near Waco, TX, including 4 ATF officers and 22 children. We have heard from nearly 100 witnesses over a period of 10 days.

We have achieved the primary goal I stated at the start: to give the American public an opportunity to review the events at Waco in a chronological and exhaustive manner, to hear the who, what, where, why, when, and how of this story.

If not one new fact came out, and I believe many did, we accomplished something significant toward putting this awful tragedy behind us. At times these hearings have produced more heat than light. It's regrettable that politics involves itself in oversight, but that is the nature of this business. Messy as it often is, I believe congressional oversight serves its vital purpose in the preservation of America's cherished heritage.

I want to thank the members of these joint subcommittees for their endurance and their patience. I also want to thank my staff for the long nights of work—Paul McNulty, Glenn Schmitt, Dan Bryant, Aerin Dunkle, Audray Clement, and Tim Bidwell. I know they are going to enjoy the August recess.

Today we are honored to have Attorney General Reno with us. This is the second time she has appeared in this room to speak about what happened at Waco. The first time occurred less than 2 weeks after the fiery ending on April 19 and less than 2 months from when she was sworn in as Attorney General.

We were still trying to figure out what happened at that time. Americans appreciated her willingness to accept full responsibility for the outcome and she has continued to show this exemplary character ever since.

Now we have an opportunity to look at Waco with a much more careful eye. Everyone agrees that Ms. Reno was forced to make tough decisions and that she performed her duty admirably. None of us would have wanted to be in her position.

Yet I know Attorney General Reno respects the fact that we must examine the soundness of her decision as part of our responsibility. Today we will question whether she was adequately informed about the status of negotiations at the time she gave approval of the gas insertion plan, whether she understood the certainty of an accelerated execution plan, whether she appreciated

the unique matter of the Davidians and how they might react to the tanks and the gas.

These are just some of the questions that we will examine. All of this will be for the purpose of avoiding such tragic results in the future. All of this will be for the purpose of restoring credibility to Federal law enforcement.

With that, I will yield to my cochairman, Mr. Zeliff, and thank him for all of the time that he has spent on this. It has been a pleasure working with you, Mr. Zeliff.

Mr. ZELIFF. Thank you, Mr. Chairman and we, I think, it's almost unheard of the opportunity to have two subcommittees working so well together and I appreciate your help.

Today is the 10th and final day of the joint subcommittees' oversight hearings into executive branch conduct in the 1993 events near Waco, TX. I believe that we have all learned a great deal. Certainly I have.

Many of the conspiracy theories have been laid to rest or should be. There is now clear confirmation that major, and in some important instances that were avoidable, mistakes and errors in judgment were made. These errors involve chiefly those who were higher up in the chain of command. And as we insist upon accountability, it is not the line agents who should be answering.

Throughout this terrible affair, the line agents have distinguished themselves as disciplined, brave, and heroic. On reflection and review, I think it is clear that the responsibility, either by the decisions made or by decisions not made, lies elsewhere. It lies with those who made threshold decisions or distanced themselves from those decisions.

It lies with those who were expected to be fully informed upon making or contributing to those decisions. It lies with those in whom all others place their trust and with those who were in a position to demand the right facts and to act upon those facts. Many Americans listened and wondered and tried to figure out what happened at Waco and why it happened and the way it did and who is responsible for making the central decisions.

We needed a sense of closure. When nearly 100 Americans die, including law enforcement officers, two dozen innocent children and more than 60 others, in a preventable and arguably predictable nightmare, something is seriously wrong.

How much more plainly do words come as written by Roger Altman in his striking memo of April 15 to Secretary Bentsen? Mr. Altman is not in the decisionmaking process, yet he sees the predictable nature of the tragedy: "The risks of a tragedy are there," he says.

Meanwhile Mr. Smerick at the FBI writes four memos discouraging a shift away from negotiations to a tactical response. He writes until he feels that he has to change his recommendation because in his words, under oath, he must please those above him, including the Director of the FBI, Mr. Sessions.

At the same time, warnings abound that the use of CS gas in an enclosed area at high volume will be dangerous to small children. There are Amnesty International reports, a GAO report, expert scientific papers, even logs from the Ruby Ridge incident of 8 months earlier, all blinking red danger signs.

The Attorney General has resisted the use of CS gas perhaps on the same instinct that Mr. Altman has. Still, information comes to her that children are now being beaten inside the compound, information that is not new and which others will completely contradict.

The Attorney General is either not informed or does not view as significant a peaceful resolution offer that is made on August 14 by—I'm sorry, that's April 14 by Koresh and his lawyers. The offer is collaborated by the Texas Rangers.

Detailed but largely verbal, the offer from Koresh suggests a shift in the way he perceives himself from being a martyr to being a messenger. Lawyers for Koresh and the Davidians leave a discussion with Jeff Jamar, who heads the FBI operation at Waco thinking that they have all the time they need, the time necessary to get the writing done and complete the arrangement.

Their own view is that it will take 10 to 12 days. On April 15, FBI negotiator Byron Sage talks for 2 hours with Webster Hubbell, a close friend of the President and No. 2 man at Justice. Also on the conference call were Mr. Potts, Mr. Richard, and Mr. Clarke of Justice.

They are told that Sage and Jamar have received an offer from Davidian lawyers, but Sage discounts the offer as not new and expresses his view that negotiations are fruitless. What they say, the Attorney General is unclear but the offer is not pursued.

Jamar has testified that he never got word from the Davidians that Koresh was actually writing and that if he had gotten such word, he would have called off the gas and tank assault. But he also admits that he never directly told the lawyers or Koresh that he would not—that he would need to see proof of the writing or else a different approach would be taken.

Meanwhile the Attorney General gets a briefing book on the assault. She admits that she does not read the briefing book, the briefing book that sets out the final gas and tank assault plan. Even if the Attorney General had read the book, missing from it was Mr. Jamar's knowledge that CS insertion and the compound's destruction by tank would be accelerated.

According to page 272 of the Justice report, the Attorney General without reading more than the chronology, either alone or in consultation with others, approves the CS gas and tank plan. On April 19, as the plan predictably accelerates, she is either watching or does not stop it as she leaves for lunch in Baltimore.

Eventually while she is at the Baltimore lunch, the entire compound will burn to the ground. The children will perish. The lawyers for the Davidians were given no advance warning, speed to the scene as soon as they learn of the gas plan, but get there too late.

But accountability absolutely must mean that when information is brought to your attention, you do not set it aside and assume the best. Not to read the materials available in the briefing book on a matter of this magnitude, even if they turn out to be flawed or incomplete, seems to be unbelievable or at least careless.

We will make public today a document that we will only be able to make public in terms of excerpts. It is a White House document and it goes to an issue at the heart of the decisionmaking process.

It is my firm view that on issues which clearly have in Mr. Altman's words "the risk of tragedy," responsible decisionmaking means insisting that all knowledge be placed before the decisionmaker. It means digging for all the information and showing the foresight to err on the side of caution where uncertainties clearly exist and where less risky options, no matter how poor their chances of success, may exist.

Americans are very forgiving people. When President John F. Kennedy attempted to resolve the conflict in Cuba with force and failed in the abortive Bay of Pigs incident, he did not dodge, he did not pass the buck to anyone else, not to his Secretary of Defense. He let it be known that he had in fact made the decision and that all the blame was rightly with him. The American people applauded his quick, honest confession and the Nation moved on.

Where the American people are less forgiving is when someone says that a decision and responsibility lies elsewhere but withdraws himself from the decisionmaking process altogether. Leaders do not dodge. They do not let others take the blame when they were involved or should have been involved themselves.

While we have come back to this momentarily, I think it has to be said, and I think most Americans understand it intuitively, that there is a night and day difference between admitting that you were involved in a decisionmaking process and that you were part of a shift in tactics, especially if those tactics fail. As we try and tell the American people what happened at Waco, we must be able to tell them who was in the decisionmaking loop and who was not, who ultimately made the final decision which led to the tragic set of events.

Thank you, Mr. Chairman.

Mr. MCCOLLUM. Thank you, Mr. Zeliff. Mr. Schumer, you are recognized for an opening statement.

Mr. SCHUMER. Thank you, Mr. Chairman.

And today, of course, we will hear from Attorney General Janet Reno, and I for one am glad that someone of towering integrity like yourself, Madam Attorney General, is our last witness.

Let me say that there are some very valid questions to ask the Attorney General. Why did she decide to go in on the 51st day of the siege, not the 40th, not the 151st?

Who did she talk to about the effects of tear gas?

Why did they use tanks?

Who told her about the continuing risk of sex abuse inside the compound?

Madam Attorney General, I guess this hearing must be somewhat frustrating to you. After all, you have been asked these questions again and again and again.

What you also know, Madam Attorney General, I'm sure, that there's nothing wrong with asking them again and again because there was such a great loss of life. I'm confident that Janet Reno will tell us she gave the orders.

She will also, I am confident, accept the consequences as she has from day one. Unfortunately, those watching these hearings may witness Tuesday-morning quarterbacking, the likes of which we have not seen in a long time.

If the Attorney General had waited past the 51st day and David Koresh had decided to light the compound on fire because of some machination within his own twisted brain, you can be sure that Ms. Reno would be testifying before us today answering questions about why she didn't act faster, and why the President didn't order her to go in sooner.

We should not have a political witchhunt here today and we will not allow charges to be leveled without fact. We will hear from some on the other side that the President was somehow responsible for the events at Waco, yet there is not one shred of evidence that the President interfered with the decisions of law enforcement experts.

This charge was part of a fishing expedition that came up empty. Some in the majority are twisting a few selected words in an internal Presidential memorandum to fit their preconceived political agenda. The bottom line is that the chain of command worked exactly as it should have in this case.

The President was given recommendations made by his top deputies who got their information from the top experts in their areas. He was informed of what went on, but did not interfere unduly with their decision. We cannot allow people to twist this into some kind of sinister plot.

Even the statements of my colleague, Mr. Zeliff, that the President didn't accept responsibility fly in the face of fact. A day after Waco at the President's press conference, he said, I accept responsibility, plain and simple. We cannot treat one person's innuendos as fact. If we do, we give new life to conspiracy theorists and those who seek to politicize these hearings.

Let me also on the 10th day of these hearings lay out the—again, the criteria by which we can judge them as a success or failure, at least in my judgment. On the first day, I said that these hearings will have been a worthy endeavor if, one, we bring out new facts, or if no new facts come out, we are able to look at the old facts in a fresh light.

Two, we are given the opportunity to refute the baseless charges, accusations, and conspiracy theories that surround Waco; the issues mainly of motivation, not of action.

And three, that the investigation is constructive and not destructive and divisive; that this hearing will create an ATF and an FBI that are stronger, better, and more effective at enforcing all our laws, including gun laws.

Well, let's go over those criteria. First, while we have learned of some new details, no new major material facts about the incident in Waco have come out about these hearings. There is no doubt that the ATF and FBI messed up, and messed up badly, at Waco.

Just ask the people who head these agencies. They will not only tell you about the mistakes, but as you will hear today from Attorney General Reno, they will tell you how they live with the tragedy every day of their lives. Once the element of surprise was lost, the ATF should never, never have continued with the initial raid.

And using armored vehicles to punch holes in the side of the compound was clearly counterproductive. On the second criteria, refuting baseless charges that some from the conspiracy theory in-

dustry have put out, I am disappointed that some continue to treat misinformation and innuendo as fact.

For example, this Sunday we heard that the Government killed over 80 people at Waco. Fact: The Government did not kill anyone at Waco. David Koresh is the killer. David Koresh is to blame for the tragedy. David Koresh, beyond any reasonable doubt, as our experts told us, lit the fire.

The most important thing that this hearing taught us is that you cannot compare the mistakes of the ATF and the FBI with the evil of David Koresh. It is wrong to twist the facts making law enforcement the villain and David Koresh, the lawbreaker, the victim.

Law enforcement made mistakes. There were mistakes of action, but not of motivation. They did not fire until fired upon. And they did not light the fire in the compound. They acted in good faith to enforce the law. They tried their best to save the innocent people in the building, although their best wasn't good enough in this case.

We have to give them the benefit of the doubt, after all, looking at the monster they had to deal with. Every charge that we have heard regarding law enforcement's motivation in this episode has been completely put to rest.

No one out in America should believe that there was an intention to kill David Koresh or any of the people in the compound because people didn't agree with his religious views or other types of activities.

Another myth we have heard again and again is that tear gas, "killed Davidians including children." Fact: The autopsy report showed that tear gas killed no one; that people either died in the fire set by the Davidians or were shot by fellow Davidians. And we need help from everyone in refuting outlandish charges and conspiracy theories while at the same time admitting that serious mistakes were made.

I want to thank my Democratic colleagues who have been an effective truth squad during these hearings. You have done a wonderful job.

I would also like to compliment Chairman Bill McCollum for being a fair arbiter of these hearings. I believe he truly wants to get to the bottom of what happened at Waco and I also believe we won't agree on everything.

But when the evidence shows that a charge is baseless, he has no problem saying so. That takes a lot of courage and deserves a lot of credit.

Charges about the ATF agents with Darth Vadar helmets similar to the NRA jackbooted thug comments are not leveled anymore. I believe that's a result of our efforts to keep these hearings honest.

The final and most important criteria in judging these hearings will be whether we leave with stronger Federal law enforcement. On this point, the jury is still out. In some ways, the ATF and FBI are already stronger.

You can bet that the ATF will not undertake another raid after losing the element of surprise. Interagency coordination has already been improved. Plans for serious situations like this will be reviewed far more carefully than they were in both the Treasury and Justice Departments.

But more needs to be done. We still have not gotten a good answer to why Sarabyn and Chojnacki were reinstated. William Buford, the ATF agent, still says he feels like he did after coming home from Vietnam, quote, I did a service for my country and was being criticized for it.

Finally, and in the final analysis, we have to remember in this new world we live in, there are no certainties. We cannot be sure that future law enforcement activities will be flawless. But we cannot allow law enforcement to be so tied in knots because of past mistakes that they will be paralyzed the next time.

There are some who say, well, David Koresh had the 48 machineguns and he may have done the child molestation, but he wasn't harming the outside world. Why didn't we leave him alone? Why did we have to go in? Why did we have to have such an operation against him?

Well, I would ask everybody to remember that we are a Nation of laws. If we let the next David Koresh act above the law, if we let militia members not even pay parking tickets or taxes because they don't like this Government, we're going to see an increase in lawlessness. We will see even less respect for the Government because it's our laws that we need.

Two hundred years ago, our Founding Fathers engaged in a noble and wonderful experiment called the United States of America that is founded on our laws. We cannot allow anybody, no matter what their motivation, to escape from the control of those laws.

Mr. MCCOLLUM. Thank you, Mr. Schumer.

As most of you know, Karen Thurman, Congresswoman Thurman who is the ranking minority member on Mr. Zeliff's subcommittee, cannot be with us today because her husband had a very successful kidney transplant over the weekend, and so to give an opening statement, the full ranking member of the full committee, Cardiss Collins.

Mrs. Collins.

Mrs. COLLINS of Illinois. Thank you very much, Mr. Chairman.

And as you have said, Karen is not here and I want, before I give my statement, to acknowledge the very fine work that Congresswoman Karen Thurman, who is the ranking member of the Subcommittee on National Security, International Affairs, and Criminal Justice has done on this particular hearing. She has in fact done an outstanding job throughout these very lengthy hearings and I think she deserves our thanks and so I would ask unanimous consent that her statement be included at this point in the record, Mr. Chairman.

Mr. MCCOLLUM. Without objection.

Mrs. COLLINS of Illinois. Thank you.

Mr. Chairman, as these 10 days of hearings on Waco come to an end, I would like to make some general comments before turning to the remaining issues for today's hearing.

As I said in my opening statement 2 weeks ago, I have always favored vigorous congressional oversight, but these hearings gave me pause for a concern. Over the past 10 days, we have seen both the good side of these hearings and the bad.

On the positive side, we have often received a clearer picture of the events and debunked the conspiracy theory. Early in this hear-

ing we were reminded who the real culprit of the Waco tragedy was: David Koresh. From Kiri Jewell's firsthand testimony that David Koresh sexually molested her when she was only 10 years old through the testimony of the ATF agents who were ambushed and repeatedly shot by Branch Davidians, to the expert testimony that Koresh and his followers started the fires that led to the deaths of 80 Davidians, we learned that David Koresh must be held accountable for the Waco tragedy.

Efforts to implicate the President and to blame the Government rather than Koresh for the deaths at Waco are outrageous, offensive, and totally contrary to the evidence received at these hearings. Such irresponsible statements suggest that a broader political agenda is one of the driving forces behind these hearings.

We have also refuted many other myths and conspiracy theories. ATF did not shoot the Davidians from helicopters and there was no secret role for the U.S. military forces at the raid.

The hearings have also tended to support the findings of the two major reports conducted by the Treasury and Justice Departments into the raid. At the same time, many of the concerns I mentioned last week have proved to be correct and yet have gone unanswered.

We had clear testimony from two witnesses that the NRA attempted to influence their testimony on these hearings, yet this joint Waco committee has taken no actions to look into the charges.

I was also concerned that after the bombing of Federal workers in Oklahoma City, the antigun control advocates and the militias would use these hearings to attack supporters of gun control, and judging from the vicious hate mail that I and other Members who support gun control have received, these organized efforts appear to be in full swing.

Let me now turn to the issues for the Attorney General to address. It appears that there are three questions that have to be answered.

First, why did the Attorney General agree to the FBI plan to insert tear gas into the Mount Carmel compound?

Second, did she make the decisions on her own or was she directed to do so by someone else presumably from the White House?

And third, what was President Clinton's role?

The first question is the one I am sure that Attorney General Reno has considered over and over again in her mind. We have received days of testimony on the safety of CS gas, the possibility of fires and how the negotiations were proceeding.

Some of this testimony was probably not available to the Attorney General at the time she had to make the decision, but some of the testimony, such as the science of CS gas, may have been more relevant to a rulemaking on whether to permit the sale of CS gas at the supermarket than to the decision to introduce gas in Mount Carmel.

The reality for the Attorney General in the days leading up to the April 19 injection of gas was whether the tear gas plan was the best option or whether continuing to wait was the best option. The scale of justice has only two sides. We must recognize that there were no other reasonable options.

In this context, we must ask Attorney General Reno not only what she knew about tear gas and children, but also what she

knew or might have feared would happen in the event of further delay. I find the second question, namely whether the Attorney General actually made the decision on her own or whether someone else pressured her, to be an offensive question.

Why wouldn't the leading law enforcement official for this decision make it? Why would, say, Webster Hubbell or Vince Foster, whose names the Republicans constantly bandy about, make such a decision?

First of all, I think it is a clear time for us, all of us, to let that man, Vince Foster, rest in peace and his family to get on with their lives. But unlike those two gentlemen who spent careers in a corporate law firm, Attorney General Reno had been working with law enforcement officers for many years as the Dade County district attorney.

But whether she had been in office for 2 weeks or 2 years, she would have had a greater feeling for a law enforcement operation than any other political appointee in the administration. So I wonder whether some of my colleagues question her role because they cannot imagine a woman taking responsibility for great decisions.

The third question is what was the role of President Clinton? This is the most curious question of all because I have not seen any evidence that would contradict the conclusions reached by the Department of Justice report on this issue. That report found that the President was kept informed about Waco, and in particular he was told by the Attorney General of the tear gas plan and that after questioning about the safety of the children, he only concurred in the decision.

The report includes a letter from the President that explained these circumstances. The President stated that he was informed by the Attorney General about the tear gas plan. He described the questions he asked and stated that, "After asking these questions and receiving those answers, I said that if she thought it was the right thing to do, she should proceed and I would support the decision."

On April 20, 1993, the President at a news conference reiterated that he was informed of the plan, supported the plan and took responsibility. Not the chairman or anyone else has found evidence to the contrary of this account. I and the committee, I'm sure, would be interested, but I haven't seen anything yet to support it.

Thank you, Mr. Chairman.

Mr. MCCOLLUM. Thank you, Mrs. Collins.

I now recognize the ranking member of the full committee, Mr. Conyers, who I believe has an opening statement.

Mr. CONYERS. Yes. Thank you, Mr. Chairman.

Good morning, Madam Attorney General. I want to let you know that I'm really glad you're here this morning because you are the 94th witness in 9 days and your appearance signals that this is the end of the Waco hearings. I have been waiting for you all week. It's wonderful, at last.

Now, I've been questioning and arguing with Attorneys General since 1965, starting with Nick Katzenbach during the civil rights days, and you are the first lady Attorney General. And I want to tell you that you are as competent and thorough and as well prepared as anybody. So that for everybody that's worrying out there

what is going to happen to Janet today, you can sit back and get a cup of coffee because nothing's going to happen to her.

She is going to tell it like she always tells it to me and everybody else. I, like Chuck Schumer and Cardiss Collins, are very proud of the role that we on the Democratic side have played in this hearing.

I mean, it has been tough enough even with us here and I hate to think about what they might have been like. They've gotten quite out of hand.

We are really out of gas and so we're going to take you through not only all of their questions, but dozens more that will be thought of on the seat of the pants and then we will be through with Waco.

But what remains, Madam Attorney General, is the investigation of the militias, the Klans, the Aryan nations, the Skinheads that are scaring the pants off millions of Americans all across this Nation, some who live in rural areas that dare not say what I'm saying. And I have people in Michigan come up to me and tell me how grateful they were that we were asking for hearings on the militia and out of the Waco hearings—and I want to praise Bill McCollum again and include Chairman Hyde in this commendation, we are going to have hearings on the militia.

It is true that across the years everybody's taking a nod and a wink at these organizations with guns, training out in the woods all over America. If those had been black men training out there, we wouldn't have to hold hearings on them. They—they would be surveyed, filmed and watched from morning, noon, and nighttime.

But it has gone on and the good thing about this is we are going to begin to look at them because people need that protection. As you know, coming out of the civil rights movement, I've had a lot of criticism of the criminal justice system. The racism that you have encountered and fought and that I have encountered and fought is still there in the Alcohol, Tobacco and Firearms, in INS, in Customs, in DEA, in the Department of Justice, yes.

We have got a lot to do to really make Justice mean what it says. And you and I and others have to somehow get a hold of this prison-building mania. We—we cannot build enough prisons to incarcerate everybody in America as a way to solve the crime problem.

And so I'm delighted that you're here. I look forward to your testimony and then an end to these hearings and it won't be a moment too soon for me.

Thank you very much.

Mr. MCCOLLUM. Thank you, Mr. Conyers.

We have two more very short opening statements. The ranking member of the Government Reform and Oversight Committee, is wanting to give an opening statement. Because the chairman of Government Reform and Oversight, Mr. Clinger, is absent as well as Mr. Hyde, who is the chairman of the full Judiciary, we will go to Mr. Schiff.

Mr. SCHIFF. Thank you, Mr. Chairman.

I would just want to make two points briefly. The first is to you, Chairman Zeliff, and Chairman McCollum, I think as we come to the last witness today, the Attorney General, the hearings have accomplished their main goal, which is to bring all of the testimony

possible into the public so that the public can make up its own mind as to what happened.

Second of all, I want to observe in fairness to the Attorney General and the Department of Justice that although there are legitimate questions that should be asked about the handling of the siege, the fact of the matter was this siege was already in existence at the time the Department of Justice took over responsibility for this matter.

The original raid by the Bureau of Alcohol, Tobacco and Firearms was under the jurisdiction of the Treasury Department. And I think one of the things this hearing has already shown are a number of problems in the Treasury Department's management of the situation, beginning with the fact that they allowed the Bureau of Alcohol, Tobacco and Firearms to be fixated on the idea of conducting a military raid style to execute the search warrant on the Davidian compound.

Even though this was inherently risky to the children inside the compound, as testified to by a caseworker from the Texas Department of Family Services, to the danger to their own agents. And it goes all the way to the other end with the Treasury Department, that the No. 2 person at the Treasury Department, Mr. Altman, when he heard about the FBI plan and had concerns, said it was a potential tragedy, passed it on to his boss, the Secretary of the Treasury.

The Secretary of the Treasury basically did nothing on the memorandum, saying it's not our responsibility anymore. That may have been legally the case, but the Secretary of the Treasury could have picked up the telephone to the Attorney General to make sure that this information got there.

So, Mr. Chairman, I just want to say I think we have learned a lot in these hearings. I think they have been beneficial.

I yield back.

Mr. MCCOLLUM. Thank you, Mr. Schiff.

Mr. Hyde, you're recognized for an opening statement.

Mr. HYDE. Thank you, Mr. Chairman.

I am so taken with my colleague, Mr. Conyers, because we serve together on the Judiciary Committee. He's the senior Democrat that I always follow carefully what he says and I even go back into the archives because I like to reread what he says.

And on April—April 28, 1993, in the 1-day hearing which I know suited the gentleman more than this 8, 9, 10 days, he's a great encapsulator of investigative hearings. So under the previous regime, we had a 1-day hearing, April 28, 1993, and the distinguished gentleman from Michigan said this to the distinguished Attorney General.

"Madam Attorney General, I'm extremely disappointed in the decisions that have been made out of the Department of Justice, the Federal Bureau of Investigation and the Bureau of Alcohol, Tobacco and Firearms. In Philadelphia, we had a mayor that bombed people out of an eviction. In Jonestown, we lost the life of my colleague, Congressman Ryan, who tried to get Don Everts to go out there with him because of a miscalculation about cult people. We had Patty Hearst and the Simbionese Liberation Army.

"We had Wounded Knee with the Indians. Now when in God's name is the law enforcement at the Federal level going to understand that these are very sensitive events, that you cannot put barbedwire, guns, FBI, Secret Service around them, send in sound 24 hours a day and night and then wonder why they do something unstable?

"The root cause of this problem was that it was considered a military operation and it wasn't. This is a profound disgrace to law enforcement in the United States of America and you did the right thing by offering to resign. You did exactly the right thing, I commend you for it."

Well, I think it's useful to——

Mr. CONYERS. Would the gentleman yield for that, a quick observation, please?

Mr. HYDE. I will, with pleasure, yield to my friend.

Mr. CONYERS. Thank you.

First of all, I'm very flattered whenever the chairman quotes me. Now, I'd like him to——

Mr. HYDE. You should live in a constant state of flattery.

Mr. CONYERS. Now, I'd like the—I would like the chairman to either support my remarks then or my remarks now. I mean, the choice is yours, sir.

Mr. HYDE. Well, I love Byron, but I don't support him all the time.

In any event, I just think it's important to get the fullness of the gentleman's views on these very important issues. Now, I will just say this.

Against the background of Jonestown and the available information about the millenarian apocalyptic beliefs of the Branch Davidians, information that I believe was largely dismissed by those in charge of this siege, I am increasingly convinced that this catastrophe was avoidable.

Madam Attorney General, you were in office 38 days only and you suddenly became the designated spear catcher for everybody in the administration and I think you were imposed upon, but it was ever thus in the bureaucratic world. Your decision was only as good as the information you received to back it up. And for whatever reason, I am convinced you didn't get adequately informed.

The use of the CS tear gas is most revealing. It was done to drive the Davidians out of the building, but the theology that guided and animated them made them resist being driven out into the arms of the Babylonians. They were treated as hostages, but they never were hostages.

Now, what good can come of these hearings? When dealing with religiously driven people, learn as much as we can about their beliefs and motivations. I can't stress that too much.

A second quality is patience, patience, something we all lack. I certainly do in abundance. The use of gas is designed to make people sick. We understand that.

And make them good and sick, make them so sick that they cannot stand the premises where they are receiving the gas, and when children are involved, where infants are involved, it is a high risk that I don't think is worth taking. Little kids, little infants who

can't care for themselves can get very sick, can vomit, can strangle in their own vomit and I just think it's highly imprudent.

Those are some of the things we can learn from this. There are many, many more things. This has not been an effort to denigrate law enforcement as such.

Every Member on this side of the aisle is proud of our police officers in any and every branch of law enforcement. They do a very dirty, dangerous job with inadequate compensation and we understand that and we honor them. But that does not mean we should forfeit our responsibility of oversight and we have exercised that as best we could in this very important occasion and again, Attorney General Reno, I think you have done an excellent job given the limitations that surrounded you just being in office for 38 days. That was a tough one. I think other people might have helped you more and they didn't.

I thank the chairman.

Mr. MCCOLLUM. Thank you very much, Mr. Hyde. Would the Attorney General please stand to be sworn in.

Will you raise your right hand.

[Witness sworn.]

Mr. MCCOLLUM. Thank you. Please be seated.

The record will reflect that the Attorney General responded in the affirmative.

At this time, I want to introduce the witness.

I think we already know that the Attorney General Janet Reno was sworn in as the Nation's 78th Attorney General by President Clinton on March 12, 1993. From 1978 to the time of her appointment, Ms. Reno served as the State's attorney for Dade County, FL.

She was initially appointed to the position by the Governor of Florida and was subsequently elected to that office five times. Ms. Reno was a partner in the Miami-based law firm of Steele, Hector & Davis from 1976 to 1978. Before that, she served as assistant State's attorney and as staff director of the Florida House of Representatives Judiciary Committee after starting her legal career in private practice.

Ms. Reno was born and raised in Miami, FL, where she attended Dade County public schools. She received her A.B. in chemistry from Cornell University in 1960 and her LL.B. degree from Harvard Law School in 1963.

You may proceed with your testimony.

STATEMENT OF JANET RENO, ATTORNEY GENERAL, DEPARTMENT OF JUSTICE

Ms. RENO. Thank you very much, Mr. Chairman. Three days after the Waco standoff began, David Koresh promised the FBI that he and his followers would surrender immediately after a tape he had made was broadcast on the radio. The tape was broadcast.

What did he do? He broke his word. He did not surrender.

In fact, while the tape was being broadcast, Koresh and his followers were not gathering their belongings and preparing to surrender peacefully. Instead, they were busy rehearsing a plan to blow themselves up and take as many agents as possible with them

by walking out of the compound with explosives strapped to their waist.

On March 19 and 20, Koresh said he would come out soon. He did not.

In early April, he said would he come out after Passover. He did not.

On April 14, he let his lawyers believe he needed only a few days to complete his manuscript on the seven seals and he would then surrender.

The FBI showed Koresh's April 14 letter to an expert at Syracuse University who concluded it was another ploy, another delaying tactic. But the FBI kept negotiating. They kept asking Koresh when he would finish the seven seals and come out.

On April 15, the negotiators asked Steve Schneider, Koresh's second in command, whether he had seen any finished pages of the manuscript. Schneider said he had not.

On April 16, the negotiators asked Stephen Schneider again whether Koresh had completed the first seal. Schneider said no.

On the 17th, Schneider said he couldn't say whether it would be 6 months or 6 years.

It's easy in hindsight to suggest the so-called surrender offer of April 14 was a missed opportunity, but we considered it carefully. We didn't dismiss it casually even though Koresh broke every promise he made and even though he never gave the FBI any reason to believe he would surrender peacefully, the FBI kept negotiating, kept trying every way they knew how to talk Koresh into leaving but he never gave them a specific date.

When I took office on March 12, 1993, the most urgent issue I faced was how to bring the standoff to a safe and peaceful end. Remember why we were in Waco.

Four Federal agents had been killed trying to arrest Koresh and to seize illegal explosives and illegal weapons, including handgrenades, grenade launchers and machineguns. We couldn't just walk away from it.

Day after day, FBI negotiators tried to arrange a surrender. During the standoff, the FBI had 949 conversations with Koresh or his lieutenants totaling almost 215 hours. At the urging of the FBI, the local sheriff attempted to get Koresh to surrender. So did several lawyers and others who were given extraordinary access to the compound.

We faced an impossible situation. Koresh wouldn't leave. He had told the FBI as early as March 7 that no more children would be released.

What to do next? We studied intelligence reports. We met with outside experts.

The perimeter was becoming increasingly unstable, with frequent reports of outsiders, including at least one militia group on the way either to help Koresh or attack him.

The FBI's Hostage Rescue Team was nearing its seventh week at Waco and experts had advised me that they would soon have to be pulled back for retraining if they were to maintain their state of readiness. We checked on the Davidians' food and water supplies and I was advised that they had provisions to last up to a year.

I asked the FBI to check the water supply again and I was advised that the supply was plentiful and it was constantly being replenished. Clearly a dangerous situation was becoming more dangerous, especially for the children.

We had received allegations that Koresh had sexually abused the children in the past, including Kiri Jewell when she was just 10 years old. We had also received allegations that Koresh had physically abused the children.

For example, a former Davidian alleged that Koresh had once spanked a young child for 40 minutes so hard that her bottom was bleeding. The child was only 8 months old. During the standoff, the environment in which Koresh forced those children to remain continued to deteriorate.

Human waste was being dumped into the courtyard. The FBI submitted a plan to use an irritant gas incrementally beginning at one end of the compound to shrink the usable space to induce Koresh to start letting his people go. I asked whether the gas could cause permanent harm especially to the children and the elderly.

Dr. Harry Salem told me, as he told you again last week, that CS gas was the safest, best studied tear gas in the world. He told me the gas would not cause any permanent harm to the children and the elderly.

The April 19 operation began with clear announcements of our intentions, repeated time and time again, aimed at giving the Branch Davidians opportunities to leave safely. The Davidians responded with heavy gunfire from the tower and other parts of the compound.

Yes, we had hoped the Davidians might not react violently if we used the gas in a slow, incremental manner, but those hopes were dashed by the Davidians and their guns. Our response was measured.

We inserted gas, then waited, then inserted more gas. We were very careful never to insert more gas than a fraction of the safe limit. Six hours went by, 6 hours and still no one came out. The rest you know.

The Branch Davidians were recorded while they spread the fuels used to ignite the fires that resulted in the deaths of all but nine.

FBI agents risked their lives to rescue several of them. Others emerged through holes the tanks had made in the walls after it was learned that other exits had been blocked from the inside. We will never know whether there was a better solution.

Had we not acted when we did and Koresh had brought things to a sudden and violent finish as he had rehearsed, we would probably be here today anyhow and you would be asking me why I hadn't taken action earlier, why we had not tried to use tear gas to resolve the situation.

Everyone involved in the events of April 19 made their best judgments based on all the information we had. We have tried as hard as we can to study what happened at Waco, to learn from our experience, and to make changes so that as we go forward we can be as prepared as possible to deal with such future situations.

Let me describe briefly some of the steps I have directed the FBI to take to improve our capacity to respond to complex hostage barricade incidents in the future. The FBI has selected a group of

more than 30 senior agents for additional training in hostage barricade situations and these crisis managers will be called upon to assist the onscene commander during a crisis.

This system was used very effectively in the immediate aftermath of the Oklahoma City bombing and I am very proud of the results. The FBI is increasing the size, composition and equipment of the hostage rescue team or HRT to permit the replenishment of resources and personnel during long-term hostage barricade situations.

The FBI has increased the number of negotiators stationed at HRT headquarters and additional training seminars have focused on identifying negotiating psychology and strategies. The FBI has formed a critical incident response group to deal with crisis situations.

This group has also been used successfully in the investigation of the Oklahoma City bombing. In addition, they have provided training to key officials in the Department of Justice and the FBI.

The FBI's Special Weapons and Tactics, or SWAT, teams are now better able to assist the HRT in a crisis. The FBI has increased its SWAT team capabilities. There are now 19 enhanced SWAT teams strategically placed around the country. SWAT teams now cross-train the Hostage Rescue Team and the SWAT training unit is now under the direct supervision of the HRT commander.

The FBI is in the process of establishing a long-term relationship with the Crisis Resolution Centers at both Michigan State University and George Mason University to call on their behavioral science expertise during a crisis incident. The FBI has also created a resource list of experts knowledgeable about both mainstream and nonmainstream religions and will be in a position to tap both their expertise and their contacts within the religious community in the event of a future crisis.

The FBI is continuing its research into nonlethal and less-than-lethal technologies such as CS gas as alternatives to the use of deadly force.

Ladies and gentlemen, Chairman McCollum, Chairman Zeliff and the members of the subcommittees, this was the hardest decision I have ever had to make, probably one of the hardest decisions that anybody could have to make. It will live with me for the rest of my life. I am accountable for it and I am happy to answer your questions.

Mr. MCCOLLUM. Thank you very much, Ms. Reno.

I will start the questioning by yielding myself 5 minutes and we will proceed under the 5-minute rule.

I'd like to know if you had had any evidence on April 17, the day you approved the tear gas attack on the Branch Davidian compound, that Koresh was actually writing his seven seal manuscript, would you have waited a few more days?

Ms. RENO. There was consideration. We were told that he was writing it.

What we were faced with was March 2, he said he would come out. He didn't come out.

After that, I came into office and was aware of that experience, aware of what he said all along the way because they kept telling us what the process of the negotiation was. When I heard that be-

fore Passover, he said would he come out after Passover, I counted the days till what we estimated was the end of his Passover just hoping, praying that he would come out so that this matter could be successfully resolved.

But just as Passover ended, he sent out a letter saying, no, I'm gonna wait and explain the seven seals and then I will come out.

I was advised during that whole time after the letter of April 14, that the FBI had sent that letter to one of the experts that it had relied on over time trying to understand the letter, the religious implications and otherwise. We were advised that people were trying to find out whether he was serious and the best we could get from Steve Schneider was it may be 6 months, it may be 6 years.

And what I was faced with in that situation was a situation where the whole perimeter was becoming far more unstable, where people were concerned that he might, instead of waiting as he did to set fire, where he might carry out the plan that he had rehearsed, which was to exit the facility with explosives strapped to him, take agents with him and while the others committed suicide inside.

What I was faced with, considering all the options, was that at this moment we had the best situation, the best opportunity to resolve it.

Mr. MCCOLLUM. Well, let me come back to this point.

Mr. Jamar, Jeffrey Jamar, the tactical commander of the operation for the FBI on the site, had testified before us over the last week or two that had an actual piece of paper, some portion of this manuscript, been brought out, he would have recommended to you to wait. What I really was getting at by my question was not the background, though I think it was appropriate for you to give it, but had that piece of paper been in your hand would you have waited?

Ms. RENO. If you look through the transcripts of the discussions had with both Koresh and Schneider, they were asking is—can you give us something, can you give us some——

Mr. MCCOLLUM. Yes. If you had had it, would you have waited? I'm not asking you whether he had it. Obviously they didn't have it. I'm not trying to quibble with that.

Ms. RENO. One thing I haven't done is do too much Monday-morning quarterbacking.

But what I am saying is, we were asking for some tangible evidence, something to show that he was, as a matter of good-faith, proceeding.

And if he had come out with a letter saying, yes, I'm going to do it, but I'm not going to tell you when, that would be one thing. If he had come out with the first seal and said, see, I did the first seal in 2 days just as I said I was going to do, I wouldn't have gone forward.

Mr. MCCOLLUM. Well, let me give you the background of the way I see this and why there are some who ask a serious question about this.

In the transcripts of the negotiations over the final few days, the 16th, 17th in particular, it's very clear that David Koresh had said he was working not only on the first seal but that he had com-

pleted that. It just hadn't been transcribed and he had nearly completed the second seal.

He also said that after some discussion he had wanted to bring the entire manuscript out as a whole, but he agreed that on the 17th of April he would produce a single manuscript, what he had had completed, once he transcribed.

That's the first time there's any acknowledgment of that fact or that he had made that agreement. Then in a later discussion of the same day, it became clear that Judy Schneider was supposed to be typing this, but didn't have any batteries for the typewriter, or typewriter ribbon. One of the problems was that they had no electricity because the electricity was cut off by the FBI.

Dr. Miron, Murray Miron, who was the expert at the FBI, said in a memorandum on April 15, 1993, to the Director of the FBI and I quote, "It is apparent that the muse"— that's Koresh —"that the muse is upon him and that he is feverishly working on his manuscript. He can be expected to value these writings in the highest regard. Their publication, dissemination could be a powerful negotiating tool."

Some would say that, knowing those things that I just said to you, you had an obligation to do more than simply ask Mr. Hubbell and others to talk to Mr. Sage on the phone on the 15th to discuss the negotiations. You should have immersed yourself in this issue and that you should have actually made a telephone call personally to Mr. Sage, the chief negotiator, to Mr. Jamar, the tactical commander, and to the attorney Mr. DeGuerin for Mr. Koresh to discuss this before you made this absolutely critical decision that the negotiations were at an impasse, which I think you did make based upon everything given you.

Can you tell us why you did not choose to personally make phone calls about such an important, critical question to any decision you were going to make?

Ms. RENO. Because I was being advised, I had been advised of Mr. Miron's statement. And when you read the statement, Mr. Chairman, you should read all of it, because it says in sum I do not believe that there is in these writings any better or at least certain hope for an early end to this siege. He talks an awful lot more and I would like for the whole statement——

Mr. MCCOLLUM. We will certainly enter the whole statement into the record, Ms. Reno, and I am aware of that.

Ms. RENO. I think it is important as we go through this——

Mr. MCCOLLUM. Without objection.

Ms. RENO [continuing]. To try to see the bigger picture.

[The prepared statement of Ms. Reno follows:]

PREPARED STATEMENT OF JANET RENO, ATTORNEY GENERAL, DEPARTMENT OF JUSTICE

Three days after the Waco standoff began, David Koresh promised the FBI that he and his followers would surrender immediately after a tape he had made was broadcast on the radio. The tape was broadcast. What did Koresh do? He broke his word. He didn't surrender. In fact, while the tape was being broadcast, Koresh and his followers were not gathering their belongings and preparing to surrender peacefully; instead, they were busy rehearsing a plan to blow themselves up and take as many agents as possible with them by walking out of the compound with explosives strapped to their waists.

On March 19 and 20, Koresh said he would come out "soon." He didn't. In early April, he said he would come out after Passover. He didn't. On April 14, he let his lawyers believe he needed only a few days to complete his manuscript on the Seven Seals and would then surrender. The FBI showed Koresh's April 14 letter to an expert at Syracuse University, who concluded it was another ploy, another delaying tactic. But the FBI kept negotiating. They kept asking Koresh when he would finish the Seven Seals and come out. On April 15, the negotiators asked Steve Schneider, Koresh's second-in-command, whether he had seen any finished pages of the manuscript. Schneider said he hadn't. On April 16, the negotiators asked Steve Schneider again whether Koresh had completed the First Seal. Schneider said no. On the 17th, Schneider said he couldn't say whether it would be "six months or six years."

It is easy, in hindsight, to suggest the so-called "surrender offer" of April 14 was a missed opportunity. But we considered it carefully. We didn't dismiss it casually.

Even though Koresh broke every promise he made, and even though he never gave the FBI any reason to believe he would surrender peacefully, the FBI kept negotiating, kept trying, every way they knew how, to talk Koresh into leaving. But he never gave them a specific date. When I took office on March 12, 1993, the most urgent issue I faced was how to bring the standoff to a safe and peaceful end.

Remember why we were in Waco in the first place: Four federal agents had been killed trying to arrest Koresh and to seize illegal explosives and illegal weapons—including hand grenades, grenade launchers and machine guns. We couldn't just walk away from it.

Day after day, FBI negotiators tried to arrange a surrender. During the standoff, the FBI had 949 conversations with Koresh or his lieutenants, totally almost 215 hours. At the urging of the FBI, the local sheriff attempted to get Koresh to surrender. So did several lawyers and others, who were given extraordinary access to the compound.

We faced an impossible situation. Koresh wouldn't leave, period. He had told the FBI as early as March 7 that no more children would be released. What to do next? We studied intelligence reports. We met with outside experts. The perimeter was becoming increasingly unstable, with frequent reports of outsides, including at least one militia group, on the way either to help Koresh or attack him. The FBI's Hostage Rescue Team was nearing its seventh week at Waco, and experts had advised me that they would soon have to be pulled back for retraining if they were to maintain their state of readiness. We checked on the Davidians' food and water supplies, and I was advised they had provisions to last a year. I asked the FBI to check the water supply again, and I was advised that the water supply was plentiful, and was constantly being replenished.

Clearly, a dangerous situation was becoming more dangerous, especially for the children. We had received allegations that Koresh had sexually abused the children in the past, including Kiri Jewell, when she was just ten years old. We also had received allegations that Koresh had physically abused the children. For example, a former Davidian alleged that Koresh had once spanked a young child for forty minutes, so hard that her bottom was bleeding. That child was only eight months old. During the standoff, the environment in which Koresh forced those children to remain continued to deteriorate. Human waste was being dumped into the courtyard.

The FBI submitted a plan to use an irritant gas incrementally, beginning at one end of the compound, to shrink the usable space to induce Koresh to start letting his people go. I asked whether the gas could cause permanent harm, especially to the children and the elderly. Dr. Harry Salem told me, as he told you again last week, that CS was the safest, best-studied tear gas in the world. He told me the gas would not cause any permanent harm to the children and the elderly.

The April 19 operation began with clear announcements of our intentions, repeated time and time again, aimed at giving the Branch Davidians opportunities to leave safely. The Davidians responded with heavy gunfire from the tower and other parts of the compound. Yes, we had hoped the Davidians might not react violently if we used the gas in a slow, incremental manner. But those hopes were dashed by the Davidians and their guns. Our response was measured. We inserted gas, then waited, then inserted more gas. We were very careful never to insert more gas than a fraction of the safe limit. Six hours went by. Six hours. Still, no one came out.

The rest, you know. The Branch Davidians' words were recorded while they spread the fuels used to ignite the fire that resulted in the deaths of all but nine. FBI agents risked their lives to rescue several of them. Others emerged through holes the tanks had made in the walls after it was learned that other exits had been blocked from the inside.

We will never know whether there was a better solution. Had we not acted when we did, and Koresh brought things to a sudden and violent finish, as he had re-

hearsed, we would probably be here today anyhow, and you would be asking why we had not done something sooner; why we had not tried to use tear gas to resolve the situation. Everyone involved in the events of April 19 made their best judgments based on all the information we had. We all mourn the tragic outcome. But the finger of blame points in one direction—it points directly at David Koresh.

We didn't misunderstand Koresh. We didn't suffer from misinformation. I wasn't misled. The fate of the Branch Davidians was in David Koresh's hands, and he chose death for the men and women who had entrusted their lives to him. And he, David Koresh, chose death for the innocent children of Waco.

We have tried as hard as we can to study what happened at Waco, to learn from our experience, and to make changes so that as we go forward we can be as prepared as possible to deal with future situations. Let me describe briefly some of the steps I have directed the FBI to take to improve our capacity to respond to complex hostage/barricade incidents in the future:

The FBI has selected a group of more than 30 Senior Agents for additional training in hostage/barricade situations, and these "crisis managers" will be called upon to assist the on-scene commander during a crisis. This system was used very effectively in the immediate aftermath of the Oklahoma City bombing, and I am very proud of the results.

The FBI is increasing the size, composition, and equipment of the Hostage Rescue Team, or HRT, to permit the replenishment of resources and personnel during long-term hostage/barricade situations.

The FBI has increased the number of negotiators stationed at HRT headquarters, and additional training seminars have focused on identifying negotiating psychology and strategies.

The FBI has formed a Critical Incident Response Group to deal with crisis situations. This group has also been used successfully in the investigation of the Oklahoma City bombing. In addition, they have provided training to key officials in the Justice Department and the FBI.

The FBI's Special Weapons and Tactics, or SWAT teams, are now better able to assist the HRT in a crisis. The FBI has increased its SWAT Team capabilities. There are now 9 enhanced SWAT teams strategically placed around the country. SWAT Teams now cross-train with the Hostage Rescue Team, and the SWAT Training Unit is now under the direct supervision of the HRT commander.

The FBI is in the process of establishing a long-term relationship with the crisis resolution centers at both Michigan State University and George Mason University to call on their behavioral science expertise during a crisis incident. The FBI has also created a resource list of experts knowledgeable about both mainstream and non-mainstream religions, and will be in a position to tap both their expertise and their contacts within the religious community in the event of a future crisis.

The FBI is continuing its research into non-lethal and less-than-lethal technologies, such as CS gas, as alternatives to the use of deadly force.

Ladies and gentlemen, Chairman McCollum and Chairman Zeliff, and members of the subcommittees: This was an event that began with the murder of four government agents, and ended with the self-inflicted death of David Koresh and his followers inside the Compound.

I would do anything to change what happened. I welcome your constructive suggestions, so that we can be as prepared as possible to deal with any situation like this in the future. But we must never forget the most important truth about Waco: David Koresh bears the responsibility for the deaths of his followers, for the deaths of four federal law enforcement agents, and for the deaths of 25 children. Those innocent children, and those brave law enforcement agents, are the true victims of Waco.

Thank you very much.

Ms. RENO. What we were told about was a man who, on March 2, added to a tape that he wanted broadcast an addition saying, I will come out as soon as this has been broadcast. He did not come out because he then said God had told him to wait. What I tried to do was to make sure that I was fully informed. From what I have heard, I was fully informed of what Mr. Sage thought. I read Dr. Miron's statement.

I tried to understand. And what I was faced with was a situation where the negotiators said we think we have reached an impasse,

nobody else is coming out voluntarily. We looked at the entire situation and we made the best judgment we could. I am very satisfied that in the information furnished to me by the FBI, I was informed.

Mr. MCCOLLUM. Thank you very much, Ms. Reno. My time has expired.

Mr. Schumer.

Mr. SCHUMER. Thank you.

Mr. MCCOLLUM. You are recognized for 5 minutes.

Mr. SCHUMER. Thank you, Mr. Chairman. And thank you Attorney General Reno.

First, I would like to ask you a couple of questions about the President's role. I didn't think we'd be asking those here, but since we've had so many innuendoes and allegations, I think we should put them to rest, so I have two specific questions which, if you would, you can answer concisely and then a more general question.

First, did the President change any material aspect of the plan as developed by the Department of Justice and approved by you?

Ms. RENO. No, he did not.

Mr. SCHUMER. And second, did the President or anyone in contact with the President pressure you in any way or in any way suggest that you should speed things up to end the siege?

Ms. RENO. No, he did not.

Mr. SCHUMER. Thank you. And the third question which is a general question is what precisely was the President's role in the development and approval of the gas insertion plan?

Ms. RENO. I appreciate that opportunity to address this issue because it's very important.

People somehow or other equate the President's role as Commander in Chief of the Armed Forces with some similar role in law enforcement. But law enforcement has a very interesting function which is in many instances quasi-judicial, so you do not want the Executive directing and controlling for political purposes or otherwise the law enforcement function.

I tried to do everything I could to make the best judgment I could as what has been characterized in the position of chief law enforcement officer of this country. I wanted to make sure it was done the right way. If we were conducting a political investigation, an investigation of some public official, you wouldn't be asking me or people wouldn't have been saying that the President should intervene.

Clearly in this situation we did it the right way. We conducted a law enforcement review. We made a law enforcement decision. I advised the President. He asked good questions and said he was going to back me up.

Mr. SCHUMER. Did he back you up?

Ms. RENO. He certainly did.

Mr. SCHUMER. There was no running away from it or anything of that sort?

Ms. RENO. I have told you in this same room before, I got two phone calls when I got home the night of April 19, the early morning of April 20. The first was from my sister and the second was from the President of the United States; one I had known for 52 years and she was prejudiced; the other I had known for about a month and he was as supportive.

Mr. SCHUMER. Thank you. OK, next question and just before I do, I would just like the record to show I have great respect for my colleague from Illinois, Mr. Hyde, but I'd like the record to show that there was no evidence of any vomit found as a way of the children dying as a result of the tear gas.

First, vomiting is very unlikely as a result of tear gas, as our witnesses have stated, and second, there was no evidence that that was the method by which these children, terribly unfortunate children, died.

The next question I have is a more general question. And this also relates to the—my colleague from Illinois and others, they're talking about we should understand more about religious groups and how they function. One of the criticisms made of you is that since you didn't understand how these religious groups work, you made an incorrect decision. Sometimes I wonder, you know, when we hear about inner city robberies and things when—the other side seems to rise up when people sometimes on this side would say we should understand what led these kids to break the law.

My view is whatever happened in people's backgrounds on either way, if you break the law, you suffer the consequences, period. But nonetheless, could you please tell us in your mind how you weighed the fact that this was a religious sect with hardly conventional views, and second, in your mind as you had to make that very important and awful decision, what, in your mind, was the consequences of waiting them out, just sieging it and waiting and waiting and waiting and not taking the action to insert the gas?

Ms. RENO. I think that——

Mr. SCHUMER. That's my final question so you can answer it as long as you want.

Ms. RENO. And I think it's important to understand it in the whole context because one of the issues that has troubled people is that they see a piece here and not a piece there. I answer the question in one way on a specific issue, then the New York Times will say, oh, they would have run out of food and water not realizing that we had investigated that situation to learn that they had up to a year's supply of food and that the water was being constantly replenished without the—in proportion to the rain.

So let us look at the whole picture. The first thing I was confronted with was the gas; what to do about that? And my first reaction was what about the elderly? What about the children?

It was very specific in my mind as to how I answered that question. Because I had come to Washington in February. My mother had died the previous December. She had suffered from lung cancer for 4 years. I took care of her.

She also had emphysema, and the image that I had, as I first confronted the issue of the gas and people's description, was what if she had been detained against her will? How would that have affected her? And I kept going over and over it again with her in mind.

The other image that I had that was so vivid was I had a brand new 11-month-old grandniece who had come to Washington to see me sworn in. And my reaction was, what do I do about somebody like Kimmy? What is the answer to that? And I kept going through it and saying I can't do this.

That is when the issue arose, and I had the opportunity to meet with Dr. Salem, and we went through it. He said that he had consulted with a pediatrician. I was told that he was the foremost toxicologist in the country. He addressed my concerns. But those were so vivid in my mind because I saw two real live people who I had to consider what the impact would be on them.

What I have tried to do in terms—and I realize this is far afield, but it is important to see the whole picture. What I have tried to do is people, including our experts that we asked to be involved who have raised questions about the gas, is to try to do everything I could to make sure that we were as fully informed as possible.

In meeting with Dr. Salem, representatives of the military's Delta Force were also there, and they started talking, and we started reviewing the plan, and we heard their views. One of the concerns they expressed was whether the HRT team, after 51 days on the line, could maintain its state of readiness, and they said they would pull—if they were in the same situation, they would pull them back. That caused me concern, because I had been advised that the perimeter was unstable, that people—there were intruders. There were threats of people coming in either to attack or to assist. So I had to look at that.

I meanwhile looked at the status of negotiations, as I explained to the chairman. You have no idea how I counted the days and woke up the morning that Passover was supposed to be ending hoping that we would receive some tangible word that he was coming out. And I followed the negotiations. I considered the letter of April 14. I looked at Dr. Miron's statement, and we called Sage. And I think there is a clear understanding of what had been—what we had gone through.

I then tried to figure out what else I could do—how much food. They could not have that much food there. And then I learned they had purchased these MRE's, these military meal ready programs or something, and they had perhaps as many as 50,000 of those and a lot of other foodstuffs, and they could last up to a year.

On the title III, somebody mentioned the title III electronic surveillance that was in the building indicated that they might be low on water. I specifically called Ray Jahn to see just what the situation was. The FBI went back and checked it again and found that the water was being replenished.

I said, isn't there something that you could distribute through an airplane and just fly over and put them to sleep for an hour while we go in and get them out and was told that there was no technology that could be provided.

I talked about tunneling, and that seemed, based on all the information that was provided to me, too dangerous in terms of the explosives that were in the compound and what might happen.

One of the things that haunted me was the whole problem of suicide, of this millennialist theory that Chairman Hyde has referred to. We went back over it. I looked at everything. I looked at Dr. Miron's statement. I tried to understand. I even went to the Book of Revelation myself trying to understand. And, clearly, Mr. Chairman, that was a possibility, as I told you 2 years ago in April, a possibility that haunted me, and I kept coming back to it.

But what I was faced with, as I understood his statements and as the experts had said during the course of the whole 51 days, this may indicate that he wants to bring it to some explosive end. We had the information after March 21 that they had hatched and rehearsed a suicide plan early on that could also result in the deaths of agents, but I said if it is that—I mean, if that possibility exists, how can we go forward?

What they told me was that on a number of occasions they had talked to him, and he had said, no, I am not going to commit suicide. They had—he had specifically discussed that with them. He said, it is not in my teachings.

So we knew it was a possibility, but what I was faced with was all of my experts telling me that the siege was not going to be over anytime soon, with Steven Schneider saying that he might be in there for 6 months or 6 years before he finished the seal, this man who had already broken his promises.

The FBI told me that they were at that point in the best state of readiness possible to try to bring a peaceful resolution to it; and, faced with all the circumstances, I determined that we should go forward.

But we clearly consulted and understood the religious implications. I mean, that is consistent throughout all the materials that we talked about, that it was clearly one of the factors that was considered. We want to do everything we can for the future to make sure that we are capable of doing that.

That does not mean that the FBI should be collecting information about religious groups. I don't think anybody on this panel wants that to happen, but we have got to and we have identified religious experts in various areas that we can rely on for the future should we ever have to face it again.

Mr. MCCOLLUM. Thank you, Mr. Schumer. Thank you, Ms. Reno.

Mr. Zeliff, you are recognized for 5 minutes.

Mr. ZELIFF. Attorney General Reno, I reviewed—and if the clerk would pass out copies and put up the chart—a memo from Mack McLarty, the President's then-Chief of Staff to the President on March 1, 1993. The memo summarized a call the Chief of Staff made to the Acting Attorney General where he discusses the FBI's and the President's philosophy of negotiating until a resolution is found. Unfortunately, the White House has refused to give us a copy of the memo but has allowed us to quote the sentence of greatest concern.

The memorandum states specifically, and I quote, "The Acting Attorney General concurred fully with your philosophy regarding this matter and assured me that no significant action would be taken without White House approval."

General, I consider the use of military tanks and tear gas to be significant action. Can you state whether you specifically obtained White House approval or whether you simply advised the President without getting his approval—or is there a difference?

Backing you up, is that the same thing as approving? In other words, how do the American people hold their leaders accountable if the President plays no role in a siege of 51 days?

Ms. RENO. Mr. Chairman, I think that the American people want to make sure that law enforcement conducts itself without regard

to influence from those outside law enforcement except when it is appropriate. Clearly, the President had talked with the Acting Attorney General before I took office and had been advised by the Acting Attorney General of the plan underway to try to peacefully resolve the situation.

He told the Acting Attorney General that if the plans changed to let him know. I followed that direction and advised him as I think I should have advised him on something that could affect national concerns. But we advised him based on a law enforcement judgment, not a political judgment, not a judgment of the White House, but the decision was made in the law enforcement arena where it should be.

We have got to make sure that we—and it involves both the President and the Congress. One of the most difficult roles that I have faced is how do I respond to Congress in an appropriate way.

Mr. ZELIFF. Because of time, if I could just—I apologize.

Ms. RENO. OK. Then when you are through I will finish.

Mr. ZELIFF. OK. Because then we can go on toward the end here, and you can add anything you would like.

Ms. RENO. OK.

Mr. ZELIFF. The problem that I have here, if the President said to you, Attorney General, I don't like this gas plan, please do not move forward, would you move forward anyway?

Ms. RENO. As I will go on and finish now, what I wanted to do was to make sure that I had considered everything in a law enforcement arena. I presented it to him. He asked good questions.

If he had said, I am concerned about gas. What about it? That is exactly what he said. And I told him what I had done in the law enforcement context consulting through the FBI to find out what was the appropriate step to take.

Mr. ZELIFF. Do you think that that memo indicates that he has an interest—I mean, nothing will be done without his approval? Does that mean that nothing will be done without his approval?

Ms. RENO. Which——

Mr. ZELIFF. The memo right up there.

Ms. RENO. You would have to ask Mr. Gerson about that.

Mr. ZELIFF. Let me just ask you two things, because the time—then you can take as much time as you want to answer it. Our problem here is that we have very little time.

Ms. RENO. OK.

Mr. ZELIFF. I posted the memorandum written by Deputy Treasury Secretary Roger Altman to Treasury Secretary Lloyd Bentsen discussing your potential decision to use CS gas as a means to end the Waco siege. In this memo he states that, and I quote, "My rough guess is that she won't approve the use of gas. The risks of a tragedy are there. And, if the FBI waits indefinitely, Mr. Koresh eventually will concede."

Mr. Altman wrote this note after he was briefed by Justice Department officials. Why did he walk away from a Justice Department briefing thinking that the gas was unsafe and that Koresh would concede while you walked away deciding that all hope was lost and it was time to use the gas?

And the other thing—and then take your time and answer both, if you would—as you know, I have asked questions about the chain

of command as it relates to decisions made to the use of CS gas as a means to end the Waco siege. I don't mean to suggest that there is some sinister plot by the White House, but I do believe that the American people have the right to know who was in charge and who was making major decisions during the administration.

I posted several statements made by either yourself or the White House, and let me read these to you.

Are they also passed out?

"I approved the plan, and I'm responsible for it. The buck stops with me." This is you. This was from the Washington Times, April 21, 1993.

"I was aware of it. I think the Attorney General made the decision. I knew it was going to be done, but the decisions were entirely theirs." This was from President Clinton on the same day, April 21, 1993.

The last one, "The buck stops here." This was a sign on President Truman's desk.

My question here, Attorney General, can you please explain why these statements are so diverse? When military weapons are turned on American people, who makes that decision? Where exactly does the buck stop?

I know there were two or three questions in there, and please take as much time as you would like.

Ms. RENO. OK. Let's go back to the first point that you were asking about, if you would put that back up, please.

As you may recall, Congressman, I was somewhat delayed in getting into office and was not sworn in until March 12. Mr. Gerson was an Acting Attorney General who had served in the previous administration, and I think, clearly, the President was concerned about the fact that he did not know Mr. Gerson and had not nominated him for the office in the sense of a permanent person representing the President and wanted to make sure that there was a clear line of communication.

With respect to the second matter, you indicated that Mr. Altman had walked away from a briefing. I am looking for that, but I don't see any walking away from a briefing, but——

Mr. ZELIFF. Doesn't it indicate that he was at a briefing? He talks about—my eyes aren't probably——

Ms. RENO. It says, Ron Noble informed me that the Attorney General is weighing a request from the FBI to use an advanced form of tear gas on the compound in Waco. Among other things, this gas doesn't dissipate.

The FBI—and it goes on. I don't see that he walked away from a briefing.

Mr. ZELIFF. My guess is that she won't make the decision. The risk——

Ms. RENO. I am happy to address that.

Mr. ZELIFF. The risks of tragedy are there.

Ms. RENO. What I wanted to make clear was, I don't see any reference to Mr. Altman walking away from a briefing. What I was faced with was a considerable briefing.

I have outlined to you the briefing over several days that I was involved in. I weighed what Mr. Altman and everybody else faced

with that situation would weigh. And, as I indicated earlier in my response to Mr. Schumer's question, I tried to do everything I could to come up with the right decision based on all the factors involved.

With respect to who was in charge, I have consistently said that, with respect to law enforcement matters, it is important that neither Congress nor the executive interfere in terms of any inappropriate involvement. That means that the Attorney General and the law enforcement apparatus of this country should function in a nonpartisan thoughtful way, that you in Congress can have confidence in and that the President can have confidence in. That is a very difficult task to walk and a very difficult line to walk, but I have tried to do it every way I know how and to make informed law enforcement judgments. With respect to the use of military weapons, these pieces of equipment were unarmed, as I understand it, and were contracted. I mean, it was like a good rent-a-car.

Mr. ZELIFF. A good rent-a-car? A tank going into a building?

Ms. RENO. These tanks were not armed. They were not military weapons.

And I think it is important, Mr. Chairman, as you deal with this issue not to make statements like that that can cause the confusion. These tanks were used to protect FBI agents who were on the frontline, who were exposed to men who had killed four FBI agents, ATF agents, who had wounded 15, who we knew were armed with very high-powered weapons. I don't think you would want them to be unprotected, Mr. Chairman.

Mr. MCCOLLUM. Mr. Zeliff——

Mr. ZELIFF. Could I make one comment relative to Mr. Altman?

Mr. MCCOLLUM. Mr. Zeliff, your time has expired.

Mr. ZELIFF. Mr. Altman testified last week under oath that he did get——

Mr. MCCOLLUM. Order. Order. Mr. Zeliff, your time has expired. Mrs. Collins.

Mrs. COLLINS of Illinois. Thank you, Mr. Chairman.

Madam Attorney General, let me just say that we all know that everybody has been speculating on the other side about what happened and all of that, but the President gave a statement about what happened, and I think that statement was—it was on April 20. It is a statement. And in that statement he talks about the conversations that he had with you, et cetera, and that he was going to follow whatever action you wanted to take. So I am requesting that the entire statement be made a part of the record, Mr. Chairman, and asking unanimous consent.

Mr. MCCOLLUM. Without objection.

Mrs. COLLINS of Illinois. Thank you, Mr. Chairman.

[See p. 288.]

Mrs. COLLINS of Illinois. Now, let's get back to, if you will, the matter of the tanks.

You know, I have here in the Journal Gazette—on Wednesday, July 19, there was a story that says that Mr. Souder sees help in Waco hearing. And in it he says, the only law that they clearly established Koresh broke that I can see so far is he had sex with consenting minors, he said. Do you send tanks and Government troops in to the large sections of Kentucky and Tennessee and other places where such things occur?

Since Koresh viewed he was married, which then comes to the polygamy question—in other words, we are sending tanks in to enforce polygamy laws. The children and their parents didn't object to Koresh having sex with the girls, Souder said, and so the question is, to what level do we try to enforce laws against sex with minors?

The question is, isn't it, as you have said, whether or not these men were fired on before and whether—and they knew there was a danger, and so then tanks should have been used.

Ms. RENO. I think it is important that when you consider the use of tanks that they be considered as vehicles providing the armored capacity to prevent the penetration of these—this ammunition that we knew Koresh had. I can't speak to whatever was done prior to the time I took office, but, clearly, with respect to the day of April the 19th, I could not put FBI agents out there exposed when I knew what these men would do and when they started immediately to fire on the FBI. That is just wrong.

Mrs. COLLINS of Illinois. Let me ask you another question. On the—one of those boards they had up there a statement—I think it was the first one they had up there—about what all was supposed to happen and this and that, and—could the first board be put back up there again? Yes, that is the one right there.

You know, we have talked about that before, and I think it is interesting that Mr. Zeliff would refer to that statement, because right here in the Washington Post on July 13 he said, there was no smoking guns found in the Waco siege documents. That is the headlines on that story. And in the story he says, "There is no smoking gun," Representative Bill Zeliff, Republican of New Hampshire, said last night after spending more than 3 hours examining the documents and copying them in longhand. He said he and other House Members who viewed the documents were not allowed to make any mechanical copies; but, nonetheless, he said there was no smoking guns.

My reason for bringing this up is the fact that he seems to think that—he contradicts himself, obviously.

Mr. ZELIFF. Let me refute that.

Mrs. COLLINS of Illinois. No, no, you can't refute what you already—I mean, it is in the paper, and you know whatever the paper says is right.

But let me say this, Madam Attorney General. I really feel that you have done a tremendous job here, and I don't see anything at all that refutes the information that you have given before, what the President has said in his statement. And I am still waiting for somebody, anywhere, on the other side of the aisle or this side of the aisle, to show any reason whatsoever that whatever you have said or the President has said has been contradictory.

And with that I yield back the balance of my time.

Mr. MCCOLLUM. Thank you, Mrs. Collins.

I recognize for 5 minutes Ms. Ros-Lehtinen.

Mr. WISE. Mr. Chairman, parliamentary inquiry.

Mr. MCCOLLUM. Mr. Wise.

Mr. WISE. My question is simply a question of procedure. Is it the Chair's intention—is it one round of 5 minutes per panelist or are we going to—I had heard a rumor of two rounds earlier.

Mr. MCCOLLUM. The intent now is to complete one round. If necessary, we will do two rounds. You should expect that as a probability at this point, that there will be two rounds.

Mr. WISE. Thank you, Mr. Chairman.

Mr. MCCOLLUM. Ms. Ros-Lehtinen, you are recognized for 5 minutes, and I will restart the clock.

Ms. ROS-LEHTINEN. Thank you, Mr. Chairman.

Madam Attorney General, it is a pleasure to be with you today. I have had the pleasure of having worked with you for more than a dozen years as fellow south Floridians on the myriad of issues that confront our communities in south Florida. I have always found you to be an honest and straightforward person, and I know that you are doing your best in your new capacity in this job.

As south Floridians we are also very anxious about our families and our neighbors today and tonight as another hurricane awaits them, and so we pray that everything goes fine for our loved ones down there.

And as south Floridians we share a common concern about the harm done to all of our communities by the drug trade. To help combat this problem Congress has authorized the military to assist in these antidrug efforts. I am very concerned about the misuse of that authority by an agency that wants to treat the defense budget as free money above and beyond what Congress has allocated for that agency.

We heard in our hearings from Mr. Wade Ishimoto, who was an outside expert brought in to critique the planning of the initial raid, and Mr. Ishimoto stated in his report to the Treasury that ATF believed that a drug nexus was necessary to obtain military support. He later stated that the drug nexus was tenuous at best, and the committee provided him access to a document which stated that the drug nexus was, in fact, made up.

And my questions deal with this issue of the drug nexus. Do you agree that such deceit not only undermines the reputation of law enforcement but undermines the constitutional right of Congress to control the pursestrings?

Ms. RENO. As I took office on March 12 and as I have jurisdiction over the FBI, I am not familiar with all the details of everything that went into the reports with respect to the initial contact by ATF and what was done there, so I really can't address that. But I can, in the more general term, suggest something that has guided me both as a prosecutor in Miami and here, and that is a very clear concern for the Posse Comitatus Act and for strict adherence to it, and that is something that I constantly ask about and am concerned about for the reasons you suggest.

Ms. ROS-LEHTINEN. Has your office looked into the issue of the misuse of this authority by ATF?

Ms. RENO. From all that I have been able to understand—and, again, I do not know the details of the ATF study, but from what I understand from the experts that I have—whose views I have considered, I think they think it was a thorough study, so I have not reviewed it in detail.

Ms. ROS-LEHTINEN. Do you know anyone in the Department who might have reviewed it?

Ms. RENO. I will be happy to check and see if there is a person. After the lunch break, if I may, I will provide you with that information.

Ms. ROS-LEHTINEN. Is it possible that you could order someone in your office to look at that review of that drug connection?

Ms. RENO. If I may, let me see just exactly what has been done, and we will report to you just as soon as possible to make sure that you have the full information.

[Information not received by time of printing.]

Ms. ROS-LEHTINEN. Would the Department of Justice, based on what you have heard, or the Treasury report, et cetera, consider drafting guidelines for the identification of drug involvement to prevent the sort of abuse of the system that we saw in this particular case?

Ms. RENO. I will review it and see just what is in place to make sure that—but, again, my jurisdiction and what I can provide guidelines for is, in effect, limited to the Department of Justice agencies. And I feel very comfortable with our processes, but it is something that we have got to constantly review to ensure that there are appropriate checks and balances, and I will do so.

Ms. ROS-LEHTINEN. Do you know if Congress needs to tighten up the definition of drug involvement for the purposes of acquiring military assistance?

Ms. RENO. I think that from all that I have seen the law is satisfactory as it is now, but what I will do is, again, review it to make sure and try to provide you with whatever information we develop.

[Information not received by time of printing.]

Mr. MCCOLLUM. Ms. Ros-Lehtinen, your time has expired.

Ms. ROS-LEHTINEN. Thank you, Madam Attorney General.

Mr. MCCOLLUM. Mr. Conyers, you are recognized for 5 minutes.

Mr. CONYERS. Thank you, Mr. Chairman.

Madam Attorney General, there is a great deal of evidence that this committee has already received indicating that the decision was the Attorney General's and the Attorney General's alone, and some Members cannot accept that you have that much responsibility, especially early on. This was an ongoing event when you came to the Attorney General's Office; and, I don't know, it suggests that perhaps that because you are a woman that they didn't think that you would be shouldering all of this by yourself. Have you had any experience with this kind of attitude before?

Ms. RENO. The last time I had experience with that was when I was appointed State attorney of Dade County in 1978, and people would stop me on the street and say, they were sorry, but I seem like a nice girl, but they didn't think I could do the job. After I had been in office for 5 months, one of my chief critics in that regard came to see me and said he changed his mind.

I will tell you that from Chairman Hyde, Chairman McCollum—I don't know Chairman Zeliff as well—and for the members of this committee they have been nothing but supportive in terms of my capacity to do the job. They may disagree with me on a number of occasions, and we will continue to disagree, but they have been very supportive of my ability to do the job, even if I am a lady.

Mr. CONYERS. Well, I think you have held yourself in good stead, because you immediately made it clear that if there was any re-

sponsibility or culpability to be assigned to anyone that you would offer your resignation, which was refused by the President of the United States. And I, for one, thinking this matter out, think that you made the right decision, and I am glad you still are on the job, because there is a lot of work to be done.

I think that the time that you are here, this particular point in American history, gives you a unique opportunity to move on correcting things that still need correcting, and we have been talking about them across already the short period that you have been Attorney General.

Now, what about losing the element of surprise as a tactical error? Can you comment on that? And by the way, that wasn't discovered by these two committees. That has been known for quite some time. But how did losing the element of surprise affect the strategy that was employed at Waco, madam?

Ms. RENO. Well, again, as in response to Congresswoman Ros-Lehtinen, I have not delved into the intricacies of what led to the Treasury raid on February 28, 1993. I inherited that and it obviously had an impact, but I have been very impressed with Treasury's response, its candid, indepth investigation. From what I hear, as I indicated to the Congresswoman, people think it was a thorough investigation, and I think clearly—it clearly reflects that it had a very adverse effect.

Mr. CONYERS. Thank you very much. I was impressed with Chairman Hyde, my friend reading my comments earlier about this matter, and I am sorry I don't have his comments which were very instructive that I plan to bring up on the next round, and they are of such magnitude I plan to put them in the record. But I yield back the balance of my time.

Mr. MCCOLLUM. Thank you, Mr. Conyers.

Speaking of Mr. Hyde, he is recognized for 5 minutes.

Mr. HYDE. I just wish the distinguished gentleman would put them on a chart.

Mr. CONYERS. The record is quite sufficient, sir.

Mr. HYDE. Well, I am not sure you are serious about what you are saying.

Madam Attorney General, reading from the report to the Deputy Attorney General on the events at Waco, TX, February 28 to April 19, a Department of Justice document dated October 8, 1993, and turning to page 271, on April 16 Richard met with Hubbell and Carl Stern. According to Richard, Hubbell advised him that the Attorney General had disapproved the plan to end the FBI standoff.

Hubbell then asked Richard what he thought the FBI's reaction might be. Richard answered that the FBI would not be pleased, that they would nonetheless accept the decision and that they may then talk in terms of withdrawal.

When Hubbell asked Richard if he would like to speak to the Attorney General about the decision, Richard declined, explaining he had nothing more to say. According to Richard, Stern commented that going ahead with the plan might be looked down on in the eyes of the public and likened it to Saddam Hussein's gassing of the Kurds. Richard disagreed with Stern's analogy.

A short time after Hubbell spoke to the FBI to report the decision, Director Sessions, Clarke, and Potts arrived in his office. Ac-

cording to Richard, when Hubbell advised them that the Attorney General had disapproved the plan, Director Sessions asked to speak with her—to her.

Hubbell left and returned 10 minutes later with the Attorney General, who made no reference to her disapproval of the plan. Instead, Reno, who was still not convinced about the timing, requested the preparation of a documented statement describing the situation inside the compound, the progress of the negotiations and the merits of the proposal. She asked that the statement be completed by the following afternoon.

Now, there is a footnote, No. 35, the Attorney General did not read the prepared statement carefully nor did she read the supporting documentation provided along with the statement. She read only a chronology, gave the rest of the materials a cursory review, and satisfied herself that "the documentation was there."

Now, something caused you to change your mind. Was it Director Sessions? Obviously, it wasn't this memorandum, because you only—you didn't really read it. You looked at it cursorily.

I just have two questions: Who convinced you—was it Hubbell? Was it Sessions?—that you should go ahead with this and give it approval? And why didn't you read the documentation, the briefing book that they gave you?

Ms. RENO. I did not ask for it as a briefing book, Mr. Chairman. What I had asked in the course—since I had first been confronted with the possibility that there might be a gas plan the week before, I had been gaining additional information.

When the formal plan was submitted to me on April 12 you are aware of the questions that I asked. The first question I asked was about the gas, its impact on the elderly and the children.

I continued to explore that. I listened to how people described—how the representatives of the HRT team, how Dr. Salem described its impact, and that was of concern to me. I would not like to use it on a child if I didn't find another alternative, because it would be uncomfortable. But it would be far better if I could bring those children out than exposing them to danger down the road from suicide plans that Koresh himself had rehearsed. So that was one of the considerations.

I then looked, as I have explained before—because this was a gradual process. I had not decided on April 12 or on April 13 what to do or not to do. I just knew I wasn't going ahead at that point because I didn't have enough information. I have explored with you what I did in terms of identifying the food supply, of reexamining the water supply, of looking to see what had been done about negotiations.

With the advent of the letter, which put a whole new twist to it, we started talking about the letter and what might be expected and what they had been able to get out in terms of any tangible evidence that he was indeed going to comply with the terms of the letter, unlike the terms of his March 2 statement that he would come out when the tape had been played.

When Hubbell came in to see me, I at that point was still concerned about where we stood with respect to all of the issues. When I went to see them, I walked with Hubbell to his office where the representatives of the FBI were. I think it was Director Sessions,

Floyd Clarke, and Larry Potts. I don't know who else was there. We talked further, and one of the points that kept coming up was what the HRT team had told me—I mean the military HRT team—that 51 days onsite you would begin to lose a state of readiness. You should be pulled back to be retrained.

As we discussed it, what was clear to me was, again, they were not going to be able to control that perimeter and control the circumstances.

Mr. HYDE. You do agree that only one Hostage Rescue Team is not enough, that we learned that from this event, did we not?

Ms. RENO. As I indicated to you and as you—when we look back to our conversations a little over 2 years ago, what I was faced with, I said, why can't we pull the HRT team back and put in a SWAT team? I was told by both the military commanders and the FBI that the SWAT team, as it existed at the time, was not trained to properly protect and provide the security that was necessary and that they would be reluctant to do that.

As you know, one of my first recommendations that I followed through on was to try to enhance the capacity of the SWAT teams that were already in existence to interlink with the HRT team and to expand the HRT team. Because if I had had the expanded capacity, the very question I asked was, can't we put somebody else in there? What about local law enforcement? I asked them about that, couldn't we go to some of the really good local law enforcement agencies in the country and see if they had a capacity to substitute, and was told that that was not the case.

So, clearly, as I said in my opening statement, one of the recommendations that we have made—because, as you had pointed out, the administration had asked for an additional SWAT team, and it was immediately approved after this matter had been aired in April 1993.

But it was at that point in the discussion with Director Sessions, with the other people there, nobody, no one person changed my mind. It was—I was not prepared to move with the additional statements from the FBI that they were going to ultimately have to pull that HRT team back and that they were reaching the limit. This seemed to be the best time. Not knowing if 6 days later——

Mr. HYDE. In other words, the fatigue—and I mean that not pejoratively—of the Hostage Rescue Team drove you to say, it is now or never, so let's do it?

Ms. RENO. They did not characterize it as fatigue. They characterized it as a need to retrain in terms of the skills, and they characterized it as a diminution in terms of skills of judgment, of being on the frontline for 51 days. And it was that discussion and the recognition that if I waited 10 days he might carry out what he had threatened to do on March 2 and we would be far less prepared to deal with that than if we did it under our own terms.

Mr. MCCOLLUM. Mr. Hyde, your time has expired.

Mr. Scott, you are recognized for 5 minutes.

Mr. SCOTT. Thank you, Mr. Chairman.

First, looking at the board, I think there are some things that need to be clarified. I have before me a statement, a document from the administration of William J. Clinton, 1993, and I would like to quote some parts of it.

In reference to—date of April 19, 1993. The question is, "Mr. President, did you authorize the move on Waco this morning, sir?" His response, "I was aware of it. I think the Attorney General made the decision, and I think I should refer all questions to her and the FBI."

In response to a further question, "I want to refer you to talk to the Attorney General and the FBI. I knew it was going to be done, but the decisions were entirely theirs, all tactical."

Mr. Chairman, I point this out because the time of this is 10:58 a.m., in the middle of the raid, so, of course, any tactical questions should not be responded to by the President at a press conference in Washington but by the Attorney General and the FBI on the scene.

Later the next day, April 20, we have a quote on page 461. "I was informed of the plan to end the siege. I discussed it with Attorney General Reno. I asked questions I thought were appropriate for me to ask. I then told her to do what she thought was right, and I take full responsibility for the implementation of the decision."

Attorney General Reno, is that an accurate—as far as you can remember as to what happened, the President was asked in the middle of the siege and deferred questions to you, and that is what is kind of up there, but as soon as the siege was over he took the responsibility that everyone on the administration has agreed that he did?

Ms. RENO. I think this is one of the most curious issues to come in here, because I think the President of the United States did absolutely right. He was asked—he asked to be informed of a person whom he had not nominated as Attorney General, to be kept informed. He knew that he would be informed if plans changed. We informed him. He did not intervene in law enforcement issues except to ask good questions and to make sure that we had explored every opportunity to resolve the matter peacefully. He was concerned. He left the tactical decisions to us.

And I just want the American people to understand how important it is. If the President of the United States is going to be involved in and taking operational responsibility for law enforcement actions, that is just inconsistent with what we should be doing in this country to provide for an appropriate balance where Congress and the executive conduct the policy decisions, the operation decisions. The law enforcement is done without regard to an appearance from the outside, and he just did the right thing.

It has been puzzling to me because some people say the President didn't take enough responsibility, and then during the course of these hearings other people have said he exercised too much responsibility. I think he did just right.

Mr. SCOTT. Would it have been appropriate for him to answer technical questions in the early stages of the siege itself?

Ms. RENO. If I had heard that he was doing that, I would have been on the phone telling him to please, please, please don't say anything while we had a very sensitive operation under way.

Mr. SCOTT. Thank you, Attorney General.

On another subject, the reaction of some of the Davidians and other incidents that have occurred have led some to believe that

there are groups of Americans that have lost confidence in law enforcement.

Senator Bradley last week mentioned the case of an African-American law student in Los Angeles who was stopped for no apparent reason, handcuffed but subsequently released. You are aware of other indignities that many of our law-abiding citizens suffer if they happen to fit a drug courier profile, where innocent people who happen to fit a demographic profile are stopped to be searched. Law-abiding citizens and some gun—who own legal firearms ought to feel secure that law enforcement personnel will not stop them or search them or invade their homes.

Historically, the only defense that we have had against this has been law-abiding—the only defense law-abiding citizens have against these illegal searches has been the exclusionary rule which provides that the results of an illegal search cannot be used in a trial. Law enforcement officers therefore have no incentive to make illegal searches, no incentive to invade the homes of law-abiding citizens, because even if they found something they couldn't use it at trial.

During these hearings we have heard from law enforcement officers who have said that they can enforce the law without breaking the law, we have heard the head of the ATF say that he is a strong supporter of the exclusionary rule, and we heard the former Director of the FBI say that if there are any problems in complying with the rigors of the exclusionary rule that the standards of law enforcement should be enhanced, not important standards of the law diminished, to accommodate law enforcement personnel. He specifically criticized excusing so-called good-faith illegal searches.

In spite of the strong support for the exclusionary rule we have also received testimony that the watered-down exclusionary rule has made it—has not been the strong protector for innocent people that it traditionally has.

So my question, Attorney General Reno, in light of the strong support we have heard for the exclusionary rule including high-ranking career law enforcement personnel, can we get the support of the administration for the strongest enforcement of the exclusionary rule so that law-abiding citizens can have appropriate confidence that they will not be stopped and searched or have their homes invaded when they have committed no crimes?

Ms. RENO. As a prosecutor for a number of years, and now as Attorney General, I support the exclusionary rule wholeheartedly. I had the opportunity to serve on a committee of the American Bar Association that addressed the issue, and the exclusionary rule, in the eyes of law enforcement, has been a very helpful tool in terms of ensuring professionalism and appropriate regard for the Constitution.

Mr. SCOTT. Thank you.

Mr. MCCOLLUM. Thank you, Mr. Scott. Your time has expired.

Mr. Clinger, you are recognized for 5 minutes.

Mr. CLINGER. Thank you, Mr. Chairman.

Thank you, Attorney General Reno, for being here today to discuss these very serious issues. I just have a couple of comments and then a question.

I think—returning to the question about the use of the tank, I can appreciate the statement that the tank was used as a defensive means of protecting agents who were involved in that raid, but I think you would agree that if you were on the inside of the compound looking out you might not have had quite such a benign view of that tank, nor would you have been aware that the tank was not armed, that, in fact, it was—it would look like a very, very menacing, I think, threatening piece of equipment coming at you. So I think it really depends upon your perspective as to the tank.

Obviously, one of the reasons for these hearings is because the credibility, the effectiveness of law enforcement, Federal law enforcement, has been called into question by a number of events. And I think, obviously, one of the purposes of these hearings is to try to identify those areas that need to be changed, corrected, reformed in order to restore credibility in Federal law enforcement. I think that is a mission that we all can share.

I think largely these criticisms have been leveled at the ATF, but there have been some to the FBI as well and, most recently, the question of the credibility of the report that was done with regard to the Ruby Ridge situation.

And I just would ask you up front, Attorney General Reno—because there have been serious questions raised about that report and about the activities of the people doing the investigation and it is now being reinvestigated—do you anticipate that that report will be forthcoming soon, that is, the reevaluation of the events at Ruby Ridge?

Ms. RENO. With respect to your first issue about the tanks and the menacing quality, those tanks had been around. People knew about the tanks. I think they were very accustomed to the tanks at that point.

And in the early morning, as I think Mr. Sage has told the committees, Byron Sage specifically announced that there was going to be an insertion of gas, that they would not be fired on, that they had an opportunity to come out, that they could come out peacefully, where they would go, how they would come out. They were given an opportunity to come out. They were not fired on.

And I think that it is clear that in those situations where they have killed four law enforcement agents, where they have wounded 15, that to expose FBI agents to danger unnecessarily would just be wrong. I think it provided the proper balance.

Mr. CLINGER. I agree.

Ms. RENO. With respect to Ruby Ridge, we have conducted an extensive investigation that is still ongoing. The local prosecutors, since State statutes may differ from Federal statutes, have asked for the opportunity to pursue the matter without us commenting on it. And as soon as I am able to, consistent with this investigation and consistent with the ongoing investigation, I want to do everything I can that is proper under the Federal privacy laws to make that information available.

Mr. CLINGER. You don't at this point have an end date in view as to when this might occur?

Ms. RENO. No, sir, I don't.

Mr. CLINGER. OK, thank you.

I may have a little different perspective on what we are doing here, because I think one of the charges we have in the Government Reform and Oversight Committee is how we can, in fact, reform Government, how we can downsize Government, how we can make it more efficient and more effective. So I want to talk to you a little bit about the organization and structure of the Nation's law enforcement agencies because that has been called into question. As I say, their credibility has been under attack.

We have heard testimony that while the ATF was conducting what turned out to be the largest law enforcement raid in the Nation's history, their boss, who would be Treasury Secretary Lloyd Bentsen, was in Europe at a G–7 meeting. I am not in any way criticizing him for doing what his primary responsibility is, which is, as the Treasury Secretary, being at those meetings, but I think it does make me wonder why the Federal Government's police force, which is very highly visible, is located at the Department of Treasury.

I don't think that it is necessarily a very high item—priority item—with the Secretary of Treasury. I don't think it should be. And, therefore, I think the question arises, you know, is that a proper place for the Nation's police department to be.

I also remember early suggestions by the National Performance Review that some law enforcement agencies should be consolidated and that the recommendation was then rejected.

My question is this, have the events at Ruby Ridge and Waco and the 2 years that have transpired since those events given you any thoughts about the reorganizing of the Federal law enforcement agencies? It just seems to me that particularly ATF perhaps has not received the close supervision in the Department of Treasury which has given rise to the charge that it is a rogue elephant of law enforcement. Wouldn't it be better to have that really under the purview of the Department that is most intimately involved with law enforcement and with the Federal judicial system?

Ms. RENO. As you will recall, not only is—Treasury has two very fine law enforcement agencies, both Customs and ATF.

One of the things that I resolved when I came to Washington was to try to avoid turf battles. I didn't come to Washington to take over other people's territories. I came to Washington to work together, to make sure that we coordinated as thoroughly as we possibly could and that there were steps to be taken within the Department of Justice.

We developed the Office of Investigative Agency policy that has taken some giant strides with Director Freeh and Administrator Constantine's leadership in bringing the Justice Department agencies together in close coordination, and I am very proud of that effort, but we have reached beyond that, and we have worked with the Treasury Department, having meetings and working together on matters of mutual concerns so that there is coordination, and that is the way that I have proceeded.

Mr. MCCOLLUM. Mr. Clinger, your time has expired.

Mr. Lantos, you are recognized for 5 minutes.

Mr. LANTOS. Thank you very much, Mr. Chairman.

Let me begin by saying, Madam Attorney General, that you exude a degree of sincerity and decency and competence and com-

passion that makes all of us very proud to have you as our Attorney General. You are a terrific role model for millions of young women who aspire to public service.

Ms. RENO. Thank you.

Mr. LANTOS. I have taken it upon myself to try to give both the events and the set of hearings some degree of historical perspective, and over the course of the last few days it has become increasingly clear to me that the historical parallel to Waco is, of course, Jonestown—a charismatic, criminal, deranged cult leader causing the nightmarish death, in this case through self-immolation, of a large number of American citizens.

But I also think it is important that we look at the hearings in historical perspective, because hearings are a very important part of this Congress, of any Congress. Every time we hold a set of hearings we ourselves are on trial. So what is the verdict with respect to the hearings? It is a mixed verdict.

I want to pay tribute to Chairman McCollum for the degree of objectivity and fairness with which he conducted his portion of the hearings, and I want to pay tribute to him for being man enough to state the obvious facts.

I quote from, I believe, yesterday Chairman McCollum, who said he believes the hearings should close the book on speculation about how the fire was started—and I am quoting him directly, "It seems very apparent to me the fire was started inside that compound by Davidians." This is a responsible, intelligent and, obviously, factually accurate comment.

But I must say that, in part, these hearings are eerily reminiscent of the McCarthy hearings of the 1950's that some of us are old enough to remember. Senator Joseph McCarthy usually would call a press conference prior to his hearings to inform the press in advance about what would be established in the hearings, and the press dutifully reported Senator McCarthy's claims. When the actual hearings were held, the witnesses did not say what Senator McCarthy said they would say or what he wanted them to say, but the press had already reported his charges.

Now it seems to me that in a number of instances we have had very significant parallels to the McCarthy hearings. Contrary to Chairman McCollum's conclusion, I believe a day or two ago our other chairman stated, "We killed over 80 people." Well, "we" presumably meaning the Government. It is not the Government that did it. It is Koresh that did it. I think it is extremely important, as Congress attempts to rebuild its reputation, that all of us in this body act with a degree of responsibility.

In this connection, I ask unanimous consent to place in the record a letter from the distinguished judge, the White House Counsel, Mr. Mikva, to Mr. Zeliff, which states in the opening paragraph, "I am writing in response to your comments on 'Meet the Press' regarding the President's involvement in events at Waco. Your comments were nothing short of irresponsible, intent on creating a story without any news and alleging a scandal without any basis."

Madam Attorney General, I would be grateful——

Mr. MCCOLLUM. Without objection, it will be.

[The information follows:]

THE WHITE HOUSE

WASHINGTON

July 31, 1995

The Honorable William Zeliff, Jr.
Chairman, Subcommittee on National Security,
International Affairs, and Criminal Justice
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Zeliff:

I am writing in response to your comments on "Meet the Press" regarding the President's involvement in events at Waco. Your commments were nothing short of irresponsible, intent on creating a story without any news and alleging a scandal without any basis.

The facts relating to the President's involvement in the decision to end the siege at Waco are a matter of public record. The President has never shied away from, indeed has repeatedly acknowledged, his knowledge and ultimate approval of that decision. Respecting and giving due deference to the judgment of the FBI and the Attorney General, the President accepted their recommendation in a discussion with the Attorney General on April 18. Prior to that time, the President learned of the proposal, expressed his confidence in the Attorney General, but also noted a desire to review any decision of this kind. All this is spelled out in the Justice Department's Report on Waco, specifically at pages 108 and 241-48.

I am distressed that you would go on national television, recite nothing other than these facts, but then suggest that you are exposing hidden misdeeds. That is a disservice to the American people. Statements such as these undermine your stated goal of holding open and honest hearings to review the facts and make credible policy recommendations as to how to avoid such tragedies in the future.

Sincerely yours,

Abner J. Mikva
Counsel to the President

Mr. ZELIFF. Will the gentleman yield for a 30-second response?

Mr. LANTOS. I would like to finish asking my question.

Mr. BARR. I object, Mr. Chairman. I don't think this is a hearing designed to embarrass Mr. Zeliff. I am going to object to that being placed in the record.

Mr. LANTOS. Mr. Chairman, I think it is my time.

Mr. MCCOLLUM. Objection has been heard with regard to the document.

Mr. LANTOS. May I finish my question?

Mr. MCCOLLUM. You may finish your question.

Mr. LANTOS. Thank you.

Madam Attorney General, would you draw your view of the historic parallel between Jonestown and Waco?

Ms. RENO. Each situation is going to be different, Congressman. In one situation it may be one group, and in another it may be somebody with particular ideas. We have got to learn from each experience, and one of the steps that the FBI has taken is to try to develop, in the process of composing its Critical Incident Response Group, the capacity to learn from Jonestown, to learn from Waco, so that we build on our experience to do everything we can to avoid such a tragedy for the future.

Mr. LANTOS. Thank you very much.

Mr. MCCOLLUM. At this time, your time has expired.

Mr. Schiff, you are recognized for 5 minutes.

Mr. SCHIFF. Thank you, Mr. Chairman.

Madam Attorney General, I would like to ask you, first, you have now been here for some time this morning, have you in any way felt treated unfairly at this hearing this morning? Have you felt that you are being the victim of any kind of McCarthyite tactics or anything like that?

Ms. RENO. No, sir.

Mr. SCHIFF. OK, thank you very much.

Madam Attorney General, I said earlier, and I want to reemphasize that in fairness to you and to the Department of Justice, by the time you got involved, the siege had already started. The raid had failed because the raid was launched by the Bureau of Alcohol, Tobacco and Firearms, which is under the Treasury Department.

And I bring it up again because Representative Ros-Lehtinen asked you several questions about misrepresenting to the military the fact that—the claim that this was a drug-related raid when it was never originally a drug-related raid. It was always a firearms violation raid.

I want to say that was done by BATF also and not by anyone at the Justice Department. I think it is significant, though, because I think it shows that the BATF so desperately wanted the military training that they misrepresented the facts of the raid to get the training at least without reimbursement. Because they wanted this to be a military assault kind of operation, and safety factors for all considered didn't matter to the agency, including safety to their own people.

Madam Attorney General, having recognized that you got into a very difficult—inherently difficult—situation, as has been stated, I think there are some legitimate questions that we might ask you about this. One is, you stated that your first concern was about the

effects of CS gas if it were used. I think that is an understandable concern.

I asked all of the witnesses who testified as experts about CS gas, did they know any precedent anywhere in the world where there was a plan to pump CS gas into a building for 48 hours straight, which was part of the FBI's plan? And they all answered "no."

And I asked the witnesses, did they know of any precedent anywhere in the world for the deliberate insertion of CS gas into a building for any length of time in which there were children or particularly infants present? And they said, "no."

And I am wondering if when you were being advised about CS gas if you asked that question about has this been done before, as the FBI wishes to do it in this case?

Ms. RENO. We explored it, because I was trying to see whether there were other circumstances. I don't think that I learned of any other circumstances in which a similar situation was involved, and so I don't think that we were able to find any precedent for it.

Mr. SCHIFF. Wouldn't that kind of indicate that there could be a problem with that plan if you can't find any precedent for it?

Ms. RENO. One of the points that we tried to address was, did we have any record of it? Did we know anything? We went through everything that we could find.

I consulted with Dr. Salem. He consulted with or talked to a pediatrician, as I understand it, trying to see what we knew. Coming to the point that, considering everything, considering the fact that they had rehearsed a plan to come out with explosives on them, blow themselves and agents up and others commit suicide, how could we best control it, under what circumstances? And taking everything into consideration I made the best judgment I could, based on the information that we had available and with the understanding——

Because I have gone back and double-checked this. One of the things that I want to try to do is to make sure that if new information is developed we pursue it to see how we can learn from what we have done to avoid a problem for the future.

We brought in the British experts to make sure that we had outside judgments to see, to look, to explore, and they confirmed that the amount of gas, as I understand it, coming into the compound during that 6 to 7 hours was more than within safe limits.

We will continue, as I said in my opening statement, to review all nonlethal capacity to end situations like this in the most peaceful manner possible.

Mr. SCHIFF. I just want to say it is more than interesting to me that we asked the British who use CS gas their view of this plan by the FBI, and they have never done this plan in their history of using CS gas.

My time is almost out. I would like to ask, were you aware that the FBI had kind of a contingency plan that if the initial insertion of gas didn't work they would try to rush the situation at one time?

Ms. RENO. This raises the point that Chairman Hyde was making because of what I—the question of what I was aware of. I had asked, as we went through that week, for them to prepare a state-

ment reflecting what I had been briefed on so we would have a record of what I knew. It has been referred to as a briefing book.

I used it and had it prepared as here is what we have done. I think it clearly reflects that if they were fired on, they were going to continue to try to insert the gas in a more overall way to make sure that we tried to resolve it.

And, again, from what I understand, because the question has been raised both from Dr. Salem and from the British experts, we did everything we could to make sure that the amount of gas involved over that 6- to 7-hour period that morning—I can't remember the exact time—was well, well, well within safe limits. That is what is so important in terms of trying to understand.

You say the British had never been confronted with something like this before. Very few people, I suspect, ever—have ever been confronted with something exactly like we were confronted with.

Mr. MCCOLLUM. Thank you. Mr. Schiff, your time has expired.

Mr. Watt, you are recognized for 5 minutes.

Mr. WATT. Thank you, Mr. Chairman.

Madam Attorney General, I would like to use my time, as I have throughout this hearing or series of days in this hearing, to try to emphasize the things that we as a Nation and as a Government learned from this experience, not in an effort to second-guess what has happened but to inform us in a way that if we ever are confronted with this kind of situation again we can handle it better, we can be more compassionate, the public can have more confidence that the Government is operating efficiently and compassionately and with the best integrity it can.

And in that respect I want to extend my sincere compliments to you for spending two entire—almost two entire pages in your presentation dealing with things that you have implemented in response to the lessons learned at the Waco incident.

And I want to get to asking you a couple of questions about those incidents, about those recommendations, but there are two things factually in the rest of your statement that I don't believe I was aware of that I would like to ask you about and ask you to give me a little more information.

On page 1 in the second paragraph of your presentation, you talk about the fact that the FBI showed Koresh's April 14 letter to an expert at Syracuse University who concluded it was another ploy, another delaying tactic. And I am wondering, first of all, what process that person went through, who that person was, and how they could make that determination just from looking at his letter.

Second, on page 3 of your presentation, this sentence appears, "The perimeter was becoming increasingly unstable, with frequent reports of outsiders, including at least one militia group on the way either to help Koresh or attack him." And I am wondering if you could give us a little more information about that militia group that might have been inserting itself into this. What information do we have about that?

Ms. RENO. Thank you, sir.

With respect to Dr.—sadly, Dr. Murray Miron passed away just very recently, but my understanding is, and I was advised at the time, that he had been continuously employed as a contract consultant to the FBI on retainer for the past 18 years. He had exten-

sive experience in negotiations and had assisted in negotiator training. He had assisted the FBI in the Atlanta homicides and the Resso kidnaping. He was apparently one of the country's experts in how do you try to resolve these issues, and the FBI had relied on him a great deal.

He presented a report right at the time discussing in detail, and we will be happy to make sure that everybody has a copy of the report.

Mr. WATT. I would like to take a look at that.

Can you move on to the second issue? Because I want to ask a question about what you are doing prospectively, looking forward.

Ms. RENO. With respect to the second issue, there had been two intruders into the compound. We had received information concerning a militia that might be coming to assist Koresh, and there were general concerns about the perimeter, remembering that one of those weapons could fire a distance of from here to the White House, as it was. I asked them, what is the distance that big weapon could fire? And—from here to the White House. And so they were very concerned about the perimeter.

Mr. SCOTT. Was there specific information about a particular militia group that you are able to make available to us?

Ms. RENO. Yes; and the name of it—I wanted to make sure I had the exact name—it was the Unorganized Militia of the United States. The call had gone out nationwide from an attorney for armed people to come to Waco.

Mr. WATT. Thank you, Mr. Chairman. I will pursue the other line in the second round.

Mr. MCCOLLUM. Thank you, Mr. Watt. Your time has expired.

Mr. Ehrlich, you are recognized for 5 minutes.

Mr. EHRLICH. Madam Attorney General, we appreciate you being here today. I have a couple of very specific questions. You understand time is short. I am going to ask them pretty quickly here.

With respect to the element of child abuse, I am firmly convinced that gross abuses of children occurred within that compound prior to the first raid. My question to you, though, is, specifically after the initial attack, during the siege, were you relying on any firm pieces of evidence regarding continuation of child abuse by Koresh against those kids? And did that—and if the answer is yes, did that play—was that an element in your ultimate decision to proceed with the raid, the second raid?

Ms. RENO. The factor of child abuse was—because we had clear information that there had been allegations of child abuse that had occurred before the raid, and I specifically—I heard and understood during the course of the briefing that he was beating the children at the time.

I asked, is he beating the children. In going back over it with the FBI, what they had understood was that we had evidence of those that had come out that there had been beatings, and they expected that they were continuing.

What prompted me—for example, Dr. Perry testifying before you said that two of the children that had come out after the raid had physical lesions on them from the beatings that they had received. And so it was this continuing feature and the fact that he had sexually abused the children, according to the best information we

could gather, that there was evidence of this physical beating, that was clearly one of the factors I considered.

Mr. EHRLICH. That is the answer to my question.

Also, did the element of the sexual child abuse enter into it as well?

Ms. RENO. Yes.

Mr. EHRLICH. Second, expanding upon the new information, actually, for me with respect to these unorganized militias and the call that went out, I guess I have two real short questions. First, it seems to me it should have been relatively easy to secure a perimeter around the compound, given the amount of agents and personnel there. I would like you to comment on that.

Second, with respect to this particular plea that went out to the Unorganized Militias of the United States, did you have any evidence at the time that that plea had actually been acted upon?

Ms. RENO. I did not have any evidence that that plea per se had been acted upon. We had had people who had come into the compound, and I can provide whatever information that was available, and we will have that available for you.

[Information not received by time of printing.]

Ms. RENO. With respect to the security of the perimeter, this troubled me. I had the same reaction with a number of FBI agents on the scene, with the Texas Rangers, with local law enforcement, why can't we ensure the security of the perimeter? It was explained that the HRT team was highly trained, they were sharpshooters. They explained to me the weaponry that they expected that Koresh had, the distance it could shoot, and I said, but if we have to pull the one HRT team back, can't we put in a SWAT team?

It was interesting to me that both the commanders of the military HRT team and the FBI said that they could not ensure a perimeter with the same security if they used a SWAT team, and that was, frankly, a surprise to me. As I have now had the opportunity to see in my visits to the critical incident response group at Quantico, the SWAT teams have been—their training has been enhanced so that they could link now with the HRT team, but I went through exactly the same process as you in trying to understand it.

Mr. EHRLICH. Finally—I have a lot more questions, and this is a very tough way to proceed, as you know, but my last question really is, God knows you have been introduced to politics during your time in Washington. You have heard various accusations back and forth concerning the purpose of these oversight hearings. And my question to you would be, do you think, in your personal opinion, that these 10 days of hearings have served an appropriate and responsible purpose on behalf of the American people?

Ms. RENO. I haven't been able to follow the hearings in great detail, but as I told Chairman McCollum when he and I talked early on, I would always welcome the opportunity to answer any question that I can about this. I have said from the beginning that I am accountable, and I welcome this opportunity to exchange this information with you.

Mr. EHRLICH. Thank you.

Mr. MCCOLLUM. Thank you, Mr. Ehrlich.

Mr. Wise, you are recognized for 5 minutes.

Mr. WISE. Thank you, Mr. Chairman.

Attorney General Reno, I just have a regret that Mr. Barr saw fit to object to Mr. Lantos' introducing a letter from the White House. I regret that simply for the reason that there have been allegations made about the White House involvement or lack of involvement, there were statements made on a national television show by Chairman Zeliff this Sunday, they were again raised, although in a milder form, in his opening statements, and I would think that the White House response to what has been put in the record by the other side would be something that everyone would think ought to be in there simply for fair play. But since, apparently, it is not going to be, we will have to get that letter out in other ways.

I just think it also reflects badly because I think the committees have been fairly open on both sides about permitting things to be in the record, particularly documents coming from officials.

Now, Madam Attorney General, I would like to, if I could, hop around quickly to some points that were covered and maybe see if some I's could be dotted and T's crossed.

The question was raised about the role of Assistant Secretary Altman who is a Treasury Department official and whether or not he had been involved in a briefing prior to the FBI's insertion of gas at Waco, and you had testified that you did not believe that he was involved in a briefing that the Justice Department performed. My question is whether you know of whether or not Mr. Altman or Mr. Noble or another Treasury Department official were involved in any way in the briefings that were taking place about which they were preparing you in the days leading up to April 19.

Ms. RENO. They were not involved in my briefings.

Again, I was just referring to the document. It indicated that he had walked away from a briefing, but I think it is important to put into context just what was done there.

When I first considered it, I had the same concerns and continue to have the same concerns. I stayed awake at night trying to figure out what was the right thing to do, what about the children. And I weighed all the factors that I am sure that Mr. Altman didn't have, and I think it is perfectly natural for him to have been concerned. I was concerned. I think we were all concerned about what Koresh might do.

Mr. WISE. That gets to my second question, which was the knowledge that you acquired that perhaps he did not have. Do you have any knowledge of whether or not he was present for any briefings, for instance, by Dr. Salem, who was the military expert on CS gas who did advise you?

Ms. RENO. I have no knowledge that Mr. Altman was briefed by Dr. Salem, but I don't know that one way or the other.

Mr. WISE. But at least Mr. Altman was not present at any briefing you were in by Dr. Salem?

Ms. RENO. That is correct.

Mr. WISE. There has been a lot of concern, understandably, about the role of CS gas, particularly with children and elderly, and you have addressed that extensively. I might point out that at the table where you are sitting now when we had the panel on CS gas, and there were a number of witnesses, there were only two at that time

who were certified experts in CS gas, the two gentlemen from England.

The others were there but had not that as a particular area of expertise. One was a chemist, one was a toxicologist with EPA—not officially there, I might add—but no one had had that experience. The only two certified experts—and then Dr. Salem himself the next day testified that they thought that it was appropriate and that it was not injected in any kind of lethal amounts.

I am just curious as to the followup that you did afterward and the review that you did afterward. Did you see anything that caused you to question that?

Ms. RENO. What we did afterward, as you know, is ask for a number of experts, including Dr. Stone from Harvard, to look at what had been done. We asked Dr. Stone to be involved to look at our negotiations and how to resolve conflicts, but he, being an M.D., also commented on gas. I mean, this was our expert bringing it forward. I asked that that be pursued to see, since he was not a toxicologist, but he was an M.D., whether—how the FBI should consider the use of gas in the future.

We have talked to all the experts that we can identify as really having solid substantive knowledge about the effects of gas, and I am going to continue to do so, as I mentioned earlier. Our effort is to try to identify, through technology, every nonlethal, nonharmful means we can use to resolve conflicts like this in the future, and we will continue to do that.

Mr. MCCOLLUM. Your time has expired, Mr. Wise.

Mr. WISE. Thank you, Madam Attorney General.

Mr. MCCOLLUM. Mr. Coble, you are recognized for 5 minutes.

Mr. COBLE. I think it is unfortunate, indeed, that this hearing has been compared with the McCarthy hearings. I think that comparison is not well founded at all.

Madam Attorney General, good to have you with us.

Throughout history a common thread has revealed man's reluctance to admit mistakes. I detect the presence of this thread in the Waco scenario. The Treasury and Justice Departments submitted their respective reports in the wake of Waco. Treasury almost dutifully accepted the blame on behalf of ATF, Justice conversely exonerated the FBI, so we have one Federal agency admitting mistakes, a second Federal agency riding off into the sunset with the hero's cloak about its shoulders.

When you first appeared before the House Judiciary Committee, Madam Attorney General, I said to you at that time that it appeared to me that everyone who touched the ball fumbled it, that Justice Department report notwithstanding. Offensive activities and conduct apparently were conducted within the confines of Mount Carmel, while a flawed execution of the raid occurred beyond its confines. That is the way I see it.

How do you see it? And what would you say to us, Madam Attorney General, in the way of suggestions to preclude a duplication of Waco?

And Madam Attorney General, before you answer that, let me say this. It was a close call. We are applying 20–20 hindsight today, a luxury not available to you at the time, so let me hear from you.

Ms. RENO. Well, I sure didn't ride off with a cloak around me, because I sure got beat up along the way.

Mr. COBLE. I don't suggest that the cloak was around your shoulders.

Ms. RENO. Well, I don't know who had it, but the FBI and I have held ourselves accountable. We have been to ask—available to answer questions, and we are going to continue to be. Because, as I told you and other members of the committees back in April 1993, I struggled over this decision. I don't know, and I respectfully suggest you don't know, and I don't think any member of these committees will know what the right answer was.

If we had waited 15 days, he might still have been working on the seal, and he might have gotten fed up and executed the plan that he rehearsed March 2 by putting on explosives, coming out, blowing up FBI agents and committing suicide himself. And then you would have me right here sitting here asking me why I hadn't moved earlier.

What we tried to do—I looked at the conduct of FBI agents. I found men who spent hours and hours and hours, men and women, trying to figure out how this matter could peacefully be resolved. I found people making their best judgment, doing the right thing against a situation where you and I still don't know what the right answer is. So the suggestion that they be disciplined for trying to do the best they could with the information they had about a man like David Koresh I think is wrong.

Mr. COBLE. Oh, I am not suggesting that.

Ms. RENO. But what we tried to do, and I don't know whether you were here for my opening statement, was to look at what we could do for the future. One of the questions raised by our experts was, was there a sufficient cohesion between the negotiators and the people, the tactical people on the scene. We have now created a crisis incident response group where negotiators are trained with the people in operations so that there is a partnership, a team.

One of the concerns, as I expressed to Chairman Hyde, was the fact that there was not another HRT team that I could put in place. If I had the second team or if I had the circumstances with the SWAT team's training enhanced, I could have moved them in, and I would have waited. That was one of the features.

The whole question that—we have tried to do everything we could to try to gather experience based on Jonestown, based on other similar experiences so that we will have a data base. We are trying to do everything we know how to be as prepared as we can for the future.

Mr. COBLE. I thank you for that.

Mr. Chairman, I missed the Attorney General's opening statement because I had to attend another hearing. And good to have you here. Thank you, Mr. Chairman.

Mr. MCCOLLUM. Thank you, Mr. Coble.

Mr. Taylor, you are recognized for 5 minutes.

Mr. TAYLOR. Mr. Chairman, if you don't mind, I would like to reserve my time.

Mr. MCCOLLUM. Ms. Lofgren, would you like to be recognized?

Ms. LOFGREN. Thank you, Mr. Chairman.

Mr. MCCOLLUM. You are recognized for 5 minutes.

Ms. LOFGREN. Attorney General Reno, I am very glad that you are here today, and I would just like to say that, although I am new to the Congress, I have been watching you, and I am proud that you are our Attorney General. You are tough, smart and, most important, you have a lot of integrity and honesty and serve our country well as a consequence.

Ms. RENO. Thank you.

Ms. LOFGREN. One question I had earlier in the hearings, I wonder if you have the figure—what was the siege costing a day? Do you have a figure on that? Or if not——

Ms. RENO. We can provide you with the figure. But, Congresswoman, one of the things that I thought about——

Ms. LOFGREN. I am not suggesting that it was a factor. I just wanted to know.

Ms. RENO. I almost purposely didn't look at it because people would stop me on the street and say you are just spending money, and I made a promise to myself that I wouldn't put the money issue up as a factor when I had the lives of the children at stake.

Ms. LOFGREN. I understand that, but I am interested if you could get that later on it would be appreciated.

Ms. RENO. When we come back after lunch, I will have that figure for you.

Ms. LOFGREN. Thank you very much.

This is now our 10th day, and I have been thinking in some ways of an analogy where you have a man holding an infant standing on a bridge, and a police officer comes up and tries to talk the man into letting the child go and after an hour lunges to grab the child, and the man jumps off into the bay, killing himself and the child. Is the police officer responsible for the death of the child? And in some ways I think of the Waco situation in that manner. Do you think that is an unfair analogy?

Ms. RENO. I think all people in law enforcement—because most of my experience was in local law enforcement—police officers have to make some of the hardest decisions in the world. They have got one of the most difficult jobs there is. How do you enforce the law, protect human life, protect the people that you are trying to apprehend? It is so difficult. What is the right move? What is the wrong move? When do you shoot? When do you not shoot?

There are some police officers who clearly exceed those bounds, and they should be held accountable, and I have held them accountable. I have had to prosecute a police officer in a situation of a shooting.

But one of the great experiences for me has been to travel across this country and talk to sheriffs, deputies from small counties, from urban police officers, from FBI agents, ATF agents who care so much about their country, so much about doing what is right, and sometimes they just don't know what the right answer is because they are dealing with a person that neither you nor I can fully comprehend.

Ms. LOFGREN. You know, earlier a couple of the more senior Members mentioned Jonestown, and it reminded me many, many years ago I worked on the staff of Congressman Don Edwards, and I remember very well the time of Jonestown. And Congressman Edwards considered going down to Guyana. The State Department

did not want any of the Congress Members to go. Congressman Ryan felt that he should go. And, in the end, much to our relief, Congressman Edwards decided not to go. Of course, Congressman Ryan lost his life.

My contemporary, Jackie Spear, who was a lawyer on Leo's staff, was terribly injured and has suffered to some extent to this day. Our constituent's son died in the mass suicide in Guyana.

And as I thought about that and the MOVE situation in Philadelphia and also the situation here in Waco, one thing that does sort of jump out at me is the presence of systematic abuse of children. And I am thinking ahead. If there is something that we can do that is very useful out of this hearing, and you have done many things in your Department to learn all the lessons that are possible, how could we become alert as a nation to the creation or growth of violent cults so as to have an early intervention system?

And I realize that we must be very careful, because we believe in freedom of religion. Even if a religious belief is out of the mainstream, people have a right to their beliefs. I feel that very strongly. And yet violence and cults are different, and it does seem to me that a trend or at least one common theme is child abuse in this case—in the case of Waco both physical and sexual, in the case of Jonestown probably both physical and sexual, in the case of MOVE, probably primarily physical.

Have you given any thought to how we might organize nationally to become alert to those types of situations as they develop so that early interventions could be made appropriately and the kind of situation where you found yourself, where really there was no answer that was readily apparent, could be avoided?

Ms. RENO. I think it is very important to recognize one of the critical points that you make, that we can't generalize, that before we take action we have got to make sure that there is a basis for action. And just because somebody has a different religion or a different group interest that that is not a subject for the Federal Government or for law enforcement to be involved in.

But I think the investigation of child abuse is one of the most difficult investigative efforts there is, and it is something that we need to continue to develop expertise in. How are children interviewed? How can we arrange settings where they do not feel threatened?

It is a very difficult issue, but I think it is imperative that we pursue that. And our Office of Justice programs is working with others around the country to make sure that we do everything we can from a Federal perspective, recognizing that many of these issues are matters of local law enforcement, to support and assist those efforts.

Mr. MCCOLLUM. Ms. Lofgren, your time has expired.

Mr. Buyer, you are recognized for 5 minutes.

Mr. BUYER. Thank you, Mr. Chairman, and welcome, Madam Attorney General.

First of all, let me personally say to you a deep profound respect I have, in a town where no one wants to claim responsibility, that you stepped forward immediately, and I think that says a lot about your character.

I have been a military officer now for 15 years. I have been a prosecutor. I have been a defense lawyer. I cannot disconnect myself from those life experiences.

Not long ago, when I was up at Carlisle, PA, I went to the Army War College. They gave me a staff ride out at Gettysburg, and I will never forget the sense of standing there where Lee sent Pickett out. And when Pickett came back, some reference about where are your forces, and he said, sir, I have no division. Robert E. Lee immediately said, it was my fault.

And I have never been able to get out of my mind the vision of the President of the United States getting in a limousine where he is asked, what is your immediate response to Waco? Well, call Janet Reno, it was her decision, as he gets into the limousine and drives off. It is very difficult for me to flush that out of my mind, but I have remained very objective.

You see, I understand, Ms. Reno, that whenever there is an assignment, the assignment to lead a mission consecrates every effort to the fulfillment driven by a profound conviction of duty, and the dignity of the situation is controlled by an instinct, an instinct of proportionality. And that instinct, though, is also common sense.

And the proportionality question, I am going to ask you, is because I know that your Justice Department had actually sought the prosecution of civil rights for those involved with Rodney King. And so my question to you, did you give proper attention to the question of civil rights of those who were inside the compound? And I am just curious, in your briefing book, was that covered? And I appreciate your response to that. And then I have got an immediate question about the HRT team. Thank you.

Ms. RENO. First of all, I often wonder what would have happened if Stonewall Jackson had still been alive at Gettysburg.

Mr. BUYER. I think you are right on that one, but we can talk about that at another time.

Ms. RENO. One of the things I have learned in Washington is, don't ever make a comment to a television reporter as they stick a television camera and a microphone in your face and say ma-ma-ma, ma-ma-ma. Just tell them there are times and places where it is more appropriate.

I just think the President of the United States has done a splendid job in assuming responsibility by recognizing what his Attorney General has done, while at the same time making sure that there was not White House interference with a law enforcement decision.

With respect to proportionality, I spent hours trying to figure out how I could hold David Koresh and the people who killed those four ATF agents and injured 15 accountable while at the same time protecting the interests, the lives, the civil rights of innocent children and those that may have been held against their will. But based on what I had seen, what I needed to focus on most was the children, because it appeared that all others who were in any way there against their will had come out.

Mr. BUYER. The reason I ask that question, because it is very bothersome to me when I hear the President say that there is no moral equivalency, and that is bothersome to me because the ends do not justify the means in a lawful society. So in your briefing

book—that was my specific question. Your briefing book, did you receive anything from your Civil Rights Division? Yes or no?

Ms. RENO. You keep referring to the briefing book. And, as I was going to tell Chairman Hyde, this was a book that I had prepared so that it could reflect historically on what we——

Mr. BUYER. In any of the material they, did they provide you any input?

Ms. RENO. What we do when we consider criminal prosecutions, whether it is——

Mr. BUYER. It is an easy one, ma'am. Did they provide you information? Yes or no?

Ms. RENO. I was provided with information about people's civil rights and what you do to properly apprehend them with—but I want to make sure that I am accurate now, and I will be happy to wait until you have the second question, then go back in my time to make sure you understand just what is involved, if that is OK.

Mr. BUYER. That would be fine.

Ms. RENO. OK, what is your next question?

Mr. BUYER. Now that you used my time——

Mr. MCCOLLUM. No, you can go ahead, Mr. Buyer, if you would like. You were in the process of doing that.

Mr. BUYER. I appreciate that.

The other question I have was, yesterday I didn't mean to—Ambassador Holmes and I quibbled a bit. Ambassador Holmes was saying, well, it wasn't really the military that was saying the FBI should pull their HRT team off the line. He said, well, if it were the military's HRT team, we would pull it off line.

I want to note, though, that I went and examined the memorandum for the record of the actual military who advised you, who said, "My final comments to the Attorney General were, 'I believe that the HRT should consider pulling their people off the target for a period to retrain and polish their perishable skills.'"

Now, when the military is advising you to do that—a moment ago you said that the military said that SWAT teams could not secure the perimeter. Would you please explain to me why the military would advise you to pull them off the perimeter because of the perishable skills and assets, yet at the same time say I guess the SWAT team could not secure the perimeter? Are you feeling the pressures that you had to then make that decision? Would you clarify this for me, please?

Ms. RENO. I am a little bit confused, but I think I can clarify it.

The HRT team, the hostage rescue team, is different—was different at the time than SWAT teams. There was only one hostage rescue team that had the training, the skills, the sharpshooting capacity, and this is what I was advised. There was no other hostage rescue team that could be put in place while the HRT team was pulled off and retrained and brought up to a state of readiness.

I specifically asked, well, why not use the SWAT team, which is separate, which is not as well-trained as the HRT team? If you don't have SWAT teams, what about going to local law enforcement to find one of the best in the country?

I was advised by both the FBI and the HR—the military that the SWAT teams would not, as they were currently then trained, have

the capacity to properly substitute for the HRT team. So as far as I am concerned, that was absolutely—I mean, that really came together.

With respect to the civil rights issue, what we try to do when we make apprehensions—here I had a situation, and the situation that I was faced with, what do I do to effect the arrest of four of the people who were responsible for the killing of the ATF agents and the wounding of those agents? What I did was not only be concerned about their civil rights but their lives and try to do everything I could to bring that about peacefully.

I didn't go in with a direct assault. I didn't go in with guns ablazing. I went in in the best way I could, based on the information I had, that would provide opportunities for people to come out, come out without being threatened, come out and be taken into custody in an appropriate way consistent not just with civil rights but consistent with the criminal law of this Nation and consistent most of all with their opportunity to live.

Mr. MCCOLLUM. Thank you, Mr. Buyer.

Now I recognize Ms. Slaughter for 5 minutes.

Ms. SLAUGHTER. Thank you, Mr. Chairman.

It is nice to see you, and you are absolutely right. You have certainly been beaten up. It is almost astonishing when you think that all over the United States and probably a good part of the world watched what happened in Waco and how proud everybody was that the Attorney General stood up and said, the buck stops here, and I take the responsibility.

Now, we have gone from that to suddenly you couldn't possibly have been responsible for it for various and sundry nefarious reasons. I think probably my colleague, Mrs. Collins, at least alluded to one.

But there are numbers of things that have come out here that I think have been terribly important that I have learned. One is that before the new administration came into being, ATF pretty much operated on its own. At least the testimony we have is that no Secretary of Treasury before had ever been involved in what the ATF was doing.

The second is that you have taken incredibly important steps to make sure that the things that happened in Waco didn't happen again.

There were mistakes made there. One that is most apparent to me is I think that the people died that day trying to serve the summons because too many people in town knew about it, and they were tipped off by a mailman who was tipped off by a man from television who was told by a woman who worked in town. And I mean that shows, to me at least, security procedures were very lax.

But beyond that I think we need to look—we have all talked about Koresh and the kind of man he was, but we have not done anything about looking at his followers, and I have gotten more fascinated with that as we have gone on and since we have heard from at least one member of the Branch Davidians. These were people that had given to this man everything of value—their families, their worldly goods, but most important their ability to think for themselves.

And it seems to me, as you get into that, that the likelihood that they would ever have come out of there, having made that much of an investment in him as the Messiah, the Lamb of God—I understand that many of them still think, still believe very strongly, think he is coming any day now to bring back those people with him. They would never have come out without his permission. And so I really applaud what you were saying. And what you had to do was concentrate just on him and whether or not he was going to come out.

But I want to talk to you about this before my time runs out here. There has been a lot of talk about jurisdiction and yours and how far it went, but there is one question on jurisdiction that I would like to know as it pertains to these hearings. It has been more than distressing to me as a Member of Congress to learn of the outside interference in these committee hearings.

We had an instance where a group went down to Texas wanting to investigate the guns paid for by an outside group which they didn't want to admit to.

We had one witness, a Ms. Sparks, who has tape of a woman who claims that she was on the team helping to prepare witnesses.

We had a Dr. Scott from Harvard who said he was notified by a person who identified herself as a member of this committee.

We had a story in the paper of a man who writes letters under the assumed name of Mr. Fiddleman who said he was part of the team getting ready for the Waco hearings.

Apparently, these people at least had witness lists, which is more than we had. I had no idea until we got here on a day-to-day basis almost on who we were going to hear.

I think this sets a terrible precedent. I am not aware of any time in the past since I have been here that anything like that even came close to happening.

And I don't know if this is in your jurisdiction. I am not an attorney. I don't know anything about tampering with witnesses or anything on the outside or that. But if we allow—and, frankly, I don't want—no matter what their philosophy is, whatever their belief is or wherever they may be coming from, it seems to me that the Constitution and the rules under this House are very clear on how we conduct hearings. And, frankly, I think one of the most serious breaches here is that we have really given the public questions as to really how accurate these things are.

We have not, as you know, had an opportunity on our side to call a lot of the witnesses that we would like to hear from. If you have jurisdiction over this, I would like to know how does one—if you plan to look into it, what kind of request you need. And certainly I would like to have your opinion on that, because I think in the history of this country and of this Congress that this is a very serious breach that I don't ever want to see happen again in any hearing at any time.

Ms. RENO. I have such a respect for Congress, whether it is under Republican control or Democratic control, and I know with the chairman involved that appropriate actions will be taken if they are appropriate under the rules of this great institution. I think when something like this happens, it may well be beyond Congress' knowledge.

But I think it is so important because I've watched this process and some people say, well, it is congressional hearings. They can perform such a wonderful function, and so I think it's important that we do everything we can to make sure that they are performed by the people who are elected.

And in that connection, Mr. Chairman, I would say again to you what I have said, it has been a real pleasure to work with your staff and Chairman Zeliff's staff to try to be as responsive as we can and to try to do it the right way and we appreciate that opportunity.

Mr. MCCOLLUM. Well, thank you very much, Madam Attorney General.

Ms. SLAUGHTER. Is that in your jurisdiction?

Ms. RENO. In deferring to the institution of the House, I really think that that's the best place for it to be addressed, but I'd like to go on and really point out something else that is important. The last people to come out came out—the gas was inserted April 19. The last people to come out came out March 21. And at that point, based on all the interviews of the people coming out, they were either people who were troublemakers for Koresh or were not his children or his adopted children, and I think it's clear that those people that remained there were not going to come out voluntarily under those circumstances.

Mr. MCCOLLUM. Ms. Slaughter, your time has expired.

Mr. Mica, you are recognized for 5 minutes.

Mr. MICA. Thank you, Mr. Chairman.

Ms. Reno, earlier you testified that you do everything possible to separate the White House from law enforcement function; is that correct?

Ms. RENO. One of the first points that was raised to me——

Mr. MICA. You did basically state that, is that correct, that you try keep the White House separate from law enforcement decisions?

Ms. RENO. That is correct, sir.

Mr. MICA. Thank you.

Mr. Hyde pointed out this morning on page 271 that there was a meeting at the White House, likened it to Saddam—this change in decision of how to approach this, likened it to Saddam Hussein's gassing of the Kurds. If you go through again in your document, the Department of Justice document, we see meetings and Mr. Hubbell sat at that table, your deputy, and said he attended a meeting at the White House, and I think it was the 13th or the 14th, for the purpose of discussing Waco and advising the White House of the FBI's plan to change tactics through the use of tear gas.

Participating in the meeting where Nussbaum, Hubbell, Lindsey and the late White House Deputy Counsel Vince Foster. Hubbell said he didn't talk to the President.

Are you aware if Mr. Foster spoke to the President about this or if he kept a file on this matter?

Ms. RENO. First of all, I think it's very important, Congressman, when you refer to matters not to mix things up. You made a reference to the fact——

Mr. MICA. Well, were you aware that this meeting took place and Mr. Foster was there and were you aware of a file that he had kept on Waco, Vince Foster?

Ms. RENO. I was not aware of who was at the meeting. I was aware that Webb Hubbell was advising the——

Mr. MICA. Thank you.

Ms. RENO. White——

Mr. MICA. Thank you.

Ms. RENO. May I finish, please, sir?

Mr. MICA. I just wondered if you were aware of the meeting, and your answer is sufficient.

Ms. RENO. Well, I would like to conclude your question, if I could.

Mr. MICA. This is your—the xerox copy of the briefing book you received.

Ms. RENO. I can't see it from here.

Mr. MICA. Well, again, it is a briefing book that we did not receive. Were you aware that we did not receive a copy of this briefing book until Friday?

Ms. RENO. I can't see which book.

Mr. MICA. Last Friday?

Within that——

Ms. RENO. Sir, could you just show me the book so I would follow it, it would really be helpful.

Mr. MICA. Briefing book on page 40, it says: Experience with the effects of CS gas on children including infants has been extensively investigated and this is contrary to what Dr. Salem told us and we believe he told you. This morning you testified, ma'am, you said you thought no one else was coming out voluntarily, were your words, yet you proceeded with a plan. Your plan was to continue pumping CS gas into Mount Carmel and you—the question I have is were you aware again with infants and children, almost two dozen of them, that one of the major errors in this is that they didn't have the ability to protect themselves from this gas?

Were you aware that the gas masks that they had actually couldn't fit on women and children? This is a copy of the gas mask similar to what was used. Were you aware—and Dr. Marcus testified who sat also there that one of the major flaws in your strategy was the fact that children and infants could not use gas and also in the report of the events that took place, the DOJ report which you ordered said its impact on infants and children cannot be ignored because gas masks are not available for infants and younger children. Do you believe that that's something—a flaw that was made, a missed decision?

Ms. RENO. Let me begin first with your reference because it is so very important as we consider something. Congressman, this has been, as I mentioned earlier and you may not have been here, the single-hardest decision of my life.

Mr. MICA. Well, I have heard that before.

Were you aware that gas masks couldn't be used by the children and infants?

Ms. RENO. Mr. Chairman——

Mr. MICA. That they had—were you aware——

Ms. RENO. If you would like to ask any other questions, I'll be happy to wait, but I need a little bit of time to answer.

Mr. MICA. I have one other question I would like to conclude with and you can supply me the answer in writing.

In reading—I don't know if you read the autopsy reports, but my final question, in reading the autopsy reports of the women and children, I will always be haunted by what they contained. This past weekend I read a physician's report recounting how he found a closed and clenched woman's hand. And when he pride it open, he found the remains of an infant's hand.

The doctor believed that many of the infants and children had their faces covered with wet towels because in fact they didn't have gas masks. But after hours of gassing, undoubtedly tortured these infants before they were finally suffocated, according to the autopsy reports. Knowing this today, would you still proceed in this same manner?

Mr. MCCOLLUM. Let me interrupt here.

The Attorney General will now be giving an answer to whatever extent she can. There were a lot of questions asked of you. I know that makes this very, very difficult. Take whatever time you want and after you are done, we are going to have a lunch break and we will come back and resume the questioning.

Whatever time you need, please respond to Mr. Mica.

Ms. RENO. Mr. Mica, I really appreciate this opportunity to respond because as I was telling you earlier and I want you to understand because you, I don't think, can comprehend if you talk to me about children, the fact that this instance will be etched on my mind for the rest of my life. Those children, no matter how they were found, the fact that they are dead is a tragedy that will be with me for the rest of my life. You do not have to talk in those terms.

What we have got to do is to work together to avoid such tragedies for the future. You began your comments by referring to an April 16 meeting summary on page 271 of the book in which you likened it to Saddam Hussein and that kind of got thrown in. I don't know quite what the reference is.

Mr. MICA. I didn't liken it. That's the comments that Mr. Hyde had made earlier and he read from the report of the Department of Justice.

Ms. RENO. Mr. Chairman, if I may.

Mr. MCCOLLUM. You may answer as fully as you desire right now.

Ms. RENO. OK.

That was not in the context of a White House meeting. I think that was just thrown in. I don't know what the direct comment was. But you have to understand, as we considered whether to use gas or not, the whole impact, no matter who used it, our ultimate concern was not what it looked like. Our ultimate concern was the safety of the children, could we do it?

It was at that reason, when I got the briefing book to which you refer on April 12 and started reading it, that I had further questions about the children, about the gas masks. This is the gas mask that the Congressman is showing, but it's not very helpful in terms of trying to understand what happened there to just show gas masks. We've got to show people what went into the process, and

what went into the process was a dangerous situation which was getting more dangerous.

What went into the process was extensive inquiry of toxicologists who consulted with others to try to find out whether this would be permanently harmful to the children. We considered absolutely everything that we could.

You refer to a meeting at the White House. I don't know who was at that meeting but I do know that I asked Webb Hubbell to make sure, in light of the fact that the President had asked the Acting Attorney General to advise him of a change of plans, to let him know that that was being considered.

With respect to what we did to try to protect the children, our hope was that the children would come out and that obviously with the wind, with all the circumstances, the gas was not effective because there were people who went back into the compound. One of the agents who testified before you talked about the fact that there was no gas there when he went in to save her.

All of these factors we tried to consider but it is so important, Congressman, that as we look at it we do it in an orderly way, not mixing up Saddam Hussein with something else.

Mr. MCCOLLUM. Mr. Mica, your time has expired.

As I have indicated, we are going to take a recess at this point for 45 minutes. There are many critical questions that have not been asked.

It is quite apparent, so that everybody is fully aware of it, that we will have to have a second round of questioning. We will continue to resume these hearings with those questions and finish the first round in 45 minutes.

This hearing is recessed for 45 minutes.

[Whereupon, at 1:10 p.m., the subcommittees recessed, to reconvene at 1:45 p.m., the same day.]

[AFTERNOON SESSION]

Mr. MCCOLLUM. The joint hearings will reconvene.

When we recessed for lunch a few minutes ago, it was the time to recognize Mr. Condit for questioning, and you are recognized for 5 minutes, Mr. Condit.

Mr. CONDIT. Thank you, Mr. Chairman.

Attorney General, thank you very much for being here. You have certainly been most kind and cooperative with your time and we appreciate that very much.

Attorney General Reno, when we started these hearings, some people had the perception that the ATF is an agency out of control. I think these hearings have shown that this is not necessarily the case but it has opened up questions about the workings of Federal law enforcement agencies in general.

It appears that the lack of coordination between the agencies involved was in many ways detrimental to the success of this undertaking. While we have heard testimony from the ATF and the FBI, there are scores of other Federal agencies with their own law enforcement arm, such as the National Institute of Standards and the—Standards and Technology and the Government Printing Office.

In fact, the Congress Research Service found that there are over 140 different Federal law enforcement agencies responsible for enforcing 4,100 Federal criminal laws. And what I really want to get to and I want to take a little different twist than what we have been talking about—Mr. Clinger sort of talked about it a little bit, but I would like to get a little more definite, defined answer than we put meetings together.

What I really want to know is do we really need all these different agencies? Are there ways we can consolidate the responsibilities of some of these different agencies? And didn't the Vice President plan—the Vice President's plan to reinvent Government contain a proposal that would appoint the Attorney General as director of law enforcement in order to coordinate, consolidate all these different agencies?

My question again is, has this proposal been implemented? If not, why?

Ms. RENO. It is my understanding—is this on now, Mr. Chairman? As I understand it, the Vice President had that under consideration as part of the National Performance Review. He talked about—he explored the possibility of merging some of the agencies.

One of the areas that was discussed was the merger of the FBI and the DEA. I went into that in great detail. I listened to agents from both sides. I listened to people who had been involved in both sides and I determined that, for example, with the Drug Enforcement Administration, its mission in terms of drug enforcement was so singular and so important that it was critical that it be retained as a separate agency.

But as I indicated, I formed the Office of Investigative Agency Policy to make sure that within Justice we had coordination. To that end—and I take it a step at a time because it's important, we are trying to develop a coordinated intelligence system.

Before I came to Washington, the DEA and the FBI didn't share information and intelligence information as much as they should. They now have worked out a system whereby through computers they can and do, and I think it is very effective. They are trying to coordinate and share information, training where it is appropriate.

We have, for example, formed—we have taken the INS, the U.S. Marshals Service, the FBI and the Bureau of Prisons and have developed a coordinated air system for the transport of prisoners that avoids the duplication. In that regard, we have reached out to the Treasury Department. DEA and Customs have developed some very effective memorandums of understanding as to how best to proceed in a coordinated investigation involving drugs.

I think we are making progress, but my understanding is that the national performance review is looking at that progress and measuring what we have done.

With respect to this specific instance——

Mr. CONDIT. Can I just ask so that I can get it on the record, out of the 140 different Federal law enforcement agencies responsible for enforcing 4,100 criminal laws, have we eliminated any of those since the report?

Ms. RENO. I am not aware. We certainly have not in terms of any that I have jurisdiction over, but those are the major law enforce-

ment agencies. I am not aware of what has been done in the remainder of the Federal Government. But with respect to the specific issue that is before us today, one of the recommendations that came from the review of Waco was that the FBI should be the lead Federal agency in complex hostage barricade situations and domestic terrorist operations, and I think we have made progress there.

We are pursuing MOU's with law enforcement counterparts to establish responsibility for control and command when tactical resources from the critical incident response group are involved, and I think we have made real progress there.

Mr. CONDIT. Mr. Chairman, I know my time is up, but I would like to just be on the record as asking and recommending to the committee that I serve on, which is the Government Reform and Oversight Committee and Mr. Zeliff's subcommittee, if we wanted to be, I think, most helpful and proactive in terms of finding some sort of response to all this hearing stuff, is for us to initiate some additional oversight hearings of this 140 agencies. I mean, you are talking about the Printing Office, the Government Printing Office has over 100 officers. We have got duplication throughout the system.

And I just think out of all this, this may be one of the constructive things that we can do is do some oversight and see whether or not we really can help the Attorney General and the administration in doing away with duplication.

Mr. ZELIFF. You are absolutely right.

Mr. MCCOLLUM. Thank you, Mr. Condit. Your time has expired.

Mr. Bryant, you are recognized for 5 minutes.

Mr. BRYANT of Tennessee. Thank you, Mr. Chairman, Madam Attorney General, thank you for testifying today. You are a most articulate and loyal person to the administration and I appreciate very much the perspective you bring to these hearings.

I have several, three areas of questioning I would like to ask you about. I'll do that as quickly as I can and I would ask you if you could keep your answers as short as possible so that I might complete those.

No. 1, Special Agent Jamar who was in charge of the site at Waco has testified earlier this week, he's testified three times, but earlier that had he known the Davidians were spreading gasoline and other accelerants on the morning of the 19th, had he known this information, he would not have instituted this action, this raid or whatever you want to call it.

My question to you, would you agree that had you known they were spreading gasoline or other accelerants prior to this raid on that day, would you have also not allowed this action to proceed?

Ms. RENO. That's correct.

Mr. BRYANT of Tennessee. Now, the reason, as I understand it, he did not know was because they had—actually they had ear—eavesdropping devices in there, and I think the U.S. attorney, the assistant U.S. attorney, Mr. Jahn testified in here, as he did prove at trial that the tapes that were coming out of these eavesdropping, these bugs, these tapes which were not enhanced at that time because Mr. Jahn said he heard these, that he actually could discern that they were talking about spread this here, or put this there, or put this gasoline here, or whatever.

And I'm wondering if you didn't get a complete picture before you had to make your decision; that is, that in fact the FBI knew that the Davidians were spreading gasoline because they had the bug in there. Mr. Jahn testified to that at these hearings. He introduced proof of that at the trial in Texas.

The jury heard these tapes that were unenhanced, and you can very clearly understand what they were doing. I am wondering why you didn't have this information from the FBI and, in fact, I questioned them about this.

Under such a critical—at such a—I call it the crunch time of the 51 days, this is the time which you need that inside intelligence and it would be very critical, as you point out, because it would have caused you to cancel the plans had you known, and apparently the FBI did know or should have known.

Ms. RENO. Well, as Mr. Jamar said, he did not know. And the reason that he did not know was because the agents didn't pick it up because of the background noise. So clearly in a situation like there's as you probably, in your experience have heard tapes that are somewhat garbled, when you are right at a scene or in a situation and with retrospect as you sit in the quiet, you can hear them.

What I understand the Bureau has done to avoid such situations in the future—and I am going to continue to work with Director Freeh to make sure that we have enhanced our efforts as much as possible—is to have a check and double check on such electronic surveillances in such critical situations.

Mr. BRYANT of Tennessee. I agree. And I think again it just points out the need that they should have had trained people on the job in an environment that day, that where it was quiet and they could actually hear this information, because this was critical information at a most critical time. And let me move on quickly.

You indicated that you had talked to the President, and I wrote this quote down as much as possible, that he did—he acted appropriately and he asked good questions to make sure that we had explored every opportunity.

What specifically, what good questions did the President ask you before this raid was instituted?

Ms. RENO. When I called him on April 18, I gave him a brief overview, told him of the process, very much what I've talked with you about today. He asked further questions about the children.

He asked further questions about "why now," and satisfied himself according to what he told me that—that we had fully explored all our possible avenues.

Mr. BRYANT of Tennessee. He asked what specific questions about children?

Ms. RENO. I don't recall the specific questions. I just remember that he was specifically concerned about the children and that he wanted to make sure that I had explored the possible harm to them as I considered the whole undertaking.

Mr. BRYANT of Tennessee. What did you tell the President as to why now, why April 19, 1993?

Ms. RENO. I don't want to take up your—the time of your question, but it goes through the whole process that I laid out to Congressman Schumer earlier, the fact that——

Mr. BRYANT of Tennessee. My time is up so you can talk as long as you want to.

Ms. RENO. OK.

But again, before I even considered undertaking it, I wanted to make sure that the gas would not produce permanent harm to the children or to the elderly people. The concerns about the HRT team, the fact that negotiations had reached a standstill according to Byron Sage in terms of anybody coming out voluntarily; the fact that they had a food and water supply that could last for a long time; the concerns about the perimeter.

I talked about the concerns about what they might do to themselves but mentioned that again the assessment was based on Koresh's own statements that the likelihood of suicide was low, that this was our best opportunity to effectively control the situation for some time to come.

Mr. BRYANT of Tennessee. And he did not disapprove of your action.

Ms. RENO. No; he said, sounds like you've explored everything and I will support your decision.

Mr. BRYANT of Tennessee. Thank you, my time is up.

Mr. MCCOLLUM. Thank you, Mr. Bryant. Your time is up.

Mr. Brewster you are recognized for 5 minutes.

Mr. BREWSTER. Thank you, Mr. Chairman.

I appreciate the fact that you started in the middle of this deal. You weren't sworn in until, I believe, March 12. This started quite some time before that. I can't imagine the pressure of trying to get settled in a new office at the same time something like this was going on.

My question to start with would be, were you aware of the extreme conflicts as far as we could tell between the negotiators and the tactical teams and were you also aware of the tactical team's intent to use the psychological pressure of Tibetan Buddhist chants, a myriad of animal sounds including the slaughtering of rabbits? Was that something that was ever brought up to you and also the conflict part?

Ms. RENO. With respect to the conflict, that was brought up to me in a memorandum which I started to consider at about the time that I started to consider the whole plan for the gas. It was clear as a result of it, that's one of the reasons that we went back to Byron Sage, that I asked Webb Hubbell to call Byron Sage to make sure that at least at that point when I knew of these situations, that we had done everything we could to negotiate the situation, and that's produced, what I understand, was a 2-hour call between the two in which Mr. Sage said that based on everything he knew at that point, we had reached an impasse in trying to get people to come out voluntarily.

Again, our whole effort was to continue to negotiate, but he felt that the additional step was going to be necessary. With respect to the noise and the like, I was advised of that at the time. I was advised again that it was part of—I didn't know whether—I didn't know at the time that there were conflicts between the tactical people and the negotiators and that's one of the reasons that I think the recommendation that there be a team of negotiators and opera-

tors in the critical incident response group is one of the most important developments that we have undertaken.

Mr. BREWSTER. You know, I think these hearings, if nothing else, have debunked any conspiracy theory that may be out there for those who have watched it all the way through. For me at least, it also pointed up mistakes that I think were made in the way the plan was executed from the beginning on.

I would certainly hope that those—there have been changes made in theory on how we would attack a problem such as this again. I think also anyone that's watched this has to believe that David Koresh had certainly committed some crimes, was certainly a bad guy, but the mistakes that were made in executing the warrant to start with and everything else have been very troubling to me.

Have changes been made, in your opinion? I know Mr. Magaw told us of numerous changes at ATF. Have changes also been made at FBI concerning the way these would be handled in the future?

Ms. RENO. As I have indicated previously, I can't speak to the issues involved in the initial raid, only with respect to——

Mr. BREWSTER. I understand.

Ms. RENO [continuing]. What the FBI is responsible for. And as I outlined at the beginning, one of the first steps was to create the critical incident response group. It's based at Quantico with an HRT team enhanced in number and enhanced in its ability to work with the negotiators. We now have a larger number of negotiators at Quantico who work daily with the operators so that they form a partnership, a team, an understanding, an alliance upfront.

Mr. BREWSTER. When you have an opportunity, send us something on that, if you could?

[Information not received by time of printing.]

Ms. RENO. I will.

Mr. BREWSTER. One last question. To you and I, it may seem that some of these far-out religious beliefs out there are certainly far-out. It does to me. I don't know how anyone could follow some of the things that Koresh did. But on the other hand, they're out there.

Do you think it would be beneficial to ATF or FBI in the future when there's some very radical religious groups out there to utilize more people such as professors who may have some understanding of that and have some better understanding of who's suicidal, who's not?

Ms. RENO. I think that the FBI consulted with some—some experts that had a good feel for it, that talk about suicide, and based again on Koresh's own statements, it's hard to predict. But regardless, one of the things that we have done—and I understand from Director Freeh, he is—you don't want to find out about religious groups. You don't want to investigate religious groups. You don't want the FBI doing something in lawful groups. And so it's important that we have a roster of outside experts that we can talk to about different types of religion, and my understanding is that the Bureau has developed that list that they can consult with as appropriate and needed.

Mr. BREWSTER. Thank you.

Mr. MCCOLLUM. Thank you very much, Mr. Brewster. Your time has expired.

Mr. Heineman, I recognize you for 5 minutes.

Mr. HEINEMAN. Thank you, Mr. Chairman.

Let me add my welcome, Attorney General Reno. On making the decision to go on April 19, you spoke to Mr. Jamar, Mr. Potts, Mr. Clarke, and Director Sessions and you were all in concert on that, that it was OK to go?

Ms. RENO. I don't have a specific rec—because, again, I was new in office and I don't have—there were so many names, I have a specific recollection of talking directly with Director Sessions, Floyd Clarke, Larry Potts, I believe Doug Gow was part of that group. But the specific people that I talked to most of the time were Larry Potts and Floyd Clarke.

Mr. HEINEMAN. There was a consultant from Syracuse? In 25 words or less, if you can, can you tell me what his contribution was?

Ms. RENO. My understanding is that the Bureau had used him extensively over the last 18 years in negotiation situations. When they received the letter of April 14 that Koresh sent out to DeGuerin, they sent it immediately to him. He assessed that letter and reviewed that letter and presented a report.

Mr. HEINEMAN. Just that he thought that it was a dodge.

Ms. RENO. That it was a dodge, but he went in—he analyzed the religious implications of it. We will provide with you a copy of the letter so that I don't misstate it in any way.

[Information is in the subcommittees' files.]

Mr. HEINEMAN. Did he render an opinion as to whether you should go or you shouldn't go as far as assaulting the compound?

Ms. RENO. To my knowledge, he did not, but I would have to refer you to the FBI in case they consulted him. I was not advised of it.

Mr. HEINEMAN. Had you at any time spoken to Mr. Smerick? He was a member of the FBI.

Ms. RENO. No; I did not.

Mr. HEINEMAN. Did they ever show you reports by Mr. Smerick? He submitted four reports relative to—at various times as to whether they should wait or go in.

Ms. RENO. At the point that I was beginning to make the decision, whether I saw the reports or was told of the reports, I cannot tell you, sir. But I—one way or the other, I was advised of some of the concerns expressed in the reports, the tension between negotiators and others. I remember particularly Dr. Park Dietz' memorandum expressing some of the concerns and that's one of the reasons we felt it was important, having been advised of this, to see whether there was anything that could be done at that point in terms of negotiation.

Mr. HEINEMAN. If you can remember, the most valuable piece of information you received when you had reluctance about going in, your gut feeling initially was, we'll put a hold on it, and then you changed your position on that. What specifically made you change your position? You had a signed document that apparently you scanned cursory, and I would just like to know what changed your mind to say, OK, we'll go?

Ms. RENO. I'd like to address the issue of what you refer to as the signed document. There's an awful lot of confusion that has been developed. This is a briefing book that was presented to me on April 12. It's a briefing for the Attorney General.

This is what I read as I started to consider whether to even consider the gas plan. I went through it in detail and that's—it's this book and some of the descriptions of what gas could do that precipitated my questions. So this is a book that I read.

As the week went on, there were various pieces of information being collected and I wanted to make sure that we had on paper what we had done; a summary was prepared. I read that summary and asked them to provide the backup to the summary.

I can't tell—it was not a gut feeling early on and it was not go, no go. It was I don't have the—I can't say at this point that we should go. All of the factors were important. The fact that the perimeter was unstable, the fact that negotiations had reached an impasse according to Sage, the fact that the food and water supply could last up to a year, the fact that he had rehearsed a suicide plan and could, based on what the experts were telling us, based on his—some of the religious statements, could possibly commit suicide.

He talked about Waco causing a catastrophe of some sort. Based on all of this, as we discussed it and as the FBI talked about the state of readiness of the HRT team and the fact that they did not have a backup capable of substituting with adequate security in place of the HRT team, I made the decision to go ahead. I would say probably the feature was again the HRT team not having the state of readiness but that by itself would not be adequate.

Mr. MCCOLLUM. Mr. Heineman.

Mr. HEINEMAN. Thank you.

Mr. MCCOLLUM. Your time has expired.

Ms. Jackson Lee, you are recognized for 5 minutes.

Ms. JACKSON LEE. Mr. Chairman, I thank you very much.

And to Attorney General Reno, let me thank you for your leadership in actions involving violence against women and particularly the establishment of the advisory committee dealing with clinic violence. I thank you for that.

I will have to go with a great deal of rapid speed and so I apologize for my talking at a very rapid pace. I know Chairman Zeliff started out this morning and I believe if I can paraphrase him, with a comment that military weapons were turned against the American people. We find that we are abounded with, if you will, conspiratorial theories.

Coming from Texas, we were riveted by this experience, all of us, to a one realized that these were Texans, human beings. The ATF officers were our neighbors, and there was a great deal of emotion and concern.

But I think if we do anything for the American people during this process it should be an emphasis that the Government works. We have referred constantly to a document called WACMUR, W–A–C–M–U–R, major case number 80, assault on a Federal officer, briefing for the Attorney General dated April 12, 1993.

Mr. Chairman, I would like unanimous consent to admit the entire document into the record at this time.

Mr. MCCOLLUM. Without objection.

[Material is in the subcommittees' files.]

Ms. JACKSON LEE. Ms. Reno, I am going to quickly try to bring to your attention just some snippets, if you will, out of this document and I must move quickly.

One starting with strategy, FBI deadly force policy against any person except as necessary. Agents are not to use deadly force against any person except as necessary in self-defense or the defense of another when they have a reason to believe that they are—they or another are in danger of death or grievous bodily harm.

All personnel being deployed were advised of these rules. So my understanding is that there was in your document the acknowledgment of the policy of not to use deadly force. And I think we can admit that no FBI agent used any weapon during this period of time.

We then had a series of episodes related to you so that we could know what was going on. On the 2d of March, played an hour-long tape recorded message by Koresh over national radio and television. I think they were trying to accommodate his concerns. Davidians are given a new telephone and 150-foot cord per their demand 3–4–93. A suture kit is sent in for Koresh's injured wrist. Davidians are offered removal of the Bradleys in exchange for the release of sect members, 3–7–93; allow Davidians to bury Peter Jenks' body; 3–9–93, three released children are reunited with a parent William Mabb. We have put physicians on telephone to assist Judy Schneider and others, that was on 3–12–93. Return phone calls to compound by numerous children in addition to Kathy Schroeder, Brad Branch, et cetera and Sheila Martin. These are things that were occurring to be of assistance to move this along.

And then we had a document where you were able to read about the medical personnel that would be there. A minimum required staffing is 12 dedicated medical care providers, ambulances, et cetera, that would be there. There was discussion about the CS gas, and I think we will always raise the concern of whether or not that should have been utilized. But you had language in here that gave you at least an expression that extensive testing had been done regarding children. You asked a question about there was a comment about pregnant women and children that had been mentioned. That's in this document.

Then last, there is a letter from David Koresh which includes in there a comment that says, I am your God and you will bow under my feet.

These documents or these comments were in this particular document; you have just testified that you read it extensively. Two questions that I have then.

With this document in hand, did you try to expose yourself and the FBI, no matter what problems we may have now seen and we want to correct, with as much information as you possibly could, including during the negotiation process the fact that the FBI appeared to be trying to accommodate all that the Branch Davidians were asking for, for we have all seen what can happen when one's constitutional rights are undermined.

Would you answer that question for me, please, and follow it up by my final question, a direct response to this question: Did the President of the United States use the telephone system, the fax system, the memorandum system, any communication system, Internet, to call you up and say, go get 'em, General Reno? Now is the time to do it. It is time for us to go forth on the siege. These are my orders. Do it now and I will get a report from you later.

Would you answer those two questions, please?

Thank you very much.

Ms. RENO. First, with respect to the report, after I looked at the report on April 12, I still had questions. That's when I really started—I mean, I read this report, then I said I still wanted more information about the children. That's when they arranged for a meeting on April 14 with Dr. Harry Salem and myself so I could inquire further. Then I wanted to know about the water supply and they pursued that further.

We were concerned because it was in this timeframe that we were beginning to hear that there might be some tension between the tactical people and the negotiating people and we wanted to make sure that at least at that point we had done everything we could to pursue negotiation strategies that might effect a peaceful resolution. So it is at that time that I found out more about the HRT team, the fact that we only had one, that we couldn't pull back and put in a substitute. So these were some of the issues that I considered in addition to this briefing material that I received.

Ms. JACKSON LEE. This was not the final document?

Ms. RENO. This was not the final document. This was the beginning. With respect to your second question, though, the President of the United States never told me to do that. It would be wrong and improper for him to do it. He did everything, as I said, what I consider to be the right way, which is to let law enforcement do its job and advise the President in critical circumstances.

Ms. JACKSON LEE. You had no direct orders from the President?

Ms. RENO. No; I mean, the President of the United States told me, look, sounds to me like you all have explored everything and I'll stand behind you.

Mr. MCCOLLUM. Ms. Jackson Lee, your time has expired.

Ms. JACKSON LEE. Thank you, Mr. Chairman.

Mr. MCCOLLUM. Mr. Shadegg, you are recognized for 5 minutes.

Mr. SHADEGG. Thank you, Mr. Chairman.

Ms. Reno, I am pleased to have you here and appreciate the opportunity to ask you some questions which I believe need to be asked. You are clearly an articulate spokesman on this issue.

I must tell you in a world where too many of us all too often seek to duck individual responsibility, it is truly impressive that you have stepped up to take responsibility for something which I think may at least to some degree not be your responsibility, to a degree greater than you believe.

The siege began by another agency. You had been in office only 38 days. Ultimately, when it fell apart, you took the fall. You took the blame. You said, it was my decision. But decisions are only as good as the information you are provided. And someone said here this morning other people might have helped you more by giving you I think more accurate information, but they did not.

I am deeply troubled by the information you were given and indeed by the information we have been given in this hearing. Byron Sage, the chief negotiator, came before this committee and said very directly that he never gave up hope and yet in your report, that is the Justice Department's report at page 270, it reports that Mr. Hubbell advised you that Sage, quote—that Sage said quote, "further negotiations with the subjects in the compound would be fruitless." In the FBI's interview of Mr. Hubbell, it says Hubbell recalls AG Reno inquired "why now." Indeed, as reading this record, it is clear you agonized over this decision. You were, in fact, deeply concerned about those children.

It goes on: She was told the negotiations would not get anyone else out of the compound and that negotiations were at an impasse.

I am troubled by Mr. Sage saying he never gave up and you being told that negotiations were fruitless and you would never get anybody out, they were at an impasse. But I am troubled more by additional testimony we got.

I asked a panel that came here a question about why a building was crushed. Interestingly that picture we have of the portion of the gym being crushed is now missing. I can't find it. I am told either the FBI or the Department of Justice took it back. But this photograph shows the gymnasium at the back on the righthand side of that gymnasium.

At one point that gymnasium was destroyed. I asked a question about why it was destroyed. Mr. Clarke who was not asked the question, became quite angry with me and said the answer was clearly in the report given to you and that it was that under the plan, the Ops plan for this invasion, or whatever you want to call it, the operations personnel onsite were given the authority to crush the building if in fact after 48 hours there was no progress, and yet that crushing began at 11:30 in the morning.

I found it troubling, and I looked through the report, I didn't see the answer in the Ops plan. But the next day I asked Mr. Jamar. Mr. Jamar was here, and Mr. Jamar said that Mr. Clarke was dead wrong, absolutely wrong on that issue, that there was no intent to crush the gym, that in fact the tank was trying to go through.

Now, that is troubling because both on the video and on the still pictures you can see the tank could have gone all the way through, so I have trouble with Mr. Jamar's testimony. And that leads me to two questions I have to ask you—three questions I have to ask you.

First, the gas injection began at 6:04—6 a.m. Precisely 4 minutes after that, 4 minutes into this plan, the shots were reported and the contingency plan was set aside and we now went to the massive injection all at once of gas. One question I have for you is—and I am going to state the three questions and then let you answer them.

Did you in Washington at 7:04 a.m., Washington time, 4 minutes into this, consider abandoning your speech and staying the moderate, considering the massive escalation?

Second question I have: At 9, you depart for your speech to go to the fourth district circuit in Baltimore. At—that is 9 Waco time, 10 a.m., Washington, DC, time. At 10 a.m., also the phone which

the Davidians have is thrown out the window; 40—10 minutes later a banner is put up by the Davidians: We want our phone fixed. Forty minutes after that, the FBI, after beginning to run out of gas, puts up a sign that says—that responds: We will only fix your sign—your phone if you will agree to surrender.

My question of you is were you advised when you went to Baltimore that the phone line had been broken? Were you—and would you have said the only way we'll fix the phone is if you agree to surrender? I want to know the information you were given.

The third question I have is—goes back to the destruction of the gym. At 9:30 the FBI begins to run out of gas. At 11:30, the crushing of that gym begins. I see as I said in your own testimony and throughout this proceeding, you agonized over injury to the women and the children who were clearly innocent. Had—were you advised that the gym was to be crushed, whether Mr. Jamar is right or Mr. Clarke is right, it was in fact crushed, a section 40 feet by 40 feet, or 45 feet by 45 feet. And had you known that the plan was going to escalate to the degree of crushing the gym, if you—were you told that? And if you were not told that, would you have agreed to the crushing of the gym?

Ms. RENO. What was your first question?

Mr. SHADEGG. The first question was—the first question was 4 minutes into the raid, it escalates. The 48-hour plan, according to testimony, is gone. We are now going to do a massive insertion of gas into every window. Did you consider staying in Washington, DC, given that escalation 4 minutes into the plan?

Ms. RENO. At 6 in the morning I didn't know what I was going to do. I was there. It escalated consistent with the plan. The shots were fired and the tanks began to insert gas throughout the compound. During the course of the morning, the question arose whether I should cancel the speech and the FBI did not want me to do so because they thought it would attract attention, if I suddenly canceled a speech, it looked like there would be an emergency.

Mr. SHADEGG. I think that goes to the issue of what the FBI did not want you to do, too. I think that is an important piece of information.

Ms. RENO. Well, just let me finish.

What is your second question?

Mr. SHADEGG. The second question was at 10 a.m., Washington time, 9 a.m., Waco time, you depart for Baltimore.

Ms. RENO. I think you have got your time wrong.

Mr. SHADEGG. Do you know what time?

Ms. RENO. Because I saw the phone thrown out.

Mr. SHADEGG. You did see the phone throw out?

Ms. RENO. My understanding is—you would have to check with Mr. Sage because I didn't hear his testimony. I'll be happy to check with it. My understanding is they said, we'll get you your phone back if you really want to negotiate.

Mr. SHADEGG. Well, 50 minutes later, according to the information we have, they responded by a megaphone, we will only fix the phone if it is used to surrender.

Ms. RENO. Well, we can correct—we can provide you with whatever Mr. Sage said. But my understanding at the time from a dis-

tance was that if we provide you with the phone, will you negotiate.

Mr. SHADEGG. Well, we all dealt with hypotheticals in law school. I'm sure you dealt with them.

Ms. RENO. That is the reason I am suggesting we get exactly what Mr. Sage said.

Mr. SHADEGG. Would you agree we would only give the phone back if they agreed to surrender?

Ms. RENO. I don't know what the circumstances would be there. What I would prefer rather than talking about hypotheticals is what actually happened.

Mr. SHADEGG. Then the third question is the demolishment, the demolition of the gym; were you aware of it? Had you been aware of it, would you have agreed to it, given the potential danger to people inside?

Ms. RENO. What I understand there—and again, I have not been able to hear all of the testimony, but we can review it—is that the plan, when they started to fire on them, was to insert gas throughout the compound, and they proceeded to do that. I have heard and I—this is just hearsay at this point because I haven't seen the exact transcript of what the vehicle operator said, but that it was an inadvertent crushing of a back support. Why—don't laugh at me, please.

Mr. SHADEGG. No, madam. It is impossible to look at the videotape of that tank going in that gym and up on its roof and conclude it was inadvertent.

Ms. RENO. What I am asking you to do is to look to the record.

Mr. SHADEGG. I looked at the videotape.

Ms. RENO. Well, then you make your best judgment, but I am giving you the information that I know.

Mr. SHADEGG. Just again, if you had known they were going to crush the gym, would you have approved of that?

Ms. RENO. The statement, as you will recall, that was provided, was that in the event that all persons do not leave the compound after the initial introduction of CS or that good-faith negotiations leading to a resolution are not forthcoming, the irritant will be introduced in other wings of the compound. Eventually, walls will be torn down to increase the exposure of those still left inside.

My understanding, and while I was there while it all took place, was we were concerned that they might be trying to block the escapes, so there was a step taken to introduce a hole in the front of the building to make sure that people could come out, that there was a step taken to do the same with the back of the building.

You also raised another question which you have not put in one of your three questions and that was—I believe it was you with respect to the—what you perceive to be an inconsistency between Mr. Sage and Mr. Hubbell. What Mr. Sage and I understand, because I checked on this, said, and what Mr. Hubbell advised me, is that negotiations had reached an impasse at this point and he did not expect others to come out. But our whole purpose had been to continue to try, not to give up, because our hope was that with the injection of gas or the statement that we are going to start injecting gas, they would begin to negotiate, so that there was a consist-

ent effort to try to do everything we could with the increased pressure not to give up hope, so I don't see any inconsistency.

Mr. SHADEGG. The phone would have facilitated those negotiations.

Mr. MCCOLLUM. Mr. Shadegg, your time has expired.

It is my understanding that no one on my left wants time.

Mr. Taylor just arrived and wants to reserve his time.

I am going to Mr. Blute.

You are recognized for 5 minutes.

Mr. BLUTE. Thank you very much, Mr. Chairman.

And thank you very much Attorney General Reno for your testimony. I have a great deal of respect for you and the job that you are doing, and you and I have agreed on many issues that have come before this Congress over the last couple of years.

I think this incident is a great American tragedy. I don't think there is any doubt about that. Clearly, Mr. Koresh is the ultimate villain in this and I think everyone on this committee, indeed, everyone in the country knows that. But I also believe it is not sufficient to just blame Koresh, particularly from the perspective of congressional oversight committees.

I think it's important that we get to the bottom of the Federal Government's role in this, both the ATF, the FBI, the Justice Department and the Department of Treasury, and indeed even the White House's role in this, and I think all of those questions are clearly legitimate and important questions, because if anything good is going to come out of this, it's going to be that we found out what happened, why it happened and how we can avoid anything like this from happening in the future.

Let me turn to a couple of the issues that have been talked about. You stated in, I think, a report in the USA Today an oped piece that,

We didn't misunderstand Koresh. We didn't suffer from misinformation. I wasn't misled.

Frankly, as you look at the entire testimony we have heard in these 10 days, it seems like there was a lot of miscommunication, that there was some misleading happening and that there was some misinformation with regard to Koresh's theology that occurred in this episode. And I wondered if you could comment on the comments of Mr. Stone—Dr. Stone from Harvard University, someone who the Justice Department—I think you chose him to conduct an investigation and give a report on how the Justice Department acted in this episode and he was very strong in his statement.

He said, quote, I do not doubt that Janet Reno was concerned for the children. She would never have felt justified in ordering the gas attack if she had understood the risk to them. I can only conclude she was misinformed and misled.

I wonder if you would react to that, given that this is someone who the Justice Department asked to look into this episode.

Ms. RENO. Obviously, when we go out to experts, we are expecting them to come up with their thoughts. We had asked Dr. Stone to look at this whole matter from the point of view of negotiations and what might have been done otherwise in terms of strategy.

He also commented on the gas. He is not a toxicologist. So taking his report we went back to the toxicologist and tried to look at it.

He has been very gracious in responding and saying, I may not be a toxicologist, but I am a doctor, and I know what can happen.

We then proceeded to talk with the British experts, one of whom is a pathologist, is a physician, who could understand. We are trying to do everything we can to make sure we are fully informed, and based on the experts that we have talked to, and we will continue to try to do everything we can, this is a safe gas that would have not—would not have produced permanent harm.

Mr. BLUTE. He also—I am sorry.

Ms. RENO. As I said earlier this morning, we are going to continue to review all the technology, both for CS gas and for any technology that can produce a nonlethal resolution of these matters.

Mr. BLUTE. He also indicated that the FBI had silenced its own expert. I wonder if you'd comment on that? I think he's referring to Mr. Smerick and the fact that Mr. Smerick has testified before this committee that he felt pressured from above in the FBI to change his recommendations.

Ms. RENO. I would have to refer—look at Mr. Smerick's testimony. That is not what I understood to be the case.

Mr. BLUTE. Let me ask one last question about the memo of March 1 to the President from his Chief of Staff we saw earlier, in which clearly the White House is indicating that if any significant action is taken, the White House would be notified and the White House would then approve.

You mentioned earlier in reaction to that that was because we had an Acting Attorney General; is that correct?

Ms. RENO. That's correct.

Mr. BLUTE. Well, at what point in your understanding did the White House change that? Did they issue a memo back to you that now you were free to act on your own judgment, or was this left open-ended?

Ms. RENO. I don't know—I didn't—hadn't seen this memorandum, but I just knew from Acting Attorney General Gerson what the President's feeling was. I didn't notify him until we had made a determination. I think I would have notified him under any circumstance.

Mr. BLUTE. Well, let me just finally say that in this memo, this appears to say that the White House would have the final approval of any significant action. And also in the Altman memo, he refers to Secretary Bentsen saying that nothing like this would occur without your knowledge, meaning Secretary Bentsen's, and now no one seems to know much about that—those checkoffs of the President or the Secretary of the Treasury.

Ms. RENO. I don't know anything about the checkoffs of Secretary Bentsen or how he was involved because they were not part of our briefing. But in terms of law enforcement initiatives, I think it is very important that law enforcement develop the plan, that the President be kept advised and I—we tried to do just that.

Mr. BLUTE. I see my time has expired.

Thank you, Mr. Chairman.

Thank you, Madam Attorney General.

Mr. MCCOLLUM. Thank you.

Mr. Taylor, is he here? He is here.

Do you wish to use your time at this point, Mr. Taylor? Are you reserving it still?

Mr. TAYLOR. I am reserving.

Mr. MCCOLLUM. All right.

I guess at this point we go to Mr. Barr for 5 minutes.

Mr. BARR. Thank you, Mr. Chairman.

We've all heard at some length about the 51 days that concern us during which the siege took place. What concerns me, Madam Attorney General, is certainly those 51 days and the work that we have been about trying to discover what went wrong there so steps can be taken to address it. But I don't know exactly how many days, 940 or whatnot since then, since this administration came in, and kind of looking ahead, your written statement this morning has seven items listed on pages 6 and 7: A larger Hostage Rescue Team, increase the number of negotiators, forming a critical in-service response group, more SWAT teams, and then two continuing studies, all of which certainly are appropriate. I suppose, if the lessons of Waco are simply to, as you say, to improve our capacity to respond to, quote, "complex hostage barricade incidents," and that's certainly appropriate.

My concern is something a little bit broader than that. And that is looking at how this whole situation developed in the first place, which even if one doesn't conclude that virtually everything about it turned out wrong, certainly a number of things did. And I understand also certainly that you are the Attorney General and not the Secretary of the Treasury, or the Secretary of the Interior, or any other of our Federal departments under which there are law enforcement components. But you are the chief law enforcement officer of this country and the chief advisor on law enforcement matters to the President.

And I was somewhat dismayed previously, and I forget which one of my colleagues on the subcommittees here posed the question, about sort of a broader picture in terms of solutions to this problem, looking at ATF and your response being that's a turf problem, a turf battle. And the question that I have in my mind, if the President turns to you—and I don't know whether he has or has not, but at some point I would think he would and ask you—I mean, how can we avoid these problems in the future, not simply how can we better respond to them in the future if they come up.

I certainly would presume that you are not going to tell the President as the chief law enforcement officer, I can't deal with ATF because that's a turf problem. Four agents died the very first day of this situation here and over six dozen additional people, many of whom were innocent, died in activities that were set in motion by that initial day's activities. And I think obviously some steps will have to be taken that are more systemic than simply more HRT or more SWAT teams or whatnot, as important as those may be from a tactical standpoint. Is this really, these seven points on your two pages, is this really all the administration has to offer the American people after 900 and some odd days, and probably one of the most, if not the most, serious law enforcement operation in the history of our country, to assure the American people that not simply we're going to be better able to respond if this sort of

thing does come up again, but to take meaningful steps, explicit steps, specific steps to ensure that it doesn't come up again?

And I say that also in light of the fact that the administration certainly has not been timid in coming before the Congress as recently as just several weeks ago, asking for additional authorities, expanded law enforcement authorities for the Federal Government through antiterrorism legislation. And yet, citizens have asked me, well, what's happened with the problems of Waco first, before we even get to the point of does the Federal Government need more power?

Are the problems that are apparent to all of us in Waco being properly addressed? I mean, what specific systemic steps are being taken, whether in ATF or elsewhere in the Government generally to ensure that this doesn't happen again?

Ms. RENO. One of the first steps that has been taken is the development of a Critical Incident Response Team, that is not just a statement. It is a very effective team. I have had the opportunity to visit, participate in the training, to understand how the FBI would respond with ATF in the future.

What we are trying to do is to work out with ATF, with Customs, with any law enforcement agency involved, a capacity and an understanding where we go in first. But to answer your question best, one of the classic examples of how law enforcement is working, moving together, was seen as we responded as the FBI's specially trained SAC's responded to Oklahoma City.

I had the opportunity to go to Oklahoma City very shortly after that tragic bombing. I walked into that command post. I found law enforcement together, as I have never seen it before. ATF agents working with DEA agents and——

Mr. BARR. Madam Attorney General, that's very true and that's an outstanding example of how the Government can respond in a coordinated fashion to an emergency that develops.

You may not want to look at me. I am not trying to be rude. I'm just saying that is something very different.

Ms. RENO. I will ask, Mr. Chairman, to see what I am supposed to do.

Mr. BARR. That is something very different, Madam Attorney General, from what we are talking about here, a law enforcement operation planned by the Government that went very badly awry.

Mr. MCCOLLUM. Mr.——

Mr. BARR. Seemingly based on some systemic problems with ATF and other law enforcement agencies. That is not Oklahoma.

Mr. MCCOLLUM. Mr. Barr, your time has expired.

The Attorney General may respond, but your time has expired.

Mr. BARR. I would like the response, with all due respect, to be responsive. I did not ask about Oklahoma City.

Ms. RENO. Well, you may not like my response and you may disagree with it, but I am going to continue with my response because what we were faced with in Oklahoma City required close cooperation of Federal agencies and we saw a very effective effort brought about in part because of the steps learned from Waco. You may disagree with that, sir.

Mr. BARR. I don't disagree with that at all.

Ms. RENO. Well, if I may just finish.

Mr. BARR. That's not the point.

Ms. RENO. I have got to answer it the best I know how, and if you disagree, that would be of course your prerogative. But if I could—second, we have enhanced the training of SWAT teams around the country so that they are ready and far more responsive than they were before Waco. We responded to Waco and the specifics of Waco by enhanced training.

We have developed a far better capacity for the negotiation team to work together with the tactical operatives. A very direct, specific step after Waco. We are going to continue to do everything that we can along these lines to develop a coordinated response of law enforcement so that we can address these issues.

Mr. MCCOLLUM. Thank you. Mr. Souder, you are recognized for 5 minutes.

Mr. SOUDER. Thank you, Mr. Chairman.

I want to probe a little bit and review some of what we have heard, we did this because of the children. In the process of questioning Mr. Jamar, he said it was 99 percent sure they were fired upon, and I think that was a pretty good guess given with the ATF agents that the tanks would be fired upon.

He also said the doors were blocked. I think that was fairly predictable that doors would be blocked because of the fear of an assault, particularly once the gas insertion in the tanks started. He said that seven of the nine people who escaped escaped because holes were punched in the wall once they realized the doors were blocked.

We also learned that—Mr. Jamar also told me in one of my questions that he didn't, in fact, know where the children were. In fact, where they hoped they were in the bus, they weren't, but there was no way for them to know where in the compound before they put the gas in to know where the children were.

We also knew, and both the FBI and all the outside experts knew, that Koresh had a tendency to talk in messianic terms about fire, that we learned also that the FBI did not hear the tape and that there was really no way because that equipment wasn't checked or planted in advance to hear whether or not they were starting a fire during that time. I think we all agree that Koresh was a paranoid pervert with the messianic complex, but given that it seems fairly logical that once the walls were being knocked down that broadcasting over a loudspeaker, "we are not assaulting your compound" isn't going to cut it, that an average person if the walls were getting knocked down in their home would consider that an assault and possibly precipitate, you know his radical actions that he in fact did, which was start a fire in the complex.

We also heard from Dr. Salem, who he didn't say the gas was safe. He said, I think the FBI report says that there is no laboratory tests, and anecdotal evidence was convincing that there would be no permanent injury. The gentleman from Britain said that the anecdotal evidence was mixed, but the scientific evidence suggested that it probably wouldn't be.

I have been going back and forth between an FDA oversight hearing on breast implants where the FDA has taken the position that they shouldn't be allowed because there is no compelling research to say that it is safe, not that it is proven that it is dan-

gerous. The research is mixed. At best what Dr. Salem said was one case in Ireland, and one baby at 48 hours who seemed to have recovered. That is the scientific evidence even at the anecdotal level on that side, and he, when asked by Mrs. Collins, said that if gas had to be used, CS gas was the safest gas. He did not say he approved of using the gas.

Furthermore, you acknowledged and we all know there were no gas masks for the children. We have heard Clive Doyle say that, describe what it was like inside—pitch black, rolling around, trying to figure out where a hole had been knocked in the wall, hearing screaming behind him. There was no chance that those children were going to escape unless just by chance they were at one of those holes, all of which the FBI said was a plan that was signed off on in advance.

When I asked Joyce Sparks, who was the only person to have gone in and was very frustrated because she believed Koresh, the parents were shielding Koresh and that nobody would come forth, but I asked her about the President's quote:

> But in the end the last comment I had from Janet Reno was when I said I want you to tell me once more why you believe we should move now rather than wait some more, and she said it is because of the children.

I asked Joyce Sparks whether she thought that was true, and she said no, she didn't think it was because of the children. For four days you valiantly tried to hold them off from going in. You asked the questions repeatedly of the children. I can understand why with the White House asking questions and the political problems of the hostage situation which we have gone through in this country in multiple different ways, I can understand with the FBI being tired why there might have been decisions made to go ahead and that, quite frankly, they had given up hope and there may not have been another way to get Koresh out. I certainly don't have any suggestions, but I would suggest that after all these hearings that it is not believable to say that the reason you went in was because of the children. This evidence is just too overwhelming.

Ms. RENO. You are quite correct, sir, and let me tell you why we went in. You apparently were not here earlier. We were faced with a situation where they had been there for 51 days, dangerous people who had killed 4 ATF agents and wounded 15. I could not walk away from it. I tried to consider what alternatives because since March 21 no other children, nobody else had come out except some people that had gone in, and it was clear based on interviews that the people who had come out either were not Koresh's adopted or biological children or they were adults who were causing him trouble.

The FBI submitted a gas plan. The questions I asked immediately were what about the gas. This report was not enough. I explored additional information. I researched everything that I knew to do through the FBI in terms of toxicology, in terms of the impact and was told it would not produce permanent harm. That was one of the keys before I ever considered any further aspect of it.

I considered at the time what the military commanders of the military HRT team and the FBI was saying about the state of readiness of the HRT team, and I was surprised to find that there was only one team, that I could not pull back the one team and sub-

stitute another. I asked if I could substitute, they could substitute the SWAT teams and they said no, the training was not of a standard that would permit the security for the perimeter and they were very concerned about the security in terms of intruders or people coming to assist or to attack the Davidians. That was another factor. I then said, well, why can't we wait and see, you know, let's starve them out or they will run out of water.

We were told by people who were coming out that they had a supply of food that could last up to a year, that their water supply—I asked the FBI to go back because there was some indication from the electronic surveillance that they might be short of water. They did tests through some type of equipment and found that the water supply was being replenished in excess of the amount of rainfall on a regular basis and that that seemed to be adequate.

I had looked for other alternatives as to what to do. One of the things that struck me from the beginning and gave me such sleepless nights was the fact that he had talked about suicide. Instead of coming out on March 2 he had rehearsed a suicide attempt where he would come out with explosives, blow himself and some agents up while the others committed suicide inside. That could have happened then, it could happen 10 days from then, it could happen 6 months from then. It was hard to tell based on all his writings, based on the evaluation of the writings, but I then weighed with that the statement he made, and I read transcripts where he said, I am not going to commit suicide, it is against my teachings.

I weighed all of these factors, the condition of the children and the others there, the fact that there had been allegations of sexual abuse, there had been allegations of beatings. I weighed it all, and consistent with the HRT telling me that unless they pulled back shortly they would not be at the state of readiness necessary to secure the compound. I made the judgment that at this point it was—we would have the best opportunity to control any situation that Koresh might develop. What haunted me was that if I did not go in I might be sitting there 10 days from then when he came out with explosives, blew himself, some agents, and the entire place up, so those were the factors that went into my decision.

Mr. SOUDER. Thank you. I hope I can ask, in the second round, a couple of followups to that.

Mr. MCCOLLUM. In the next two rounds you will get that opportunity. Your time for now has expired.

Mr. Taylor, we have only one other Republican questioner so I will yield you your 5 minutes.

Mr. TAYLOR. Thank you, Mr. Chairman.

Ms. Reno, you have had the opportunity now to look at this for a couple of years, and one thing we know for certain is that a young man born almost on Christmas Day in 1962 named Conway LeBleu is dead, another one born in October 1964 named Todd McKeehan is dead, another one born March 1, 1966 named Robert Williams is dead, and another one born a week before Christmas 1960 named Steven Willis is dead. They were ATF agents who were paid by the people of this land to enforce the laws of this land, laws like kidnapping, laws like sexually mistreating children, laws against owning machineguns unless you have a license for

that, laws against threatening other people with death or elimination as the good Mr. Koresh liked to use.

Now, having looked at all those things for the past 2½ years, has there been anything that you have seen or read or heard that would justify the murder of those four ATF agents or the wounding of 20 more or in any way remove the guilt of David Koresh for surrounding himself with 80 people as human shields, 80 people who died at his wish?

Ms. RENO. No, sir, not one solitary fact.

Mr. TAYLOR. I am curious, this is—I remember as a State senator and as a city councilman back in Mississippi we required our law enforcement officers to take an oath of office to enforce all laws, even if it was something like bingo back when bingo was illegal in Mississippi. Even though it was pretty popular with the grandmas and the grandpas, they had to enforce the bingo laws. Even when the State was a dry State, and a lot of people liked to drink, they had to enforce the liquor laws. Do FBI agents and ATF agents take an oath to enforce all of the laws whether they like them or not?

Ms. RENO. Yes, sir.

Mr. TAYLOR. And we are the rule of law, am I not mistaken, Ms. Reno, where everyone in this country, be they a Congressman or a guy who is sweeping streets, they have got to live by the same laws?

Ms. RENO. That is right, sir.

Mr. TAYLOR. So is there anything that you have seen that allows a guy who was sleeping with 10-year-old little girls, who had threatened to kill his ex-members who left to talk to the police, who held at least one person against their will for 3 months, who killed four ATF agents and wounded 20 more, is there anything that justifies what he did or somehow makes him above the law because he had some perverted sense that he called religion?

Ms. RENO. Nothing whatsoever, sir.

Mr. TAYLOR. Ms. Reno, I am only going to ask for one thing. I was disappointed when I read that the Federal Government spent a considerable sum of money and after all was said and done in the hearings down in the trial against the Davidians, that there were no murder convictions against those Davidians. I have read the same evidence as the people in this room, I have seen the same evidence as people in this room, and I have come to be convinced that four good people died trying to serve a legal warrant using military equipment that was legally supplied to them, and yet no one was convicted of it. Is it your belief, now that you have had 2 years to look at it, that those people who survived were not involved in the crime or were no more guilty than they were found guilty of?

Ms. RENO. The matter is now pending on appeal, so it is probably appropriate that I not comment too extensively on the verdicts except to say that the verdicts of the court with respect to certain of the defendants makes clear that what they did was not justified and not excused.

Mr. TAYLOR. Ms. Reno, if I may make one request as a Congressman from one State, I wish you would put together a team that would have the job of enforcing the laws when law enforcement agents are killed in the line of duty, of being the people that will

prosecute that law because I don't want to see one more cop killer walk free, and I hope no one in this room does, either. Thank you, Ms. Reno.

Mr. MCCOLLUM. Thank you, Mr. Taylor. Your time has expired. To conclude the questioning on the first round, I will yield to Mr. Chabot 5 minutes.

Mr. CHABOT. Thank you, Mr. Chairman, and I think we all agree with Mr. Taylor that it is absolutely a tragedy that four law enforcement officials lost their lives and our hearts go out to the families of those men.

One thing that bothers me, and I think a lot of people, was the nature, the high risk nature of the final assault on the Davidian complex, particularly when we know that there were 20 innocent children in that particular facility, and again I have no sympathy for Koresh, I have no sympathy for any of the other adults who were using weapons in that facility. They were guilty as sin, but the children were completely innocent in this particular incident, and what I wonder and some other people I think wonder is that had this been—say a schoolbus had been going down in front of the compound and a schoolbus of kids had been hijacked by the Davidians and taken inside and were taken hostage, for example, under those circumstances is it conceivable that our Government would have acted as it did by gassing the compound, assaulting the building with tanks, knowing that there were such significant risks involved, particularly the risk of fire had there been a schoolbus of citizens as opposed to children of these Davidians?

Ms. RENO. If instead of a raid on the 28th he had taken the children into the compound and 51 days had gone by and he had not let any of the children out and on March 2 he had rehearsed a suicide plan where he would come out with explosives strapped to his waist and blow up the agents outside while the group inside committed suicide along with the 20 children who had been kidnapped by him, I would have pursued the issue in the same way, trying to make the best judgment I could as to the most effective, propitious time to take action to try to get those children out safely.

Mr. CHABOT. Thank you. So the answer is yes, that the suicide incident you talked to was March 2, so that was 3 or so days after the initial raid, and for 48 days obviously that hadn't occurred, and nobody died within the facility until the Government actually took its action. I have—there is no question that you were acting as you best thought was right, and I think we all agree to that. Obviously it was a terrible tragedy that ultimately occurred, though.

As you know, General Reno, one of the central purposes of these hearings is to try to learn whatever lessons we can from the debacle at Waco, and one issue that we keep coming back to is the question of accountability, individual accountability.

One person's name that has come up a number of times in these hearings is that of Larry Potts, and of course Mr. Potts at the time of Waco was the Assistant Director of the Criminal Investigative Division of the FBI, and he was at most of the important meetings in which the urging of CS gas occurred.

Now, this followed by only about 8 weeks Mr. Potts' tragic involvement at Ruby Ridge, the Randy Weaver case, and the rules of engagement as is coming out now were such that I think every-

one agrees it was unconstitutional, I think by your own Department's evaluation the rules of engagement were improper there, but that operation wound up with a mother shot through the head by an FBI sniper as she was actually holding an infant in her arms, and Mr. Potts was accused by two FBI agents of lying to cover up, according to news accounts, and he was disciplined by your Department.

Mr. Potts after Ruby Ridge then was—he then had the Waco responsibilities and we saw the tragedy that resulted there. In the wake of those two disasters, you approved Mr. Potts' promotion to the No. 2 post at the FBI, even amidst allegations of a coverup in the Weaver case, the Ruby Ridge case. Now, Mr. Potts only served as Deputy FBI Director for 10 weeks, until he was recently demoted; within the past couple of weeks he was demoted. Didn't his promotion send exactly the wrong message, if you are trying to establish some notion of accountability within the Department?

Ms. RENO. Yes, I am trying to establish accountability. What I did was to review his work at Waco since that is what we are focusing on, and it was—I have not—as I go over everything with respect to Waco, all those hours, those days, the FBI, including Mr. Potts, was dedicated, they tried their best, they gave me their best judgment, they pursued every factual inquiry that I came up with, and from my understanding Mr. Potts has been here, testified before you, and has been accountable.

Mr. CHABOT. Thank you.

Mr. MCCOLLUM. Thank you, Mr. Chabot. Your time has expired.

We are now going to commence the second round of questioning at this point. Everybody has had an opportunity to have 5 minutes on the first round. I will yield myself 5 minutes to commence this second round.

Ms. Reno, I have listened very attentively during your testimony this morning. I have heard you say four things that particularly stand out about what contributed most to your decision on April 17: The belief that there really was an impasse in the negotiations, the fatigue of the hostage rescue team, concern over the condition of the children and the possibility they would continue to be abused, and the fear of an imminent, violent breakout by Koresh if you waited and let him leave on his terms. There are other factors, but those four I have heard you say pretty strongly.

What bothers me about what you have said so far is that the evidence we have taken over the last 8 days does not corroborate or substantiate the basis for any one of the four.

First of all, with regard to the impasse. Yes, I am convinced that the FBI really believed there was an impasse, and I don't doubt that you believe them, but the fact of the matter is we have had a lot of evidence that would indicate that Koresh really was serious this time about coming out.

Mr. DeGuerin, his attorney, was very impassioned and very believable, very credible here the other day when he told us that he honestly believed that Koresh would have been out within 10 days or so if the assault had not occurred.

We also know from the transcripts there was a lot going on though the FBI dismissed that. We do know that there were problems with the typewriter, there was no electricity, et cetera, and

even though Dr. Miron, who was your consultant, did say he thought with other FBI officials that this might be a ploy to gain more time, he also said that he believed that Koresh was working feverishly, as he put it, on the transcripts, and his interpretations of the Seven Seals and that it was a potentially very valuable negotiating tool.

We had Dick Rogers, the head of the Hostage Rescue Team, tell us that he had about 2 weeks left before there would have to be a standdown of the Hostage Rescue Team. I would submit that considering what Mr. DeGuerin had to say, that was a very critical 2 weeks.

As far as the kids being abused, there is no evidence we have had that the children were under any more abuse or physical harm or threat during the time of the siege than existed prior to the siege, or more than existed prior to the raid on February 28, for that matter. Sanitary conditions weren't good in there but nobody apparently was getting ill, and as you have stated yourself, there was a plentiful supply of food and apparently adequate water from rain water as best we could determine, adequate but not good.

And as far as the fear of an imminent violent breakout if you waited, the only thing I have heard, and you have repeated it today, is this concern of March 2 where Koresh, according to one Davidian who came out, apparently was planning or had made indications he wanted to come out that day with explosives tied around him and possibly blow himself up.

As Mr. Chabot has pointed out in the interviewing, 49 days until the 19th of April, there was not one shred of evidence that Koresh was implementing such a plan. We have heard nothing to indicate that he was considering that any longer, and it bothers me a lot that you and the FBI have relied upon that factor, that fear or that concern as the rationale for going ahead at this particular moment in time.

It seems to me that, indeed, you had an opportunity as I asked in my first round of questions to personally get involved and talk to Mr. DeGuerin, Koresh's attorney, talk to Mr. Sage personally, talk with Mr. Jamar personally. I think if you had done that, and I know that I am hindsight guessing you now, you would have found that that certainty about an impasse would not have been so great in your mind. I am bothered by that, and I am bothered by the fact that you were pressed in your mind to act anyway. I just don't think that facts corroborate the basis upon which you have told us today you made this decision.

Now, I want to ask you a question about the actual assault itself and the planning of that assault. My question is this: It seems to me that in the process of looking at this plan it was decided early on and it is clear from the plan itself that if the Bradley vehicles and the CEV's were fired upon, the plan would be accelerated, and there was a general understanding by Mr. Clarke at the FBI who was then Deputy Director, and I think others there, that an accelerated plan was a higher risk plan. He was very concerned and told us that, that the Davidians might react negatively to that kind of more aggressive assault, and that is why initially that apparently hadn't gotten brought up to you as early as it might otherwise have been brought up to you, and it seems as though internally in the

FBI the idea of a slow implementation plan was the desired thing and that is what they promoted.

Yet, Mr. Jamar told us that he was 99 percent certain that when those vehicles approached the compound they would be fired upon, and under the plan it would be accelerated. I do not see why you would not have seen the same thing Mr. Jamar saw in this. He did say he didn't pass his thoughts on to anybody else, so I don't doubt for a minute that you got those words. You didn't, that thought wasn't voiced. Neither Mr. Potts nor Mr. Clarke nor anyone else that I can find, maybe you did. Maybe you can tell me that somebody else I didn't ask passed that thought on to you, but I don't think Mr. Jamar expressed that thought to any superior.

It seems to be logical that one would assume, and that you yourself should have assumed, that the plan would have been accelerated almost to a probability because of the fact that surely after the ATF officers had been shot in a raid on February 28 one would have to assume the likelihood that these vehicles would indeed be fired on, and with that higher risks involved.

What my question is, were you thinking, yes, it is probable, that as the events unfolded, "we have just got to come to an end with this," or did you really think despite all that I have analyzed with you that when those vehicles approached up there that the insertion of that gas would in all probability be a slow unfolding process. Did you think that the plan would be carried out over the 48 hours rather than over what turned out to be 6 hours of a much accelerated plan?

Ms. RENO. First of all, let me make clear to you that I did not feel pressed to make a decision except by the facts. Second, let me make sure that you have said that I made a mistake. No one will ever know whether if you had been in the same position using the same analysis that you have made today you would have made a mistake.

With respect to the first issue that you raised, you don't think that there was an impasse in negotiations. What Mr. Sage said, as I understand his testimony here, was that they had reached an impasse in negotiations in terms of anybody coming out voluntarily, that—and I don't think there is any doubt about that. He wanted to continue to negotiate. I wanted to continue to negotiate, and it was our hope that with the pressure of the gas it would produce the possibility of negotiations, if not getting them all out.

As you look over all the transcripts, over all the time, it is easy for you to take a piece here and a piece here and wishful thinking say, gee, if I had been the Attorney General, this is the way it would have worked, and I wish if it had turned out right that that had been the case, but what I was faced with was not the ability to Monday-morning quarterback.

I was faced with the situation in which he said—he had rehearsed the plan March 2. There had been continuing concerns about suicide based on some of his messianic writing, Chairman Hyde refers to this, and that I didn't know what circumstances might exist that would produce that—an attack from the outside, an intruder, a fight, a response—that this was the best time to use the resources we had to encourage further negotiation.

Second, with respect to the fatigue, it was never expressed to me in terms of fatigue; it was expressed to me in terms of a state of readiness, in terms of their sharp shooting ability and the like. What was expressed to me is that they might have a little bit longer, but this was their best time in order to properly hold the perimeter.

But what I was faced with was here was a man on March 2 who had said he would come out. He was very explicit. He said he would come out immediately. The tape was broadcast, and what did he do? "I am sorry, I am not coming out, God told me to wait." He said he was coming out soon, around March 19 or 20. He never came out. He said he was coming out after Passover. After Passover, he suddenly comes out with the fact that he is going to do the Seven Seals.

I went through the transcripts to see after the fact, to engage in some Monday-morning quarterbacking myself, and it was so clear those days following the end of his Passover or what he referred to as Passover, trying to get some signal, trying to find out when is he coming out, what is he going to do, he could take forever to finish the Seals, as Steven Schneider said, 6 months or 6 years.

We will never know the answer, but the record is replete with equivocation, with broken promise of him just toying and manipulating the whole system. I am willing to be toyed with and be manipulated if I can maintain a perimeter, and obviously with what we have learned, we now have a capacity so that if I would have the HRT capacity and the SWAT capacity to wait longer and would have done so then because that was one of the very points of the equation.

With respect to the kids being abused, I have never suggested that there was more abuse after the raid than there was before the raid. What I was concerned about are allegations that have been supported that children were being sexually abused and that children were being beaten, and children kept under those circumstances for 6 months to a year without being able to get out, that is not a good condition for children.

With respect to talking to DeGuerin, to Sage, and to Jamar, I could talk to them until I am blue in the face, but my whole point is from all that I have learned, the factors are still there. Everything that has come up has been part of the factors in terms of trying to understand it. We will never know what happened. If I could wave a magic wand and do it over again and have the right answer, I would feel like I was the most fortunate person in the world.

Mr. MCCOLLUM. Do you want to respond to the last question I asked? I know you responded to my analysis. Really, the question I asked pertained to the issue of the question of your belief of whether or not the plan to use the gas would be accelerated almost as a probability because you would have assumed or would you not have assumed that there would have been firing upon by the Davidians?

Ms. RENO. If I understood your question, and I had it down a little bit differently, I think what they were trying to do, I think they faced an unusual situation where the gas did not appear to be working because the wind was very high and they were worried

that people did not have the opportunity to get out because they had barred doors.

In terms of knocking down the doors, nothing happened. They moved slowly, nothing happened for 1 hour, 2 hours, 3 hours, 4 hours. I think it was an appropriate effort to ensure that there was egress from the compound.

Mr. MCCOLLUM. The question, and I don't want to belabor it because my time has expired and you spent a lot of time obviously analyzing my analysis. I understand that, maybe I should not have asked the question at the end as I did, but what my question was pertaining to was a comment made to us by Mr. Jamar, the tactical commander, who told us that he was 99 percent certain in his own mind that when the gas-inserting vehicles approached that compound, they would be fired upon. My real question to you is whether it would have been reasonable for you to think about that yourself in light of the fact that they had fired upon the ATF? Wouldn't it have been a probability, just as Jamar thought, and did you have the same thought he did that they would be fired upon. And, if you did, would that not have implied to your thinking at the time you made your decision that this was going to inevitably be an accelerated gas assault from the beginning? That is the question.

Ms. RENO. We speculated on that from the beginning because one of the things that I was concerned about is that they would put children up in the window and use them as shields to fire on agents below, and I said if they put the children in the window, back off immediately, but what we were faced with here was a situation in which we expected them to fire perhaps in certain instances. We wouldn't have had the people in the armored vehicles.

Mr. MCCOLLUM. That is what I would think. Mr. Schumer. Oh, Mr. Scott. Mr. Scott, you are recognized for 5 minutes.

Mr. SCOTT. Thank you, Mr. Chairman. I would yield 1 minute to the gentleman from New York, Mr. Schumer.

Mr. SCHUMER. I thank the gentleman.

As we begin this second round of questioning, I just want to say to you, Madam Attorney General, that you have done I think a very fine job of forthrightly explaining your position in what happened.

Before these hearings began, it was no secret around town that some said they were going to bring you here to embarrass you or humiliate you. The Washington Post on July 16, Attorney General Janet Reno is the sole witness on the hearing's last day and some Republican staff members privately express hope they can humiliate her; Newsweek, July 31, Republicans have cast her as the climactic witness in what they hope will be a high profile humiliation; Associated Press, July 28, some Republicans privately concede they hope to use Waco hearings to embarrass the administration.

What I want to say is you haven't been embarrassed or humiliated at all. You have stood strong and tall. The only embarrassment and humiliation came in a few moments, incidents like the gas mask incident, which was not your doing.

I just have one question for you, and that is, you have sat here all morning, you have read, I am sure, the accounts of the hearings for the last 9 days; you probably listened to some. Have you

learned anything different or new that would have led you, that leads you to think differently of the decision you made?

Ms. RENO. First of all, I have to say as a matter of personal privilege that I don't know that many other Members of—I have had dealings with a number of the Members, and I don't think that they would embarrass me. I know for sure Chairman McCollum would never be out to humiliate me.

Mr. SCHUMER. Hear, hear.

Ms. RENO. And if he tried, he couldn't do it.

Mr. MCCOLLUM. I can assure you, if I might, I have not tired to humiliate you today. I have tried to ask honest questions, but we do have time that you have of Mr. Scott's.

Mr. SCHUMER. The question I have is, have you learned anything new from sitting here this morning or in reading the accounts that would have led you to make a different decision?

Ms. RENO. I have been doing an awful lot of the talking so I am trying to furnish the information. What I have done, I have not been able to see that much of the hearings and I have asked for reports. We are going to go over everything to see if there is anything that we should follow up on because I am very sincere in what I said to the Judiciary Committee 2 years ago and what I say now, whatever we can do to work together to avoid tragedies like this in the future we want to try to do that.

Mr. SCOTT. Thank you.

Ms. Reno, I want to get back to the situation of the gas, just very briefly. We have heard about the 48 hours of the gas insertion plan. Was it the plan to insert gas for a constant 48 hours?

Ms. RENO. I think that is a very good question because what happened, first of all, was the wind was much higher than anybody anticipated, and you could see the curtains at right angles. It was hoped that the gas would be inserted in a very measured way, that it would force some people out.

Our anticipation was that people would come out, would straggle out, some faster than others, and that we would increase the pressure to limit them in space so that they would react to the gas. But I think what happened here is that the wind was much higher, the gas was dispersed much more quickly, it didn't have an impact.

They were concerned because people weren't coming out, that perhaps their way was blocked, but it was to be a very measured process trying, and the total expectation based on my conversations with the HRT team, based on my conversations with the military commanders, and with Dr. Salem was that people would react to the gas much more quickly.

Mr. SCOTT. We have heard the gentleman from Indiana mention the background with CS gas. CN gas has been proven, documented to kill people from time to time, but there has been no documented case of anyone suffering long-term medical implications from exposure to CS gas, although it is very traumatic, obviously, when you are under the effects.

Although it is physically safe, we have also heard testimony that it is very difficult to predict what someone will do under its influence. Some will panic, some may not panic, but it is very difficult to predict. Had this difficulty in predicting someone's reaction been taken into consideration as you developed your plan?

Ms. RENO. We took it into consideration, not the panic so much but if a child came out without a parent or vice versa, those circumstances. We tried to consider what could be done, and, again, there was the anticipation that the gas would have a much more immediate impact than it did.

Mr. MCCOLLUM. Mr. Scott, your time has expired. Mr. Barr, you are recognized for 5 minutes.

Mr. BARR. Thank you, Mr. Chairman.

Ms. Reno, there was testimony earlier and I don't know how much of it you have heard, but I know you are aware of it, that part of this was the subject matter of a letter that had been written to you by the AUSA down there and that is the state of relations between the FBI and the Texas Rangers and possibly with some of the other agencies that was causing some problems, and Comdr. Maurice Cook, the senior captain and commander of the Texas Ranger Division of the Texas Department of Public Safety, talked about this the other day.

And one of the questions that he responded to during his testimony was that the Governor of Texas had furnished him a number at the White House should he need to address certain concerns concerning cooperation with the FBI. That struck a number of us as somewhat odd at the time, that the Governor would be referring him to somebody at the White House as opposed to the director of the FBI or yourself or somebody at Justice, and I would like to have a letter shown to you, if I could, please. This is a letter that we received I think just today or late yesterday from Commander Cook of the Texas Ranger Division in which he says that in further response to——

Mr. SCHUMER. Could we see copies of that, please?

Mr. BARR. Absolutely, absolutely.

Mr. MCCOLLUM. If we could pass a copy out, please.

Mr. BARR. That in further response to Chairman Zeliff's further inquiry that the name of the person to whom he was referred by the Governor of Texas to address certain concerns that he might have with regard to the FBI and the Waco situation was Vince Foster, and then he is given the number at the White House. I am wondering if you have any knowledge as to why he would be referred to the White House, in particular Vince Foster, concerning problems that might have cropped up during the Waco siege.

Ms. RENO. I would have no idea why the Governor would do that.

Mr. BARR. OK. This morning during the Whitewater hearings it is my understanding that Mr. Foster's secretary, Debra Gorem I think is her name, testified that Mr. Foster maintained a Waco file in his locked file cabinet, and I further believe that that file does not turn up in the White House's accounting of files maintained by Mr. Foster in the wake of his unfortunate suicide.

Do you have any knowledge of whether or not he maintained a Waco file?

Ms. RENO. I have no idea, sir.

Mr. BARR. Do you have any knowledge as to what might have happened to any such file?

Ms. RENO. No, I don't.

Mr. BARR. Does it strike you at all odd that questions regarding the FBI which comes under your jurisdiction regarding an inves-

tigation as serious as this one would be referred not to the FBI, not to the Department of Justice but to the White House?

Ms. RENO. I don't know what the timing of it was, sir, whether I was in office or not.

Mr. BARR. OK. When were you sworn into office?

Ms. RENO. March 12, 1993.

Mr. BARR. OK. Were you in an acting capacity prior to that?

Ms. RENO. No, sir, the Acting Attorney General was Stuart Gerson who was from the previous administration.

Mr. BARR. OK. The testimony of Commander Cook was that during this time period, and that is between February 28, the initial raid, and then going into the siege, because the Texas Rangers had been provided the jurisdiction or had been—as a matter of fact, I think he said some of his men were deputized as special assistant marshals or deputy U.S. marshals in order to conduct a continuing investigation of the murders of the agents. So this was a situation that developed, and I don't know that it had to do with any one particular day or whatnot, but you had no knowledge of Vince Foster's involvement in this?

Ms. RENO. No, sir, I don't know what the timing was because I didn't get there until March 12. You had a very unusual situation in the Department of Justice because you didn't have an Attorney General nominated until February 11, the confirmation process then took the ensuing time, and there was an Acting Attorney General, Mr. Stuart Gerson, who was a holdover from the prior administration, so that there may have been concerns about appropriate communication. I don't know.

Mr. BARR. OK. The investigation of Waco obviously continues even today, and certainly both the Department of Justice and the Department of the Treasury were maintaining active investigations which resulted in the respective departments issuing voluminous reports in late 1993. So during the period of time in which Mr. Foster died there was continuing activity within the administration, at least within two departments thereof concerning Waco. Had Mr. Foster maintained a file on Waco in his office at the time of his death and if, in fact, that file disappeared, would that give some, raise some question in your mind as to why or that it ought to be looked into, why such a file disappeared?

Ms. RENO. I don't know, sir.

Mr. BARR. You don't know whether that would raise a question in your mind?

Ms. RENO. I don't know what the file was.

Mr. BARR. Let's just say a file that had documents pertaining to Waco in it, which would be logical to presume if it said Waco.

Ms. RENO. I would have to check and see what the testimony was this morning and understand it.

Mr. BARR. The testimony where?

Ms. RENO. This is the first time I have heard about a Waco file, so I would have to be informed in order to make a decision.

Mr. MCCOLLUM. Mr. Barr, your time has expired. Mr. Watt, you are recognized for 5 minutes. Mr. Watt, do you wish your time? You are recognized for 5 minutes.

Mr. WATT. Thank you, Mr. Chairman.

I made a mistake this morning, Madam Attorney General, of getting off on some factual issues related to your initial testimony, and while the responses were excellent and good and informative, I want to make sure that I get to the things that I really wanted to deal with this morning having to do with the seven recommendations that—or action items I guess you have taken in response to the incidents that occurred at Waco.

I noticed that the first four of those action items, the ones listed on page 6 of your initial statement, all relate to involvement of additional people in the process: 30 senior agents for additional training in hostage barricade situations; increasing the size, composition, and equipment of the Hostage Rescue Team; FBI increased the number of negotiators; FBI has formed a critical incident response group. And one of the questions I wanted to ask is whether any of that additional training and personnel is the emphasis in any of that training those people in the—having a clear understanding of personal and individual rights and liberties, the fourth amendment and exclusionary rule and the value that that plays in the process.

I would just like to be reassured that the lessons that some of us have tried to make during the context of this hearing, that our Federal Government really appreciates the value of the fourth amendment protections and constitutional protections and their safeguards and the way they are safeguarded through the exclusionary rule are being reinforced to any new personnel that comes in to this kind of situation.

Ms. RENO. Well, first of all, they are being reinforced with new personnel coming into the law enforcement agencies of the Department of Justice. I set great store on our whole training program. I have visited Quantico. I am doing everything I can to work with Director Freeh to make sure that Quantico as well as the other Federal agencies under the Marshals Service and the Border Patrol which train at Glynco have a curriculum that addresses the issue of constitutional guarantees and that it does it well, so I feel comfortable there.

With respect to the HRT and the SWAT teams, I don't know whether there is additional training over and above and beyond with respect to constitutional issues, but I know in my conversations with Director Freeh, in my conversations with the head of the Crisis Incident Review Group that human life is paramount and the protection of human life is paramount to what we are doing.

Mr. WATT. OK. Your response leads me actually to the second question that I already had, it didn't provoke the second question, and that was your reference to the SWAT teams. That SWAT team, is that an acronym for something? I always have these visions in my own mind of, when I hear the word "SWAT team" of people shooting at folks. I just wondered is that an acronym for something?

Ms. RENO. I don't know what the—Special Weapons Attack Team or something like that.

Mr. WATT. Special Weapons Attack Team, OK. I guess one of the concerns a lot of people in the public expressed to me is this notion that the Government is getting more and more armed and dan-

gerous to its citizens. What kind of training is being provided to the HRT and SWAT team members?

Ms. RENO. It is Special Weapons and Tactics.

Mr. WATT. Special Weapons and Tactics, that sounds a lot better to me than attack team, it really does.

Ms. RENO. What the Director is trying to do, and he really should address this issue directly, but what we are trying to do is to develop the capacity with the Crisis Incident Response Team working with these enhanced SWAT teams to understand the behavioral issues, to understand the issues that may help us to negotiate out a peaceful resolution of these matters.

From my experience, if you have a well-trained team that can respond, that can work as a partner with the negotiators where they are truly on the same team, you can be more effective, and the director is absolutely dedicated to doing everything he can to enhance the capacity of these teams to save human life.

Mr. WATT. Can you just tell me one more time what S–W–A–T stands for?

Ms. RENO. Special Weapons and Tactics.

Mr. WATT. Special Weapons and Tactics, OK. Thank you.

Mr. MCCOLLUM. Thank you for clarifying that after all these days, Mr. Watt. Your time has expired. Mr. Hyde, you are recognized for 5 minutes.

Mr. HYDE. I will bet Mr. Schumer knew what those letters stood for, SWAT.

Mr. SCHUMER. You will never know.

Mr. WATT. He thought I was saying Watt.

Mr. HYDE. Incidentally, I just want Mr. Schumer to know how much I am unhappy with his quoting anonymous staffers making insulting remarks about the Attorney General. He knows no Republican Member would talk that way, is that stupid or that mean-spirited, and it just isn't helpful. If there is any comity left around here, quoting garbage like that isn't helpful.

Mr. SCHUMER. Well, it is the Post, Newsweek, and AP, to the gentleman. Their quotes, not mine.

Mr. HYDE. Well, they don't help this discussion.

Now, General, we are nearing the end, and I know there is no one who desires that more than you because this has been exhausting and you have done exceptionally well, but as we have reached the end, I think you have said there is nothing you would do differently, knowing what you know now. Is that true?

Ms. RENO. There are three parts to that, Mr. Chairman. First of all, knowing what I do now and having enhanced the capacity of the SWAT team and the HRT team, I would do what I hoped I could have done then, which was bring in another HRT team or a complement that could have ensured——

Mr. HYDE. I am not talking about changing circumstances. I mean what happened at that time and place, knowing what you know now.

Ms. RENO. I am trying to take it point by point.

Secondly, knowing what I know now, I would wait and take the risk of the impaired perimeter.

Mr. HYDE. OK. I think what you are saying is that the behavioral science people who had this exactly right, and whose reports

you were given on April 17, I think the behavioral scientists, Peter Smerick and this gentleman named Young and others, you would have paid more attention to what they said because they hit the nail on the head.

Smerick, and I am quoting from the Justice report, "Smerick and Young noted this was not a typical hostage situation in that the hostages in this situation wanted to be barricaded inside with their leader and had no intention of leaving.

"Given this dynamic, Smerick, the FBI behavioral scientist, and Young suggested a different approach. In traditional hostage situations, a strategy which has been successful has been negotiations coupled with ever increasing tactical presence.

"In this situation, it is believed this strategy if carried to excess could be counterproductive and could result in loss of life. Smerick and Young explain that if the FBI could not establish some trust with Koresh, the FBI would face the possibility of eventually taking physical action against the compound. If such an attack took place, Koresh and his followers will fight back to the death to defend their property and their faith as they believe they did on February 28," and then quoting from page 183 of the Justice report, Smerick again, "he wrote the memos because he was concerned that the FBI commanders were moving too rapidly toward a tactical solution and not allowing adequate time for negotiations to work."

Now, I say that knowing you had 51 days and that must have seemed like an eternity, especially on the plains of Waco, but to go on, Smerick notes that the FBI commanders were action oriented. They wanted to treat Koresh not as a negotiating partner but rather as a psychotic criminal who needed to be caught and punished.

Now, there were five reports, as I understand it, analyzing from that perspective this situation, and I say had I been in your situation I might well have done exactly as you had done, as you did, so I am not being judgmental, but in looking back at this, these fellows who understood that these weapons were stockpiled in anticipation of an apocalyptic confrontation with Babylon, which happened to be our Government, they believed an aggressive assault plan would dramatically increase the paranoia and the fear of the Davidians.

It is a shame, and I regret and I hope you regret that you didn't look at this from the point of view of how would the reasonable Davidian react to this assault with the tear gas, not how the reasonable person would react, and have I made myself clear, and wouldn't you pay more attention to these behavioral scientists than evidently you did?

Ms. RENO. Well, I think you have made yourself clear, but I think we are a little bit confused in time. Mr. Smerick's remarks, as I understand it and as I was advised, were developed in early March when there was tension between the negotiators and the tactical people. My concern when they were—and I was unaware of that tension. When the gas plan was submitted to me, I began to hear about some of the tension. That is what caused me to follow up and to make sure that we had talked to negotiators to make sure that there was nothing else that could be done to try to negotiate people out short of adding the pressure.

As I understand it, Mr. Smerick testified before the committee that the FBI did not move at that particular time that you have raised, and for the longest period of time went over and beyond what normal negotiators might consider doing in a situation like this in my experience in the past of working with negotiators in similar crises.

For instance, the idea of bringing in attorneys to deal with the offender is unheard of. The idea of bringing in religious experts to discuss the matter with the offender is unheard of, and yet the FBI considered all these options.

The FBI did not ignore my memos and in fact they did in fact follow many of the suggestions I made. What I was faced with, Mr. Chairman, was that was passed. I came in March 12. The tensions had developed. When I was confronted with those tensions, that is when we talked to Sage to make sure that nothing more could be done.

In retrospect, if I had been the Attorney General on February 28, I would have, knowing everything that I know now, and perhaps even not in retrospect because negotiation was key to us, tried to work it out, work it out, work it out. It continued to be up until the morning we went in. It continued to be through that morning.

But what we have tried to do in response to that is to develop the capacity of negotiators and tactical people in the Crisis Incident Review Team and Review Group to have that teamwork that is so necessary in understanding how you negotiate but how you increase pressure when it is appropriate.

Mr. HYDE. Well, my time is up. Thank you.

Mr. MCCOLLUM. Mr. Hyde, your time is up. Ms. Lofgren, you are recognized for 5 minutes.

Ms. LOFGREN. Thank you, Mr. Chairman.

First, I would like to yield a minute to Mr. Schumer, who had a question.

Mr. SCHUMER. Fine. It is not a question. I just thought I would clarify more innuendos that come up at this late hour.

The so-called file, Foster file, consisted of one document. We saw it; Mr. Zeliff, Mr. McCollum, Ms. Thurman and I saw it. It was in the 28 documents that could not be released. This one not because of executive privilege but because they were under the privy of the independent counsel, Mr. Starr, and then we did see it and what it simply said is that Mr. Foster was forwarding Linda Thompson, the militia leader's tape on Waco to Mr. Noble and the Attorney General. Nothing nefarious, nothing that had anything to do with anything, and I don't think we should leave that hanging.

As for this letter from the Texas Department of Public Safety, again it was acknowledged by the Texas Rangers, they asked Ann Richards who they should call because they were having trouble with the FBI. Ann Richards mentioned a name, and that has nothing—that was not dispositive of anything. She mentioned Vince Foster's name, we don't know why she did, she had nothing to do with the investigation. I would hope we wouldn't call Ann Richards in now and ask her why she mentioned that name, continuing in this fishing expedition type of mode, and I thank the gentlelady for yielding.

Ms. LOFGREN. Thank you. If we do call Ann Richards, I hope we can also get the reporters in the Waco newspaper in that my colleague from Mississippi has asked repeatedly to hear.

Attorney General, some have suggested that the use of tear gas be suspended in America by police forces, and I have heard from local police who fear that that would leave them only with lethal weapons, not nonlethal weapons. Do you have a view on that?

Ms. RENO. I certainly do. I mean, if we just look at America in these last 2 weeks, tear gas has been a means of resolving a situation that could otherwise be terribly dangerous to life and limb.

From what I understand in the review of police agencies around the country, many have had to use it. It is an alternative to lethal force, and what we all must do is continue to look as the Department of Justice is pursuing what we can develop. I mean, if we can send a man to the moon, we ought to be able to develop nonlethal technologies that help us review this.

I thinking of waking up in the middle of the night and thinking there must be some substance that we could fly over, put them to sleep for an hour and go in and get 'em.

Ms. LOFGREN. Thank you. I did get an answer and I know you indicated earlier, and I absolutely believe that you were not watching the clock in terms of money at the time that you were making your decision based on what was the prudent law enforcement course to make.

But I recall at the time—I was not a Member of Congress. I was living off in a town in California. A lot of people were watching it, wondering how much was it costing to do that siege.

And as I understand it, it was about $5.9 million for the siege, projected out for a year, if my figures are right, that would be about $47 million for a year if we kept the force up. And I'm just sort of wondering, is there a policy—$47 million would probably save 20 kids from some other death or disorder in the country. How do you assess resources in the future especially given the budget cutting that is going on in this Congress?

How do you balance the need to do a law enforcement job with the reality that your budget is being cut and resources need to be sorted in the way that will do the most good for the most people?

Ms. RENO. Those are the most difficult financial issues that we have to face, but at that point I had not addressed that. I just didn't think that money should be part of the equation as——

Ms. LOFGREN. And I acknowledge that. But since we're looking in an oversight capacity about what do we do in the future, and I know there is an AP report that last year a group of Branch Davidians had an incident out West of—not the same as this but it could have grown to that.

In the future, how are you going to cope with the fiscal realities and the budget cuts and the need to apply resources in the most prudent way, especially given your record on early intervention and prevention of crime with young people which has the greatest potential for making our country safe?

Ms. RENO. I think what we need to do is to make sure that our efforts are as effective as possible to address the concerns that Chairman Hyde raised to make sure that negotiators and tactical people have the best information possible, have exposure to the

best experts so that we try to bring these matters of this type to solution as early as possible. As you well know, I am a strong proponent of prevention.

Mr. MCCOLLUM. Thank you, Ms. Lofgren. Your time has expired.

Mr. Zeliff, you are recognized for 5 minutes.

Mr. ZELIFF. Attorney General Reno, I sure hope in no way that my former questioning had anything to do with the embarrassment situation that was referred to.

Ms. RENO. Mr. Chairman, as I mentioned to you earlier, I don't know you nearly as well as I know Chairman McCollum.

Mr. ZELIFF. OK.

Ms. RENO. But I——

Mr. ZELIFF. I just would——

Ms. RENO. You have not——

Mr. ZELIFF. I certainly would like to respect you and your position in any way possible.

Ms. RENO. You have not in any way embarrassed me, sir.

Mr. ZELIFF. Thank you.

I would like to thank you quickly on Oklahoma City. I think it was an outstanding example of success for the U.S. Government led by our President, the FBI, the DOD, ATF, FEMA. Every organization in this Government responded with perfection and at the time, I spoke out in New Hampshire what a great job the President did and I think he deserved that credit for coordinating that response as you and all the law enforcement people and everybody else did. I think that's outstanding.

I would like to pass out a copy of the White House document that has been referred to earlier from Judge Mikva, July 31, 1995, second paragraph first two sentences. "The facts relating to the President's involvement in the decision to end the siege at Waco are a matter of public record. The President has never shied away from, indeed has repeatedly acknowledged, his knowledge and ultimate approval of the decision." And again, I want——

Mr. WATT. Mr. Chairman, is this part of the record?

Mr. ZELIFF. Yes, it is.

Mr. WATT. I thought this was the same letter that Mr. Barr objected to earlier.

Mr. MCCOLLUM. If this could be distributed if nobody has it, we would be glad to do it.

Mr. ZELIFF. We are in the process of distributing it now.

Mr. WATT. I thought Mr. Barr already objected to the letter being a part of the record, though.

Mr. ZELIFF. Is this on my time? I hope not.

Mr. WATT. I'm just making a parliamentary inquiry. I thought——

Mr. BUYER. Regular order.

Mr. MCCOLLUM. Regular order is being called for. It is Mr. Zeliff's time. I do not know if this document was the one or not, but we'll determine that in a minute. We will proceed.

Mr. WATT. Well, I object if——

Mr. BUYER. Regular order.

Mr. MCCOLLUM. He hasn't asked to admit it yet into evidence.

Mr. ZELIFF. I would like—I am submitting it. We are discussing it. It has been talked about on several occasions on both sides of the aisle. It was received yesterday.

It involves—and all I'm trying to do is establish the chain of command, who was in the loop. I think it is important. I share it with anybody that would like to have it shared with them. And I appreciate the acknowledgment from the judge that——

Mr. MCCOLLUM. Are you asking unanimous consent to admit this document into evidence?

Mr. ZELIFF. Yes, I am.

Mr. MCCOLLUM. Is there objection?

Hearing none, it is so admitted. You have an additional minute on your time.

[See p. 378.]

Mr. ZELIFF. And I guess my problem with all this, I'm just a small businessman from New Hampshire who now is a Member of Congress and when something happens in my business, I have to be responsible for it. I can't blame it on the maintenance man, I can't blame it on any other—any number of people.

And so my problem with government generally is accountability, responsibility, it's what I ran on. I have no problem if we make mistakes, we just need to address it.

As I'm trying to explain the oversight role that I have, the responsibility that I have here, as I see it—and the accountability and the responsibility as we try to explain to the American people exactly what took place at Waco, I think one chapter of that is what is the chain of command and who is in the loop.

And I said on Sunday, and I just would like to kind of explain when I said that we killed 80—over 80 people. What I really said, Koresh was the bomb; we lit the fuse. Now we can talk about whether that's right or whether that's not right, but maybe you can comment on that.

But what I'm trying to get to in my own way is how do I go back to a town meeting in New Hampshire and explain after 10 days exactly what happened and do it in a concise way. Who was involved in the decision, what went wrong? What went wrong with ATF, what went wrong with FBI?

Right now people say, well, why do we have these hearings? And what they really saw was—they saw Mr. Potts get promoted and they saw two other folks from ATF get fired and rehired. Even in this hearing we were not able to bring out the substantial information as to why they got rehired.

And it just seems like it's awfully hard. We have a Treasury document and we have a Justice document and a lot of people say, well, you know, what's wrong with just analyzing your own department and putting out your own report. Why do we need oversight?

What I am really trying to do is have we really gone through the process adequately and to the fullest extent possible in terms of identifying who was in the loop and I think based on this last statement the President was in the loop, Judge Mikva said that that's great.

When you go to him and ask for approval, and I assume you did that on the gas plan, or did you just tell him about it and it implied approval? You might just mention in the corporate world, in the

private sector you would be asking for approval and he would give it. And again, we stand by those decisions.

I guess what I worry about is as we go forward with our report, do you feel that all the people that were responsible for everything that happened at Waco, have we gone to the American people, have we told them everything that's going to happen or what about the next area of accountability?

We will probably deal with the two folks at ATF that got fired and rehired. You're dealing with Mr. Potts. Is there any other major areas here that we can add to the fact that we had this tragic situation, we've learned a lot from it, we need now to go forward and fix it so it doesn't ever happen again.

And you indicated some things in your area. Is there anything else that you would like to include and particularly in the chain of command and who is involved in the loop?

Ms. RENO. I would just like to address one thing without—and—and I mean to be supportive of you, sir, not critical. But there is——

Mr. ZELIFF. As I am with you.

Ms. RENO. There is an impression and I don't—everything that I've heard about what you say, you're very supportive of law enforcement. You understand the pressures of people on the street. But when you tell me, because I—if you're correct, I lit a fuse that killed——

Mr. ZELIFF. No; I didn't accuse you of doing that. I said "we." I used the word W–E, "we," as a government. I didn't say you.

Ms. RENO. But it has been characterized, and I think that's the reason it's so important that we are careful. I join with you in just saying law enforcement——

Mr. ZELIFF. Did you really think that I meant you?

Ms. RENO. I really did, sir, and it hurts.

Mr. ZELIFF. Well, I'm talking about the picture——

Mr. WATT. Mr. Chairman, regular order.

Mr. ZELIFF. I'm talking about a picture of a tank going into somebody's home, coming out, an announcement saying, this is not an attack. And I'm not blaming you——

Ms. RENO. I—I understand. You heard the process by which I went through and you can't—I don't think you believe that I was callous enough to set a fuse.

Mr. ZELIFF. I think you did what you thought was right.

Mr. WATT. Mr. Chairman, regular order.

Ms. RENO. So it is important that we—how we phrase things.

With re—let me see if I can give you a situation. If there was a Congressman who was under investigation and the President of the United States was involved in that investigation, that should not be.

If there was a public official involved, the subject of an investigation, and a Congressman called me and said I want you to get that so-and-so and he's—that would be wrong. The Justice Department and the prosecutor and law enforcement have a special role that is to some extent different from the military.

The President is the Commander in Chief, but in law enforcement, it's characterized by some as quasi-judicial, quasi-executive. It is—it requires some independence.

What the President did, for example, in Oklahoma City, I think, was a classic example. He went, he spoke out, he ensured that—that this Nation responded in terms of State Department issues and coordination, but he didn't ask me about the details of the investigation until we had proceeded to the point where I could tell him as I was making the announcement and it is so important that those processes be independent.

That's the reason I think you can—and I feel presumptuous but you asked, that you can tell your town meeting that the President of the United States let law enforcement do its job, asked to be kept advised in an appropriate way and—and did his job the right way.

I can't respond for ATF. That they will do.

But let me just take it with the FBI because people have said, well, nobody was disciplined. Mr. Chairman, I have been over and over and over this case trying to find out anything that anybody did wrong. We—I don't know if anybody would ever have been right.

But I didn't find what I perceived to be any negligence. I didn't find any misconduct. I didn't find any basis for disciplining somebody. I can assure you that the anguish of those deaths will be with us all.

Mr. ZELIFF. Well, obstruction of justice is OK.

Mr. WATT. Mr. Chairman, regular order.

Mr. ZELIFF. You don't think anything has been done wrong?

Mr. MCCOLLUM. Mr. Zeliff, your time has expired.

Mr. ZELIFF. My time has expired?

Mr. MCCOLLUM. It has.

Mr. Bryant, you are recognized for 5 minutes.

Mr. BRYANT of Tennessee. If I can find the microphone. Thank you, Mr. Chairman.

Before I get into my line of questioning, Mrs. Collins on the other side I think had referred to Mr. Souder in an earlier statement she made this morning and Mr. Souder has had to go back to his hearing and asked that I ask a unanimous consent that we attach a—a column apparently in response to this article she cited, and at this point, I would ask unanimous consent we just attach this column to the record.

Mr. MCCOLLUM. Without objection, so ordered.

[Information not received by time of printing.]

Mr. BRYANT of Tennessee. Thank you, Mr. Chairman.

Ms. Reno, let me follow up on Mr. Barr's questioning regarding the response from the Texas Ranger who testified last week, I believe, and as I review this letter and think about and try to recall his testimony, I do remember that it was early on—I had a different recollection, but now I remember it was early on after the initial ATF raid, as I recall, that he went to see the Governor.

And as I read this letter from the—Mr. Cook, that it was at that meeting with the Governor that she gave him the name of Mr. Foster and Mr. Foster's telephone number, that if he had any further problems with the FBI that he should call Mr. Foster directly at the White House, that that was the White House contact.

Now, again, I guess we could surmise one of two things, either that was her personal contact at the White House and she just

gave him the number, or the second thing we could surmise would be that he was in fact handling the Waco and that he had told her to call about any questions with Waco. I don't know that we'll ever know that answer.

But it gets around to this issue of a belief that I have that the White House had a role in this in terms of Mr. Hubbell on your end and his colleagues from Arkansas who included Mr. Foster and Mr. McLarty and Mr. Lindsey who were close advisers to the President at that time, putting this into the political context of those days and not just focusing strictly on Waco as we have these 10 days.

But let me get back to your trip to Maryland that day. As I understand, you—you retained authority to terminate that—that—and I have the wrong word, but I call it raid or whatever. You retained the authority to cancel that, and by that—is that true?

Ms. RENO. Cancel what, sir?

Mr. BRYANT of Tennessee. Did you retain the authority to terminate that raid at any point?

Ms. RENO. I don't know what the FBI would have done if I had terminated it while the lives of FBI agents or others were at risk and they had to do something.

Mr. BRYANT of Tennessee. OK. But at that point on the 19th, now we've got basically the only people whose lives were at risk would be inside those armored personnel carriers, and to the extent they were, I understand that. But they could have certainly backed those out of the—out of there and turned around and gone back, I assume.

But by retaining that authority, I think your answer was yes, you do. You don't know what the FBI would have done. I assume they would have obeyed you.

Were you in close communication as you went to Maryland and as you attended your function up there and as you came back?

Ms. RENO. Yes.

Mr. BRYANT of Tennessee. Were you aware that in fact they had demolished at least one half of that gymnasium and in fact accelerated the plan?

Ms. RENO. I did not see the gymnasium. I saw them go to the front door, to the side, but I didn't see the back.

Mr. BRYANT of Tennessee. I still have some difficulty understanding how from the FBI side they could believe that this gas would be effective if you keep knocking holes in the building and letting the 35-mile-per-hour wind continue to come in there and especially when you knock down half a gym and open it up. I don't know how you could ever imagine that would be effective. It seems to me you've got to go in and systematically begin tearing down the building which it appeared to me they were doing.

Ms. RENO. As I understand it, and even understand—first of all, I would like to go back to your original point because it's very difficult when people drop something and then move on to another point, so let me pursue it as to the points that you raised.

The acting Attorney General of the United States was an appointee of the Republican administration, Stuart Gerson. I met with him prior to the time I took office on general matters and to effect an appropriate transition when I was sworn in on March 12.

I think if you talk to Mr. Gerson, he will tell you that the President of the United States acted very appropriately in that situation, but the Governor of Texas may not have known that he was the Acting Attorney General or who the Texas Ranger should contact and it may well have been that she simply gave him Mr. Foster's name so that Mr. Foster could advise him as to who the Attorney General was, who he might contact or what the circumstances were, but it was a very unusual situation because you were into an administration by some 1½ months without an Attorney General.

With respect to the trip to Maryland, the FBI urged that I go ahead and make the trip because they wanted to—they considered that it was going to be a slow, gradual process. They did not expect that everyone would come out. They were worried that if I were publicized as canceling something, that it would attract attention and create additional pressures. I went because of that, but I was in constant communication with them.

Mr. BRYANT of Tennessee. I think you answered my questions.

Thank you. My time is up.

Mr. MCCOLLUM. Mr. Bryant, your time is up.

Ms. Jackson Lee, you are recognized for 5 minutes.

Mr. SCHUMER. We're going to pass.

Mr. BRYANT of Tennessee. Mr. Chairman, could I also make, ask unanimous consent that we attach this—this Texas Ranger letter?

Mr. MCCOLLUM. I think we did, but without objection, it will be if it wasn't.

[The letter follows:]

TEXAS DEPARTMENT OF PUBLIC SAFETY
5805 N. LAMAR BLVD.-BOX 4087-AUSTIN, TEXAS 78773-0001
512/465-2000

JAMES R. WILSON
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JIM FRANCIS
COMMISSIONERS

July 31, 1995

Honorable William H. Zeliff, Jr.
Chairman, Subcommittee on National Security
International Affairs and Criminal Justice
Congress of the United States
House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515-6143

FAXED 7-31-95

Dear Congressman Zeliff:

This will acknowledge receipt of your letter wherein you request certain information which would expand on my recent testimony before your committee.

As you note in your letter, I did testify the Governor furnished a number to the White House should I need to address certain concerns with regard to cooperation from the F.B.I. Since no one asked who the White House contact was, such testimony was not volunteered.

You now request to know the name, which was Vince Foster at (202) 456-6611. I might also add that I had not looked at the name or telephone number of the White House contact until the morning of my testimony to the subcommittee. Only then did I realize, or recognize, the name as the White House contact.

I hope this will further assist you in your efforts to review the events surrounding the Branch Davidian affair.

Thanks for the courtesy you and the subcommittees afforded Captain Byrnes and myself during our recent appearance. The time and effort Congress has contributed to the hearing surely will have a positive impact on law enforcement in general.

Sincerely,

Maurice C. Cook

Maurice C. Cook, Senior Captain
Commander
Texas Ranger Division

MCC:kh

Mr. MCCOLLUM. Mr. Schiff, you're recognized for 5 minutes.

Mr. SCHIFF. Thank you, Mr. Chairman.

Madam Attorney General, who was in charge of perimeter security around the Waco site compound? What agency, I mean?

Ms. RENO. The FBI.

Mr. SCHIFF. All right. Did the FBI ever ask for help from Texas authorities to help bolster perimeter security?

Ms. RENO. I don't know what specific understandings existed between the FBI and Texas authorities. What I did in terms of perimeter security when I asked, when they expressed concern about the HRT state of readiness because it had been on line for 51 days, I asked first, can't you pull them back and send another in?

Mr. SCHIFF. It's not the Hostage Rescue Team. It's perimeter security against this militia army that's marching on the Waco compound that you referred to.

Ms. RENO. I don't know of any militia army that was marching on the Waco compound, sir. I've explained to you what the information was.

Mr. SCHIFF. Well, did the FBI——

Ms. RENO. Here is the important——

Mr. SCHIFF. Let me state the question.

Did the FBI request help with perimeter security from Texas law enforcement? I believe that's a yes or no question.

Ms. RENO. Sir, my understanding is that they did and that the Texas law enforcement authorities were involved. But to go to the further point, with respect to perimeter security, what I was told was that the HRT would have to be pulled back. I asked if we couldn't substitute local law enforcement or State law enforcement capacity to control the perimeter. I was advised by the FBI that they did not have the capacity of an HRT team.

Mr. SCHIFF. To patrol——

Ms. RENO. That relates to the perimeter security. Perimeter security, as I understand it—and you will have to check with the FBI or I can get the details for you—the FBI had local law enforcement involved in part of it, but to retain the capacity for sharpshooting, or the capacity to control it, you needed a team of the quality and the skills of the HRT.

Mr. SCHIFF. To patrol the perimeter, to keep outsiders from coming in.

Ms. RENO. Not just to patrol the perimeter, but to ensure the perimeter security.

Mr. SCHIFF. Let—from the outside, because you referred to perimeter security from the outside. You brought up the issue of the militias and I'm wondering if——

Ms. RENO. From the outside and from the inside, sir.

Mr. SCHIFF. All right. People did come out of the Waco—of the compound between February 28 and March 21; is that right?

Ms. RENO. That's right, sir.

Mr. SCHIFF. And I presume that they were checked for weapon or explosives when they came out, there would be some standing procedure for that?

Ms. RENO. I don't know exactly what the procedure was. I assume that they were.

Mr. SCHIFF. What was done with those people?

Ms. RENO. It would depend—the—I would distinguish between the children. I don't know what the—as I understand it, the children were checked in terms of health, they were returned to their families where appropriate. Others were charged where there was evidence that they were involved in the original assault on the ATF agents, but I don't have the specifics with me.

Mr. SCHIFF. Were all the adults who came out of the compound charged; do you know?

Ms. RENO. I don't know, sir.

Mr. SCHIFF. If they were, wouldn't that make people reluctant to come out of the compound who you wished to surrender and avoid a confrontation with?

Ms. RENO. I think that's one of the issues that we had to face. You had people in the compound who we believed were responsible for the death and the injury of ATF witnesses and we could let them come out and let them walk away from it, but I couldn't in good conscience let that happen where I had evidence that anyone was liable.

Mr. SCHIFF. Well, just since my time is about up, I would like to go back to the CS gas question and just to this extent. There was no—I appreciate the fact that you tried to look at the effects of this gas, but there was no example anyone gave you of where there had been a deliberate or even accidental, certainly not a deliberate gassing of children to find out what the effects would be because when I asked the experts, they couldn't give an example. So no example existed that fit this situation.

Ms. RENO. Yes, sir, that's what you said this morning and I agreed that I know of no situation that fit this situation.

Mr. SCHIFF. And Mr. Jamar stated rather dramatically that he would be willing to wait a year, in earlier testimony, if he had assurance that Mr. Koresh would come out.

Ms. RENO. I would agree.

Mr. SCHIFF. You would've waited for a year?

Ms. RENO. If I had known he was coming out for sure at the end of that year.

Mr. SCHIFF. Well, what about perimeter security, child abuse, child sexual assault and all the other reasons you've said were the need to make a decision to go forward?

Ms. RENO. One—one of the factors was whether the negotiations, the continued negotiations would produce a situation in which he would come out. He had lied from the very beginning.

We have been over that today and based on everything that was told to me, the negotiations had reached an impasse in terms of trying to get anybody to come out. If I could have been assured that at the end of the year he would come out after he had written his Seven Seals, I would have waited, as I indicated earlier to Chairman Hyde, I would wait if I had some assurance that he was coming out.

Mr. SCHIFF. But just to follow up, waiting would have meant all this perimeter problems, the fatigue of the hostage rescue team, the child abuse would have continued for a year. It sounds like that statement you've just made, with respect, Madam Attorney General, contradicts the reasons you've said for going forward.

Ms. RENO. No, it doesn't, sir. You're——

Mr. MCCOLLUM. Mr. Schiff, your time is up.

Ms. RENO. You're simplifying the whole matter.

Mr. MCCOLLUM. Well, let me——

Ms. RENO. What I tried to stress from the very beginning is that so many factors went into this; you've got to weigh one against the other.

If I had no feeling that he was going to come out at the end of the year, if I knew that he was going to come out at the end of the year and that he had not in that interim period done—that he would not do anything to take his life or the life of agents, I would be in a totally different situation.

Mr. MCCOLLUM. Mr. Schiff, your time is up.

Mr. Blute, you are recognized for 5 minutes.

Mr. BLUTE. Thank you very much, Mr. Chairman, and thanks again, Attorney General Reno, for your straightforward answering here. I agree with you that this format is difficult to maintain some focus on a line of questioning and in order to do that, I would now yield my 5 minutes to Chairman McCollum.

Mr. MCCOLLUM. Thank you very much, Mr. Blute.

Ms. Reno, testimony we received indicates that one of the army officers with whom you consulted on the use of the CS gas told you that there were risks with that gas and that mothers might leave their children when that gas was used. Knowing this, wasn't it clear that the chance of success at the heart of this go-slow gas plan, that is, getting the mothers to come out with their children, was improbable?

Ms. RENO. I don't remember that—and the officer who testified, as I understand it, was not at the meeting. He was testifying from notes.

What I was concerned about is a mother might be in one place, she might come out and leave the child and, at any rate, the separation. And these were—again, what we were told was that the gas would be far more effective than it was. Its effectiveness was apparently diminished because of the wind, but that they would not be able to remain inside and that the people would come out.

Mr. MCCOLLUM. Let me assure you that Ambassador Holmes did the testifying yesterday because of the classified identities of these officers. I was present, as were all of the subcommittee members, when we got a briefing with those officers present and that was the testimony of one of the officers.

Now, I'm not questioning anything else. I just want you to be aware.

Ms. RENO. All I'm telling you is what my memory is.

Mr. MCCOLLUM. No, I understand.

Ms. RENO. The same situation would arise if the parent got separated.

Mr. MCCOLLUM. Let me ask another question, follow up on something that I still haven't been completely satisfied on. I got you detoured early on when I asked the last set and I didn't really get around to following up.

You had indicated to me a few minutes ago when I was questioning you that you were pretty sure that the shooting would occur on those vehicles as they approached the compound, that this idea was a logical thing. I think that—paraphrasing what you responded to

me—you have not logically concluded once that the thought was there in your mind that the gas plan would inevitably or more probably than not, be accelerated. And, given all that was known about the Davidians, it would not have been logical to expect that the Davidian mothers would react by bringing their children out when you had this accelerated assault; the assault that Mr. Clarke, the Deputy Director of the FBI said he was so concerned about.

In other words, I'm concerned about whether you made this step or not in your reasoning at that moment under all the pressure and all the facts before you. But looking at it in the cold, hard light of day, it seems logical that if you expected the vehicles to be fired upon and you knew the plan said that when they were fired upon the accelerated gas insertion would take place, and assume you knew what Mr. Clarke told us and that is he was always concerned that the accelerated gas program, if it actually happened that way, would result in the opposite reaction from what we wanted that they would indeed retreat or react some other way than rational people, wasn't that of grave concern to you? Did you think about that?

Ms. RENO. Mr. Chairman, if I haven't convinced you by now that I tried to think of everything, that I was concerned about everything, and that I reached the best conclusion that I could, I'll try again. My whole point was what do we do.

I have no assurance that they're coming out. Chairman Hyde and others have talked about their messianic complex and what they might do at any time. You've dismissed that as saying, well, that was just March 2, but it's replete throughout there.

I was taking the best situation I had, taking the best step that I could to try to get them out. The factor that is more important to me than anything else is based on what I was told by everybody responsible was that the gas would have a far more immediate impact than it did and, as I've indicated earlier, I think that was because of the wind.

But there was the additional concern. It was not just the insertion of the gas throughout the building. It was another feature which related to the egress and to the concern that all of us had that they be able to get out if somebody was trying to block it. Those were the factors that went into this consideration.

Mr. MCCOLLUM. The point is that—it is obvious that you felt the risk was worth it and I'm not trying to put any words in your mouth. That's just a conclusion I think that you've given us. I don't doubt it. I'm just trying to bring out the facts.

Got a question very quickly for you, did you know, did anybody inform you, either Mr. Sage or Mr. Hubbell that Mr. DeGuerin, the attorney for Koresh, had earnestly expressed to the negotiators, to Mr. Sage in particular, that he believed not only in this last-minute plan, but that he believed that Koresh would come out within 10 days or so of the 14th of April?

I am just asking whether that ever got conveyed to you, that particular 10-day point. I'm not asking whether it would have made any difference or not, just whether it was conveyed.

Ms. RENO. It was not conveyed as an agreement. It was conveyed as—as DeGuerin thinking that he was going to come out in—after he finished the Seals that it would be anywhere—and that there

were different days discussed. That is what prompted the effort to find out specifically when he was coming out since he had again and again said he was coming March 2, March 19, for the Passover and he wouldn't come out. That's the reason we followed up and tried to see what Dr. Miron thought of it.

Mr. MCCOLLUM. I understand. That's the point, though, is whether or not you were told specifically what DeGuerin told us here and that is that he advised Mr. Sage and the negotiating team that—on the 14th that he really believed that DeGuerin would come out within about 10 days.

Ms. RENO. Koresh.

Mr. MCCOLLUM. I mean that Koresh would come out within about 10 days. He would have completed these Seals in that short a period of time. Now, I'm not asking whether you would believe it. Obviously, the FBI didn't believe it. I really want to know if that particular strikingly, relatively, comparatively short time point was even given to you as a piece of information; that's all.

Ms. RENO. This—this was so important because it came immediately, the letter to DeGuerin, immediately after the letter of April 14 was a part of all of our conversation. I looked at the letter. I analyzed the letter. I said what do we have to show that it's for real?

Mr. MCCOLLUM. And the 10 days was in that letter? I don't recall it being there.

Ms. RENO. I don't know if it was in the letter and I don't know whether it was specifically 10 days or not.

Mr. MCCOLLUM. I understand. That's why I was getting at it. I just wanted to know, and I don't want to beat a dead horse here.

But the 10-day point is important to me and it's not necessarily decisive of anything, but I would like to have known that you've answered it, you don't know, you don't remember it.

Ms. RENO. I think it is very important in terms of DeGuerin and the letter to see whether there was any step that he was taking that was going to show what happened and we tried to respond to that.

Mr. MCCOLLUM. By the way, our records don't show that Schneider ever said 6 months or 6 years. That may be something he had conveyed to you but our copies of the transcript don't show that.

We're going to take a recess—my time has expired—until 5 minutes after the conclusion of this vote. We'll be back after that.

Well, I think there's just one vote going on right now but if there's more than one, it will be 5 minutes at the conclusion of the final vote of this series.

Thank you. We're in recess.

[Recess.]

Mr. MCCOLLUM. These hearings are reconvened and apparently we have no more votes this evening, so consequently we should be able to expeditiously, with good favor, let you go very shortly, Madam Attorney General, but we've got a few more questioners.

Mr. Buyer, you're recognized for 5 minutes.

Mr. BUYER. Thank you, Mr. Chairman.

I don't mean to dwell on the issues of the HRT, but indulge me, if you would, please, ma'am. The—in your statement on pages 5 and 6 as you went over to give some examples of the steps that

were taken, directed the FBI to improve your—our capacity to respond to complex hostage and barricade incidents in the future. When the FBI moved in with your tanks and assault vehicles on April 19th, did you recognize this as some form of a hostage or barricade incident?

Ms. RENO. Those terms have been used. I, at that point, I didn't think that there were hostages there, I think it was a situation bar—however you want to call it, where they weren't coming out.

Mr. BUYER. I recall by the—reading the statement of the military advisors that were there, that one of them had said that they couldn't really grade the tactical plan because it was so different than anything that they had ever experienced because it was neither an assault nor was it a rescue of a hostage situation, which leaves me with the impression that this is an arrest.

Ms. RENO. That was made very clear in the discussion because what we were faced with, if it were a military situation, you, from your military experience would know, you would go in and there would be an attack, an attack in different forms, perhaps. But here there was a situation where we had a clear regard for the human life involved.

We wanted to effect the ultimate arrest of David Koresh. We wanted at least to try to get the children out in a measured increase of pressure through the use of gas that would at least try to get him to release the children so that we could deal with it. So it was a situation that the military didn't confront, hadn't confronted.

Mr. BUYER. The reason I asked that question really was for clarification because when I read this, I don't want there to be left the impression here that perhaps you thought this was a hostage or barricade situation, so I'm glad you have corrected that, because I think a lot of the questions deriving on the issue of should you have waited and what that means and the implications really goes to the fact that it was not an in extremis situation and I think that's extremely important.

One thing I also want to make is there is a—you did reach out to many different individuals for views, one in particular, a Dr. Dietz. I notice his memo to Mr. Jim Wright. It is interesting because he gives a rather straightforward analysis of the negotiations and this is dated April 17 and he really, his bottom line was I don't believe negotiating in good faith will resolve the situation as it now stands.

But I thought it was really interesting that he pointed out that he thought that really the FBI standing shoulder to shoulder with BATF undermined some of the things the negotiators were doing.

He also pointed out that some of the other negotiating strategies were undermined by other ancillary actions. For example, efforts to gain trust were undermined by the continuing presence of the BATF and a variety of irritants and provocations, whether it be military vehicles, the noises such as the killing of the rabbits, and loss of electricity.

Now, another is the appeal to his religious delusions were undermined by the use of rational arguments and overt skepticism toward his claims. Another was, the quid pro quo deals were undermined by repeated double-dealing; another was the efforts to un-

dermine his authority and irritate Koresh and his followers or undermine by simultaneously treating Koresh and his leaders, allowing him access to legal advice, and it went on.

One thing I thought was pretty interesting was at the very end, he said—he brings up the fact about the press. The press will focus increasingly on the cost of the operation and beginning asking questions about the White House role in the operation and the expense and how it is justified.

I think we would have to be really up front here, and one thing that I do when I sit on the National Security Committee and end up making a lot of important decisions, is sometimes you have to separate yourself as a legislator and say, if you were in the Oval Office, what would you do?

And I think some of my colleagues have been hard perhaps on the President saying that, geez, you made the decision to approve, didn't you? I am glad they finally have come out and said, yes, I did.

But you know what? If I were sitting in the Oval Office, I would sure want to know what was going on and I would want to be informed as much as possible; and if, in fact, you had to come to me to make the approval decision, it would be done. I think that is extremely important.

The last comment that I have to make is that I don't think that you should be judged harshly on whether you waited or the time sequence here, should you have waited or shouldn't you have waited, or because you waited for 51 days, it somehow shows a lack of leadership or that type of thing.

Ma'am, I do respect you and the idea of law enforcement, just, it is not like the bell rings and the fire truck has to go out, because there are a lot of parameters and things you have to take into account. So I think that deferred decisions temporarily, while waiting for a change in circumstances, to help make up one's mind is normal for the rational mind, and is not a sign of weakness.

On the other hand, I think it is a sign of strength, and it is important to cultivate a belief in one's infallibility. And Apostle Paul said it, "let all things be done decently and in order." And I think you exercised judgment. It was very difficult, but you exercised that judgment.

I think these hearings have been very helpful to me as a legislator as we move to the ultimate questions of what are the legitimate purposes of Government agencies and their interactions and how do we seek to resolve these issues. And I look forward to working with you, because I have to ask the questions, what is the future of the BATF?

Ms. RENO. Thank you very, very much.

I would like to go back again because I think you highlight in the memorandum, and this is one of the memorandums that I saw as I tried to prepare, and it was through this memorandum, as I recall, that I basically learned of the tension that had existed early on at the time before I came into office. It was this memorandum that prompted us to make sure that there was nothing we could do at that point to go forward, and the reason I asked Webb Hubbell—actually, we had heard about this and he had summarized it,

but it was—this concern as expressed in this memorandum, because it's the memorandum of April 17.

But what is clear here is the need to develop what I think we have developed through the critical incident response group, the capacity of negotiators and tactical people to work together as a real partnership.

Mr. BUYER. This is a great tool, a learning tool.

Thank you.

Mr. MCCOLLUM. Mr. Buyer, your time is up.

Ms. Jackson Lee, do you wish to go now?

Ms. JACKSON LEE. Thank you very much, Mr. Chairman.

Mr. MCCOLLUM. You are recognized for 5 minutes.

Ms. JACKSON LEE. Thank you.

Attorney General Reno, I think that as we close out these hearings, the one thing that we can all conclude in addition to our acknowledgment of the loss of life, is that democracy costs. It costs in decisionmaking, in balancing the rights of security versus constitutional rights.

Let me acknowledge right off that I applaud your earlier statements regarding your affirmation of the value and the necessity of the exclusionary rule; that is, that you have utilized it as a prosecutor; you have seen law enforcement utilize it and you view it as valuable to have an objective intervenor, as I have had to be, as an associate municipal court judge, reviewing search warrants to make decisions that would hold up in court.

And I only need you to give a yes or no that that is a valid tool in the protection of the exclusionary rule under the fourth amendment, is valid. Is that my understanding of what you had said earlier to Mr. Scott's question?

Ms. RENO. That's correct.

Ms. JACKSON LEE. I would like then to pursue this whole question as we close of giving comfort to the American people of how we strike a balance that results in democracy. I remember the passion that I experienced in protest of some of the Black Panther trials when in New Haven, CT, it seemed that all the streets were filled with National Guard. We left there as young people, however, safe and secure. We were protesting the rights of someone to have a fair trial.

At the same time, I remember being appalled at reading the tapes of the COINTELPRO probe that resulted in the siege, if you will, on many civil rights leaders in the 1960's and 1970's, particularly in the 1960's dealing with Dr. Martin Luther King, and the Senate hearings thereafter that indicated that there should be some restraint on the Federal Bureau of Investigation.

So it is to point out that all of us bring a sense of history to these hearings, I as an African-American and some others with other experiences, we bring these experiences to the table.

I would hope that as we look at conclusions—and I want to go back to your conclusions that you had in your opening statement. And before I do that, let me acknowledge that my questions earlier, when I was reading, did come from this document which was the summary report or summary documentation that you utilize in your decisionmaking, and you answered my question by saying this was one of the sources.

But you raised an issue that I think is important. We didn't understand the Branch Davidians, what they believed in. There wasn't a lot of belief. They were not a distinct organized church body as some would like to have associated with a church body that exists today that has more of a world humanitarian effort.

Do I understand, however, that part of the solution that you are offering is to increase the utilization of behavioral scientists and crisis resolution centers so that we can be sensitive to the many myriad of groups that are in this Nation that deserve protection under the Constitution? And I would appreciate it if your answer would be brief, only because my time is limited.

Ms. RENO. Yes.

Ms. JACKSON LEE. Can I also cite as an example of a modification or improvement an enhanced SWAT team so that possibly in this instance—and you made a very good point, you said, we are here today and you don't know if we as Congresspersons would have made decisions based on what we are learning or what we are reviewing, but you indicated that this would—that one of the sources of responses would be a SWAT team possibility, increase or enhancement, and that they might have been able to be utilized—and let me follow up my question as my time is going—would you also comment on your involvement or understanding of military involvement because of the American people's sensitivity to that?

And last, do you think it was a good decision to allow the attorneys, the defense attorneys to go in and to be involved but then have their response, commenting that the Government agents acted improperly or were too quick to act?

I would hope that as you answer these questions, we can reinforce our belief and desires to be able to support democracy, and as well, to represent or to recognize that we all have different viewpoints and have suffered or benefited the burdens and the benefits of being an American citizen. And in order to have that value and that virtue and that benefit, we must experience law enforcement as well as the Constitution equally together. If you would answer those three questions, I would appreciate it.

Ms. RENO. With respect to the military, we are very sensitive to that issue. We looked at it and I wanted to make sure that we—I asked about the tanks and how we got them and learned that we had entered into an arrangement with the military whereby we leased them under a memorandum of understanding or a contract of some sort so that the military was not involved, except in terms of maintenance, and it was to provide the protection.

But I have always been extraordinarily sensitive to the posse comitatus requirements based on my experience in south Florida where we constantly had to determine how we could rely on the military and how we couldn't and how important it was, and so I share that concern and we continue to review that.

With respect to the attorney being permitted to go in, as has been pointed out, this was an extraordinarily unusual step, but I think it was a step taken to try to explore every avenue, to try to come up with something, and I think they tried to build on that. Chairman McCollum had asked me about it, trying to build, trying to show some indication that he was this time for real.

And the third point, as I mentioned earlier in my opening remarks, the FBI is working with both Michigan State University and George Mason University to develop the capacity to understand. I think that is one of the great challenges that we face in this country today.

I see community policing work because people are understanding and developing an understanding of the community they serve and the people they work with. I see the FBI reaching out in so many different ways now to effect a relationship with the community, to understand the community, to better serve the community.

I think one of the great challenges of law enforcement and why it is such an extraordinary profession, such a critical profession, is how does it protect its people while at the same time insuring their rights? And we are dedicated to trying to do that, and I have a great respect for the direction that Director Freeh has taken.

Ms. JACKSON LEE. Mr. Chairman, there was another question that I beg your indulgence and I know that I ran them off quickly. It was the question of the SWAT team with the idea that that may have been able to save the children or maybe CS gas would not have been used. You might want to explain that, but you recommended increase SWAT team utilization.

Ms. RENO. As I indicated, what we had was one Hostage Rescue Team that provided the perimeter's security. It was supported by local law enforcement, as I understand it, but they had the training, the expertise and the skill.

I was very surprised when I took office and learned of the situation that—to learn that the SWAT teams that the FBI had and that local law enforcement had did not have the training of the HRT so they couldn't be interchanged.

This will provide increased—an enhancement of the HRT team, but we have also already provided the enhanced training for the SWAT teams that would make them interchangeable. And as I believe I told Chairman Hyde, what I would do now, without that concern, is I would have interchanged, or the Director of the FBI would have interchanged the teams and we would have waited longer to see what might have happened. What the final outcome would be, no one will ever know.

Ms. JACKSON LEE. Thank you, Mr. Chairman.

Mr. MCCOLLUM. Thank you, Ms. Jackson Lee.

Mr. Clinger, you are recognized for 5 minutes.

Mr. CLINGER. Thank you very much, Mr. Chairman.

Again, Ms. Reno, we thank you for your long day with us, and I think as we close, come close to the end of these series of hearings, we are all attempting to figure out what lessons we can draw from what happened, what steps we can take or what steps perhaps we shouldn't take in the future to ensure that they don't happen again. And I think you deserve credit and praise for undertaking to do some things within the Department, within the Department of Justice to address things that you feel were brought about by this event.

But I want to invite you to look again, as I talked earlier this morning, in sort of the broader perspective of interdepartmental concerns. I think that the decisionmaking process is clearly critical

in these kinds of elements, how do we need to change it or do we need to change it?

There have been an awful lot of discussion about the President's engagement or lack of engagement in the decision to go in—or any decisions that were made with regard to Waco, and your testimony has been that you made that decision and that it was your decision and it was based on all of the information you had, and that the President concurred in it.

That suggests to me some sort of a lack of engagement. I mean, it was sort of a passive agreement with the decision that you had made. You had the benefit of having the total briefing and the total exposure to all of the decision, but given the fact that this was the largest law enforcement activity or engagement that anybody can remember, shouldn't perhaps the decision have been elevated to that level?

I mean, the President has a broader perspective, perhaps, with all due respect, a broader perspective of what may be involved. We are talking about serious ramifications that could have flowed from this, that did flow from this.

I guess, shouldn't, in my view, that the—his engagement was sort of on a very passive level and not directly involved. And I guess my sense is, shouldn't this kind of decision be made at the President's level? Shouldn't he have the ultimate say and shouldn't he have been exposed to the kind of briefing that you had before that decision was made?

Ms. RENO. I had talked with Chairman Zeliff earlier and I don't think that you were in the room, and so if you were and I repeat, forgive me and just stop me.

But what I tried to explain is, the President may be briefed on a mission involving the military in foreign policy because he is clearly the Commander in Chief of the military and that is an Executive function.

Law enforcement is in a way a quasi-judicial function, which involves the necessity for independence. As I explained, if there was a Congressman and the President was fussing around in that investigation and what was being done and how it was going to be resolved, you would be irate. And if a Congressman called me and tried to pressure me and fuss around in an investigation, we would all be irate.

In law enforcement, you have to have an independence to a certain extent if the interests of the Nation are involved. And that is the reason that I think it was important that he be advised and that we have that opportunity to let him know, particularly since he had been earlier concerned when he had an Acting Attorney General from the prior administration.

It is a very difficult balance to walk, Mr. Chairman, to retain the independence of law enforcement so that the President, the Congress, are not dictating to the FBI how to do something, and this was a law enforcement operation. I will continue to look forward to the opportunity to work with you on how we draw that line. But it was one that I think he drew quite well.

Mr. CLINGER. Let me, before my time is expired here, ask one further question. That was, referring to what I said this morning, and that is, my concern is that we have two different law enforce-

ment agencies in two different departments, and yet they were involved in a mutual exercise but reported to different leaders, different decisionmakers.

And I know that you are reluctant to talk about turf battles and so forth, but looking at the broader picture, might it not make sense to have all of the law enforcement agencies that might be involved in these kinds of activities under one leader so that there is no possibility of confused signals being given?

Ms. RENO. Mr. Chairman, I don't reach out for other people's turf. There are times where it would be far easier to coordinate.

Mr. CLINGER. I am not asking you to do that. I am just asking you to say, might it not be something to be considered?

Ms. RENO. Any time you can develop a structure that provides appropriate checks and balances but provides better coordination, it's always well to consider it.

Mr. CLINGER. Thank you.

Mr. MCCOLLUM. Mr. Clinger, your time has expired.

The gentleman from Mississippi wants to reserve his time, as I understand it.

Mr. Coble, you are recognized for 5 minutes.

Mr. COBLE. I thank the Chairman.

General, it is good to have you with us. Let me make a few statements, then I will hear from you in conclusion.

We have been criticized for having these hearings or they should have been conducted earlier, it has been said. I tried to get these hearings conducted almost 2 years ago, to no avail. I think they have been useful.

The Washington Post, New York Times, Wall Street Journal, among others, have editorially endorsed a favorable report on the hearings. I think some good has come from these hearings.

Speaking of turf, Secretary Bentsen was before us last—a couple—several days ago, General, and I was disappointed. I thought his attitude was rather cavalier.

We were discussing a letter that he had received concerning Waco, and the letter was a ticking bomb after the fact, again, applying 20–20 hindsight, but he was very casual about it. I think he just dismissed the letter, don't think he talked to anyone about it.

Now, I don't suggest that anybody invade another's turf, but I think it would have been good if he had picked up the phone, said: Janet, or General, I am in receipt of a letter. This is laced with potential problems. You might want to look at it. I am going to send it over to you.

Or conversely, if you were to receive such a letter that involved another agency, you might want to pick up the phone: Listen, this is—I have no dog in this fight from my shop, but I just received this letter from my staffer and I think it may warrant your attention.

I would hope that would happen during subsequent problems when they rear their heads.

Another problem that bothers me to some extent; I don't think you ordered it, but the order to bulldoze Mount Carmel after the fire. And having done that, evidence was destroyed. We have heard several people refer to a missing front door. Well, that could or

could not be crucial, but I think it would be at least tangible and worthy to examine.

Perhaps there was a good reason for the bulldozing, maybe to make it safe or remove a hazard, maybe to destroy evidence, maybe both of those, maybe neither of those, but I think it would have been good to have preserved that site, if it could have been done, to have permitted independent arson investigators to come aboard.

On the ground, there are so many of our citizens now, and I don't say this critically, General, but so many of our citizens now are wary of the Government. I think it would have been beneficial to have had Government arson inspectors, as well as independent arson inspectors. But that was pretty well nullified by the bulldozing having been done.

Having said all that, with what little time I have left, I will be happy to hear from you in response.

Ms. RENO. My understanding with respect to the bulldozing was that it was done after—and I presume it was done—if you have a burnt structure like that, it can be unsafe, that it was done for safety reasons, but after the arson investigators had examined it. As I understand it, there were independent arson investigators independent from the Federal Government.

The problem in just leaving it there is you—for evidentiary purposes, it becomes nothing if you don't maintain the security of it, if you don't maintain the facility of it. But I would be happy to explore any concern you had.

Mr. COBLE. If you would, because it was my recollection, and I may be wrong about this, but it was my recollection that this was done prior to independent arson investigations.

And about the other turf, if you Cabinet members would feel comfortable extending your tentacles into other areas, I think you could do that inoffensively without stealing turf.

Ms. RENO. Well, here's what I have done, as I testified earlier. I have reached out to the Treasury Department to establish a more regular working relationship in which we meet to discuss issues of mutual concern. I think it has been very beneficial and we do that on a regular basis.

Mr. COBLE. I think open lines of communication, I think there is no substitute for it.

The red light illuminates. That tells me my time has expired.

Thank you, General, for having been with us today.

Mr. MCCOLLUM. You are correct, Mr. Coble. Your time is expired, with Mr. Taylor continuing to reserve.

You are recognized, Mr. Mica, for 5 minutes.

Mr. MICA. Thank you, Mr. Chairman.

I do want the record to reflect that I have known Janet Reno for many years, served in the State legislature when she was appointed as State's attorney and always admired and respected the capable job she has done. This has been a very painful experience for all of us.

You talked about some of the things that haunt you and I talked about them emotionally, things that haunted me, and being cast in this role to review what took place and try to make some sense out of it. I hope you can understand then my concern, Ms. Reno, when on our side of the aisle we had a chance to hear all the experts on

CS gas and then we are given this report at basically the close of business. I never got it until yesterday, your briefing report. And on page 40, it does cite that there has been extensive experience in looking at the effects on children, and we had not been given that information.

I contend that based on the flawed information you were given, that you made a decision, and maybe you would make that same decision again today. But in fact, this—we did not see this report. I did not see this report, and it was one of the things that I was concerned about.

I have also been concerned about looking at where CS gas has been used before. We heard Mr. Schiff talk about any place in the world where gas had been used. I have got copies of the Amnesty International reports. They never cite any use of gas except as was pointed out in one of your reports, not by me, that the use of the gas might be misinterpreted.

I asked where there are reports available, and I have information I think that is fairly readily available. This GAO report, it says: "Israel used manufactured tear gas in the occupied territories."

I am holding a copy of the report here, and it was requested by Mr. Dellums in 1981. Did Dr. Salem or anyone else by any chance make you aware of that report?

Ms. RENO. First of all, sir, I am advised and I wish your staff would verify that this information, this report had been provided to the committee for some time. And certainly we——

Mr. MCCOLLUM. If I might respond, we could not find it in the materials until 2 days ago. I don't know whether it was provided or not, but it was certainly not something we could find until——

Mr. MICA. The other thing here, Mr. Chairman, is——

Ms. RENO. We have tried every way we know how to respond.

Mr. MICA. With due respect, too, also our side got 40,000-some pages of material, which were put in a room here. We didn't find out until after the proceedings began, well into them, that there was an index provided to the minority.

And again, we are just trying to get to the bottom of this, but in the report that I cited here, this report says, on page 3, and again, Mr. Dellums asked for it: "Exposure to high concentrations of tear gas in some enclosed spaces" for 10 minutes.

Now, I am going to say just 10 minutes. That is not there. Let me continue: "Is potentially lethal, particularly to infants and children, the elderly and those with respiratory and cardiac disease."

Now, again, I asked for information; I got this. It's my understanding the only one that you consulted was Dr. Harry Salem. Dr. Salem told us that—he also said there was limited information available, to be honest, as opposed to what you got in your briefing report. Would you like to respond?

Ms. RENO. Yes, please, sir. And I have tried so hard to work with Chairman McCollum to make sure that we got you the records that you needed. I discussed with him one evening making sure that there were—every record was available. He said that there was only one concern that he had had, that we provided it without really organizing it.

I don't know whether it's incorrect or not, but I then got a call the next day saying that he had asked his staff to call to correct

the record, because we had tried to organize it. In the way we had presented it to you, we have tried to do everything we can to make sure you have the records.

Mr. MCCOLLUM. Let me, if Mr. Mica has finished his comments, explain the status of the record so everybody understands it.

I think the Justice Department overall has done a superb job of cooperating with our committees. You provided information we have asked for in a timely manner every time we have asked for it, more so than anybody else.

The blue book itself apparently, which is a shorter version of a larger briefing book, was not apparently in and of itself available to us until Friday. Why, I don't know. But having personally examined to some extent, all of these papers over the weekend. I can say that every document in that blue book you have in front of you, Madam Attorney General, was contained as a part of a larger briefing book about yea big, literally. I don't want to exaggerate, but about that big with a red cover on it, and it has been excerpted. There is not a single item that I know of in the blue book that wasn't in it. We did have that and we have had that for some time.

But I think there was a lot of confusion because you were given the shorter version to work with and some people referred to the shorter version, which is what you have in front of you, and we had a lot of confusion about it for awhile. That is it. But we have had complete cooperation. I do not want anyone to feel otherwise.

Ms. RENO. Thank you.

Mr. MCCOLLUM. At this point in time——

Ms. RENO. I don't think I answered his question, though.

Mr. MCCOLLUM. Please, go ahead. I'm sorry. I didn't mean to keep you from that but I didn't want the record not to reflect what I just said.

Ms. RENO. This book was given to me on April 12 when they first presented the plan. I looked at it and my first reaction was, what about children? I started asking the questions.

They then arranged a meeting with Dr. Salem explaining that he was, so far as they knew and their research indicated, was the country's foremost toxicologist familiar with CS gas. He came to the meeting. He had consulted with the pediatrician. He advises—I don't have any recollection of whether he talked to me about the GAO report, but I am advised that he was familiar with the report. And the GAO report, as I am told, and you perhaps covered it with the experts here, does not determine—make a determination as to whether it is CS gas or CN gas that was involved. Again, we had no record of the CS gas.

What we have tried to do with respect to the gas, what we will continue to try to do, is explore every concern that anyone has with the best experts that we possibly can, because law enforcement will inevitably have to rely on CS gas to prevent harm through far more lethal means and we want to make sure we do it the right way.

Mr. MCCOLLUM. Your time has expired, Mr. Mica.

At this point, I will recognize Mr. Ehrlich for 5 minutes.

Mr. EHRLICH. Thank you, Mr. Chairman.

I am going to yield my time, but I just have one quick followup to actually that line of questioning, just get everything straight.

Is it your testimony that Dr. Salem had conferred himself with the pediatrician or pediatricians with respect to the propriety of using the CS gas? Is that factual?

Ms. RENO. My recollection of our meeting on April 14 at the FBI was that he said he had consulted with the pediatrician.

Mr. EHRLICH. Thank you.

Mr. Chairman, I will yield the remainder of my time to my friend, colleague, and member of the full committee, Representative Bono.

Mr. BONO. Thank you very much.

Madam Attorney General, I am in full agreement with you that your No. 1 concern was the welfare of the innocent children, and I think that is where you should have focused.

Now, as far as your decision to approve of gassing the Davidians with the CS gas, apparently your selection, and after hearing a little more testimony, was based on Dr. Salem's advice on the report prepared by the British research team that provided testimony to this panel earlier in this hearing; is that correct?

Ms. RENO. I think that Dr. Salem—he would have to tell you what he had based his report on. He referred to the—I believe it's referred to as the Himsworth Report.

Mr. BONO. OK.

Ms. RENO. But he also expressed to me what he had done in terms of trying to find——

Mr. BONO. But basically your—you base your testimony off of Dr. Salem?

Ms. RENO. I don't base my testimony on Dr. Salem. My testimony is that I consulted with Dr. Salem as part of the process to try to make sure that I did everything to ensure that the gas would not produce permanent harm to children or—

Mr. BONO. Was that the only study you did?

Ms. RENO. That was the person that I talked to. I also consulted, because they were there at the same time with——

Mr. BONO. Part of the British study that was testified to here, they gave as descriptions of symptoms of overexposure of the CS, producing excessive salivation, congestion of the nose wall and the pharynx, a feeling of suffocation, and first and possibly second degree burns in sensitive people.

The report further quotes the U.S. Army Chemical Research and Development Center that they know of no laboratory studies that have ever been conducted with CS that utilized—that had been utilized on children as subjects.

They also state that the Army data bases contain virtually every study on CS that has ever been conducted by any government or private facility in the world.

Knowing that your first concern was for the children, I find it difficult to understand how, after extensive, exhaustive research, you failed to uncover the following information that I uncovered in just 1 day, a report contained in the Journal of American Medical Association dated August 4, 1989, that states, I quote: "Inhalation and toxicology studies at high levels of CS exposure have demonstrated its ability to cause chemical pneumonitis and fatal pulmonary edema."

According to an ear, nose and throat surgeon that I talked to, pulmonary edema is caused when the mucous membrane is irritated. It secretes mucous, which in children and infants clogs up the bronchi. They thus drown in their own saliva and mucous. As soon as the child breathes the fumes, the process begins. Soon after that, the child has little lungs left to breathe and dies.

I find it impossible to believe that the most powerful law firm in the country, the Department of Justice, at your disposal you could not find this information out that I found out in 1 day with two staff members.

I recall you saying that the buck stops here, but this information is here. It wasn't that hard to obtain. I talked to a few doctors. Edema is well-known. The danger of edema and CS gas is pretty well-known with just about every physician. So I can't believe that you did extensive studies on this and didn't come up with the same data that I came up with in merely one day. And I can promise you that I could come up with a lot more.

So I am sorry to say, Madam Attorney General, that I think you failed there. And if you would care to respond, please do. But I think that it is the responsibility of the Attorney General to, in cases like this, to research every bit of evidence, and if there is contra evidence, then the error should be on the side of the children.

Ms. RENO. Sir, what we did was to consult with the foremost toxicologist in the country. Subsequently, other people raised the concern. We consulted with other experts trying to pursue—trying to pursue every possible lead and we will continue to. I am sure if you had this information you would have questioned the experts when they were here and gotten their responses.

Mr. BONO. I understand that, but that is not an answer. I'm sorry. I mean, you only talked with Dr. Salem. My point is——

Ms. RENO. I'm sorry. Sir——

Mr. BONO. There are several people that had this information, and that should have been researched before they were——

Mr. MCCOLLUM. Mr. Bono, your time has expired.

Mr. Chabot.

Ms. RENO. May I just address that because I think he said I only talked to Dr. Salem. And what I have tried to explain, is what we have done, any new piece of information that has been developed, we have tried to pursue it and the experts are still telling us, sir, after pursuing it. And I am sure if you had that information, you would have presented it to the experts when they testified before the committee. But we will continue to pursue absolutely every lead we can to ensure the use of nonlethal means whenever possible.

Mr. MCCOLLUM. Mr. Chabot, you are recognized for 5 minutes.

Mr. CHABOT. Thank you, Mr. Chairman.

General, as you know, the Justice Department did a report on this whole Waco incident. On page 113 of the report, it says that after the fire, agents searched the buried school bus that served as a shelter and found it to be cool and undamaged.

Now, the implication of that passage is that the children could have been safe if they were allowed to go there. Were you aware of what we learned yesterday that the Government intentionally

gassed and bulldozed debris over the trap door leading to the schoolbus so as to prevent people from escaping to that area?

Ms. RENO. No.

Mr. CHABOT. All right.

Also, Special Agent Jamar testified last week that after CS gas was inserted into the compound, he would have exited in a New York minute, as he described it, as if to suggest that everyone should have expected the Davidians to act accordingly, to basically do the same thing.

Don't you think this reveals a failure on the part of the agents in the field to recognize how differently Davidians would react as a result of their religious beliefs and their devotion to Koresh, even though obviously the rest of us, it is hard to fathom how they would have this regard for Koresh with what he was all about. But would you respond, please?

Ms. RENO. The best analysis that we had was that the gas was not as effective as we had imagined it would be because of the wind, sir.

Mr. CHABOT. OK.

But relative to the response of the Davidians and—so basically what you are saying is there wasn't enough gas in there, the wind blew the gas out of the building and that is the reason that you don't think the Davidians came marching out with the children?

Ms. RENO. That's correct.

Mr. CHABOT. OK.

I think many people disagree with that, but nonetheless, I really think——

Ms. RENO. If you have any information to that effect, it would—of course, we didn't continue to pursue.

Mr. CHABOT. One of the mistakes that was made in this whole thing was the fact that it was assumed that the Davidians, despite their rather bizarre religious beliefs in many areas, that they would act like reasonable people, and they obviously didn't. They didn't come out, and I don't—I guess none of us ultimately know why that happened.

But, General, let me ask you one final question here. You told us this morning that you were aware of plans to escalate the gassing and disassembling the house with tanks if the Davidians opened fire after the gassing began.

Now, the Department of Justice report says that you, and I quote, emphasized to the President that the operation was intended to proceed incrementally. Did you also tell the President that the gassing would not be incremental but would instead be escalated if the Davidians fired on the tanks and the people on the ground knew ahead of time, they thought in fact that they probably would be fired upon? Did you tell the President that or did you leave him with the belief that the gassing would be incremental even if they were fired on?

Ms. RENO. I gave him the full plan, and may I also suggest to you that the information that is provided to me is that we did not bulldoze the debris over the trap door.

Mr. CHABOT. I believe one of the—the testimony yesterday was that it was.

Ms. RENO. I will check it out.

Mr. CHABOT. I would like to follow up after that just to make sure.

Ms. RENO. And the important thing to understand is, is my understanding of what happened—I think you perhaps—he said I immediately started to push the burning debris away from the bus area.

Mr. CHABOT. I think we should probably follow up because I don't have a lot of time left.

Ms. RENO. If you have any questions after you check the transcript, let me know.

[Information not received by time of printing.]

Mr. CHABOT. There was some testimony about that yesterday but that seemed fairly significant to me.

Ms. RENO. But I think again what—because I keep hearing about this confusion and not having been here or seen the testimony, I would refer you to the record, but the plan was that if they fired, the gassing would occur around the building.

What—the concern that developed since they weren't coming out, there was a concern that perhaps they couldn't get out because of barricades, so there was an effort made to provide egress from the building.

My understanding from the testimony, and again, I think we should check it to make sure that it is absolutely correct, is that one of the supports for that back part was inadvertently hit and knocked down, causing the collapse, but that that was not part of the planned gradual escalation. That was to occur after 48 hours.

Mr. CHABOT. Right. That was a different area from the school bus that I was talking about.

Mr. MCCOLLUM. Mr. Chabot, your time has expired.

I believe we only have two more on our side, unless others show up.

Mr. Taylor, I will recognize you, for 5 minutes, unless you have others out there.

Mr. TAYLOR. Thank you, Mr. Chairman.

Ms. Reno, I am not going to get the luxury that the ranking member and the chairman are going to get to summarize things, but I would like to give some observations on behalf of law enforcement.

We started off with the first two witnesses who tried to portray David Koresh as just a simple country preacher who might have owned a few and sold a few guns. Well, folks, country preachers don't sleep with 10-year-olds. Country preachers don't hold people against their will for 3 months. Country preachers don't compile a hit list of people who disagree with them to be eliminated—I am using his words—and country preachers don't kill law enforcement officers when you go to serve a warrant on them, and wound 20 more, and in the words of an ex-Green Beret from Vietnam, outgunned them to the degree that he was never outgunned by the Vietcong.

We have later heard allegation after allegation that gas killed these kids, and yet no proof of it. We heard allegations of an illegal warrant, and no proof of it. We heard allegations that the military was involved in this, and no proof of it.

As a matter of fact, what we have seen is that, yes, agent Rodriquez somehow didn't get the message strong enough to the two guys who didn't pull the plug on the raid, and I regret that, and we lost some good people. But it in no way justifies the murder of those four agents and the wounding of 20 more, and in no way justifies David Koresh holding 80 people, through whatever spell he had on them, as human shields.

When it is all said and done, David Koresh, if he can talk husbands into giving him their wives, and if he can talk parents into giving their daughters to him, then he could have certainly talked them into walking out of that compound and going through the judicial process that you, or I, or Ms. Reno, or anybody else in this country would ask to participate in if we are accused of a crime.

Now, certainly there have been some mistakes that I just outlined, but it does not justify the death of these four young men, younger than every one of us on this panel.

You know, we just had a vote on the House floor by two-thirds—in fact, two-thirds of the Republican Members; I haven't checked the Democrats. We are going to go save Bosnia because they have a lawless society, a lawless society where people are raped and murdered and their homes are stolen from them.

Well, doggone it, the only thing between us and a lawless society are the law enforcement people of this country, the thin blue line that enforces the laws of this country, and they deserve the same rights that every criminal gets when they go into a courtroom, and that is the right to be presumed innocent until they are proven guilty.

But unlike every single criminal that walks into a courtroom in this country, they couldn't call any witnesses. They couldn't bring in the two newspaper reporters who put together a series talking about things that I just talked about. They couldn't bring in the lady who says she was held against her will. They couldn't bring in the other one who said Koresh had a hit list and was going to kill people. And above all, they couldn't bring in Koresh because he would not listen, and for 51 days, he would not come in.

So, Ms. Reno, I am sorry that you have to be in the chair at the moment, but you are the top law enforcement person in the country, and the buck does stop with you. But I think it is only fair that for once, this committee give the law enforcement people of this country the respect they are due, and above all, if one message that can come out of this is, it is not right to kill a cop.

I sure as hell hope there isn't some nut out there saying, gosh, if I kill somebody, Chairman Zeliff and Chairman McCollum are going to have me up to Washington and I will get my name all over Reader's Digest. That is not the message we need to be sending out. We need to show respect for law and order.

There are a heck of a lot of laws that I don't like. I voted against the Brady bill. I voted against the assault weapons ban, but they are the laws of this country and we have to abide by them.

And with that, I want to thank the Chairman.

Thank you for being with us, Ms. Reno.

Mr. MCCOLLUM. Thank you, Mr. Taylor.

Mr. Shadegg, you are recognized for 5 minutes.

Mr. SHADEGG. Thank you, Mr. Chairman, I may well not take it all.

Madam Attorney General, I want to just clarify a couple points we brought out earlier this morning in our—in my earlier questioning. One was, you indicated in response to my question about the FBI's position that they would not give the phone back—phone back unless the Davidians were willing to surrender. I asked if you knew about that and if you had known, would you have agreed with that decision. You indicated you weren't sure of the facts.

Page 292 of your report reads, and I am going to read it directly, "From 9:49 to 9:54 a.m., the negotiators broadcast instructions to the compound regarding efforts to reestablish telephone contact. The negotiators said the phone would be reconnected only if the Davidians clearly indicated they intended to use the phone to make surrender arrangements." So, just so you know that, it is in the record.

The second issue I tried to go into was the now infamous, I guess, crushing of the back of the building on which I think there is great doubt, because Mr. Clarke testified that it was an intentional crushing pursuant to the plan. The plan had said, if, after 48 hours, they don't come out, then we will begin to systemically destroy the building.

My understanding of that was they were going to peel off the front so they could see in. Instead, 6 hours into the raid, they begin to crush the back of the building, the back portion of the gym.

You have said here today that—and you have repeated it just now in response to Mr. Chabot, that you thought that was inadvertent, and there was testimony that it was inadvertent, but that is what is so frustrating to me, because the videotape which we showed in here showed the tank going back and forth numerous times, over and over and over again.

And even these two still photos, one shows a portion of that roof still in place and the tank way back, and then later, it shows that entire roof destroyed. It's the section far wider than the tank so it took more than one run to do it.

If you don't realize now that that wasn't an accident, I worry about the depth at which you've analyzed this incident, and I know you have said today that you intend to go further and investigate it some more. I urge you to do that, because the claim that it was accidental simply isn't credible.

And I read on the plane last weekend going home, two quotes from you. Two quotes, and one by Mr. Jamar: "When Ms. Reno approved the plan," Mr. Jamar said, "she gave the FBI agents special orders that gassing must stop immediately if there were," quote, "any indication of danger or harm to those children."

I can't square the crushing of the back of that building with your concern about danger or harm to the children.

Not only did Mr. Jamar say it but Mr. Potts said, quote, "any indication about danger or harm to those children, the rule was, back off, get away, stop."

I just don't understand how that squares with the crushing of the back of the building and with the conflicting testimony about how it happened.

We are here to investigate what happened. It seems to me it has been an important hearing for that goal. It seems to me it is a tragedy when this happens.

I think we had a duty to look carefully into these facts and to try to find out what happened and to see that they don't happen again, because the mistakes here costs thousands of hours of agony in your life, I am sure, as well as the lives of those individuals.

I have—I am frustrated by the fact that we can't clarify even simple facts like this, and I hope that we can learn a lot from this experiment, this hearing. We just tried to go into this, but I must tell you I am frustrated. I am frustrated by even the ability today to kind of put conclusion to some of these facts.

Ms. RENO. I share your frustration when you have such a tragedy as this and you try to figure out what to do in the future to avoid the recurrence of it, not in an experiment but in a thoughtful way. And what I had suggested to you, Congressman, is—I didn't hear the testimony yesterday that you are concerned about, and what as I said before to the chairman, we'll just review everything and consider—continue to consider just what was involved.

Mr. SHADEGG. I appreciate that.

I would urge you also to look at a portion of your own report that reveals a young girl, where they negotiated back and forth about her release, and Mr. Koresh said he would release her if he was allowed to talk to Mr. Rodriguez.

The most riveting testimony in this entire hearing came from Mr. Rodriguez, about his frustration and his inability to stop the ATF raid which led to the death of all of these people. And the FBI said, ultimately, they would not allow him to talk to Mr. Rodriguez, would not allow Koresh to talk to Rodriguez. And the girl—the young girl, 6-year-old girl—that Koresh had agreed to release if he could simply talk to Rodriguez, ultimately, your report says, presumably died in the fire. They couldn't identify her body.

I find that kind of negotiation inconsistent with what was clearly your goal, which was to save life.

Mr. MCCOLLUM. Mr. Shadegg, your time has expired.

Mr. Schumer, you're recognized.

Ms. RENO. Are you going——

Mr. MCCOLLUM. If you would like to respond, you always can, Madam Attorney General.

Ms. RENO. Thank you very much.

Again, I think it's so important as we work through the issues here that we not rely on memories, that we understand exactly why Mr. Rodriguez couldn't be present. And we will continue to work with you on those matters.

Mr. MCCOLLUM. Thank you.

Mr. Schumer, you're recognized for 5 minutes.

Mr. SCHUMER. Thank you.

And, first, I want to thank the Attorney General. I think it's been a long and grueling day, but I think you have conducted yourself, everyone will agree, with dignity and with candor, and I think every one of us is appreciative for that.

I don't really have many questions, which is rare for me, but I think you've answered them all to the best of your ability. I have to say, in all candor, not every answer makes the pain of what hap-

pened go away and not every answer exactly, in full clarity, really tells us what happened.

And I think one of the reasons for that, very simply—and not what happened, but why it happened—is that by the time the Attorney General got into this situation, there were no good answers. There were no easy answers. Four ATF agents had died, others had died, and there was no easy way out. There was no good solution.

And here people on both sides of the panel are groping for that sort of little crystal out there that says, aha, everything that was done was done well and perfectly, and there was no alternative. We can't find that. Or, contrariwise, gee, this was—here is exactly what went wrong, and we won't do it again. And that's not terribly satisfying at the end of the day. In fact, it's, in a way, frustrating.

But I think that, given the circumstances, not being a Monday-, Tuesday-, Wednesday-, Thursday-, or Friday-morning quarterback, Attorney General, you have certainly impressed me with the intelligence, the honesty, and the compassion with which you approached the problem, and I daresay that any one of us could not have done any better, even though the outcome was not what we wanted.

So what I'd like to do, before yielding to Ms. Jackson Lee the rest of my time, is ask you is there anything else that you would like to say at the end of this long and grueling day, where you've done very well, not only for yourself, but for the law enforcement men and women that you represent?

Ms. RENO. I appreciate that opportunity, and I think what I'd like to say is that law enforcement is the most difficult job there is. They have got to make decisions that other people go to law school and sit at desks and work in libraries to find the answer to, and they have got to make it right then and there. They have got to consider human life, and they do it day in and day out.

And in the course of it, whether it's a police officer on the streets of an urban area, a deputy sheriff, a Federal agent, they are again and again exposed to terrible danger; and they have got to risk their lives, as FBI agents did here, to save people. They have also got to make sure that the rights of this Nation are protected.

It is a challenging, it is a wonderful profession, but it is a profession that is so fraught with difficulties, so fraught with challenges.

I am so encouraged by what I see around this country when I go to a community policing event. I see people, police officers relating to their community, working together. It is police officers who are bringing people together. In south Dallas, I stood there as a young woman said for the first time she was trusting a police officer. I see FBI agents, DEA agents, ATF agents working together, working with the community, working with local law enforcement. I see so many good things happening as a result of law enforcement agents who care desperately about their community and the well-being of all their people.

I enjoyed the opportunity today to get to know Chairman Zeliff better. What I think we need to do is to learn what we did here today, that if we talk together and work together and put aside tensions and feelings, sometimes we come up with a better understanding. That's what good and thoughtful law enforcement is doing throughout this Nation, and I look forward to working with

all members of the subcommittees to continue to do that here in Washington.

Mr. SCHUMER. Thank you.

Ms. Jackson Lee.

Mr. ZELIFF. The time is expired, but if Ms. Jackson Lee has one question, we'll let her ask it.

Ms. JACKSON LEE. I do, Mr. chairman. I thank Mr. Schumer and I thank the chairman. I thank Mr. Schumer as well for his questions on Governor Richards and providing that information, probably on an informational basis.

But there was quite an active exchange just a while back on the questioning dealing with the CS gas. It has been something that has been permeating all of those who question what happened, about whether we should have waited.

Do you have, in your review, any evidence or did you look at any evidence, meaning the autopsies or anything, that might have given you a conclusive understanding or assessment that from the period of about 11:30 to the time the fire started and the CS gas had been in for a period of time, that individuals were immobilized, including the women and children, such that more could not have come out? Was there anything that you might have reviewed?

Because the fire started 12-ish, the hits and the break-ins started about 11:30, and some people did escape. Do you have anything that tells us that the CS gas immobilized and suffocated any of those babies and people?

Ms. RENO. We have nothing that tells us that.

Ms. JACKSON LEE. Say that again. I didn't hear you.

Ms. RENO. We have nothing that tells us that.

We have information to the contrary. One of the agents who went in to save the life of the woman who went back in said he had no—there was no gas in there. You had information, I believe, testimony here from one of those people that had been in the compound that the gas would be blown out immediately. There is no information whatsoever from those that came out or otherwise that anybody was immobilized by the gas.

Ms. JACKSON LEE. But you would study definitely the use of such gas at any time ever again in your tenure?

Ms. RENO. What we will continue to do is to study the CS gas, how it is used. As I indicated earlier, law enforcement has used it as a very appropriate means to resolving matters without lethal force and to resolving it peacefully. And we will continue to do that and continue to strive to develop as much technology as possible that will permit us to resolve issues such as this safely for all concerned.

Mr. MCCOLLUM. Ms. Jackson Lee, the time has expired.

Mr. Heineman, I believe you are the last questioner we have—5 minutes—you're recognized for 5 minutes.

Mr. HEINEMAN. Thank you, Mr. Chairman.

I'm motivated now to answer my colleague from Mississippi on the other side relative to—relative to law enforcement respect, but I won't get into that. I will continue to keep this on the high road. I don't believe we need to get into politics when we're talking about such important issues, but I don't think we are fooling law enforcement.

I've been in the business 38 years, and I got a kid in the business. We know who our friends are. We know who the talkers are and who the doers are. We know who votes for the exclusionary rule to support law enforcement and those that attack it.

But I'm happy about these hearings. I think you, Ms. Attorney General, performed very well today, and you've cleared up in my mind questions I had about where you stood on these issues. And I may have taken an unfair swipe at you in this chamber at some point in the past, and I apologize for that.

And I at this time would like to yield the balance of my time to the cochairman, Mr. McCollum.

Mr. MCCOLLUM. Thank you very much, Mr. Heineman.

I understand, Mr. Mica, you have a 30-second request. I will yield to you for that purpose.

Mr. MICA. Just one point. The Attorney General had testified here this afternoon that she wasn't sure whether Dr. Salem was aware whether this was CS gas or had mentioned it or CN gas. On page 1 of the GAO report, it starts at the bottom of the page, "According to United States and Israeli sources, only one kind of tear gas, known as CS tear gas, has been used by the IDF in the occupied territories." And I wanted that to be part of the record, sir.

Mr. MCCOLLUM. Thank you, Mr. Mica.

Let me ask just two quick questions I think we need clarification on, Madam Attorney General.

First of all, yesterday, Ambassador Holmes testified that at the invitation of the FBI's Hostage Rescue Team two British Special Air Service personnel were on the scene during the siege.

Can you clarify for us, do you know why they were there? He said he couldn't testify to that, the military didn't invite them.

Ms. RENO. I don't know the circumstances, sir. Sir, I don't know the issue. I'll be happy to provide that.

Mr. MCCOLLUM. If you would. I wanted to be sure that we don't go away and have 50 people calling the office, saying you never clarified the question. My understanding is that they were not actively engaged; they were only there as observers. But it would be great for the record if you would give us that information.

[Information is in the subcommittees' files.]

Mr. MCCOLLUM. Second, yesterday I had occasion to question some folks about a memorandum from Park Dietz, Ph.D., one of the consultants you had, and I just wanted to clarify this with you as well.

It was an April 17 memorandum to Jim Wright. Dietz is giving a whole list of reasons, what he thought went wrong, why he didn't believe the negotiations in good faith would resolve the situation and, essentially, corroborating your position. But at the end of it there were two disturbing conclusions he reached. He said, "If everything continues as it has been going, I expect the following," and he lists several things. The last two I want you to clarify for us.

The last two are: He says, "The authority of the FBI in all of its operations will continue to weaken and the press will focus increasingly on the cost of the operation and begin asking questions about the White House role in the operation, how the expense can be justified and whether the situation might have called for a more courageous approach."

This was part of your briefing package, in the big briefing book I read over the weekend.

Can you assure us that neither one of these latter two were factors influencing your decision to authorize the gas?

Ms. RENO. Yes, because I saw Park Dietz's memorandum as I made the final decision that Saturday. And one of the things that was key to me, I've already mentioned in previous testimony, that cost—I didn't want the cost involved to be an issue. Human life was too important. I didn't want to address that issue.

Nobody in the FBI talked about weakening the authority, but, again, people would say, "Don't let them get away with this." That was not the issue. The issue was, how did we bring the people out, the children specifically out, safely without them being hurt and that was what motivated me at every step of the way.

Mr. MCCOLLUM. Well, I have concluded my questioning. You have certainly answered all the questions of this panel to a great extent through two rounds today.

And I know that you and I will see each other in forums numerous times, I presume, over the next few months. One of those will be hearings that we will conduct in the fall on the question of reauthorizing all of Federal law enforcement. I'm looking forward to those. I know that your contribution will be very important to that, as were these hearings today and throughout the past 9 days.

I welcome you to stay if you wish. We are going now to have three closing statements to all of these hearings, one by Mr. Zeliff, one by Mr. Schumer and one by myself. But you're not required to stay. You've been here a long time today. That is your choice. You may either sit through these closing statements or you may choose to go back home or back to the office, whatever the case may be.

Ms. RENO. I should go back to the office, if it wouldn't be a problem.

Mr. MCCOLLUM. No, no, it would not be a problem.

Again, thank you very much for being with us today.

Mr. ZELIFF. Thank you for being here.

Mr. SCHUMER. Thank you.

Mr. MCCOLLUM. Thank you very much.

Ms. JACKSON LEE. Mr. Chairman, parliamentary inquiry. I had asked whether we would have unanimous consent that members of this committee could submit both an opening and a closing statement for the record and if there was a time period to do so.

Mr. MCCOLLUM. There is a time period of no limit for the next 30 days or so, but I would suggest that those statements be submitted by early September when we return from the recess. The report will be written then. Unanimous consent to do so is granted.

I'd also like to ask unanimous consent that the three documents I used yesterday in questioning Mr. Jamar and Mr. Sage be admitted into evidence without objection.

Hearing no objection, they are so admitted.

[Information is in the subcommittees' files.]

Mr. MCCOLLUM. There being no other business but the closing statements, I now turn to my cochairman, Mr. Zeliff. We have worked a long time, through a lot of days, and the floor is yours for what we have agreed upon are limited, brief periods of time for closing today.

Mr. ZELIFF. Thank you, Mr. McCollum, Mr. Chairman.

I, too, look forward to working with the Attorney General and where we go from here in terms of putting our report together.

The curtain now draws to a close on 10 days of oversight hearings into the executive branch conduct in the 1993 events near Waco, TX. We have heard intensive questions, emotional testimony, and thoughtful, if occasionally combative, discussion. We have heard from nearly 100 witnesses who have told their stories from their heart.

Despite these efforts, the work of the two subcommittees is not over. As recently as last week, the executive branch delivered documents to us. Several witnesses raised questions which must be pursued. Further interviews must be conducted. Conflicting testimony must be addressed.

The final task will be the preparation of a report which will lay out the facts as presented to Congress and answer all the questions being posed by the American people to the fullest possible extent.

My goal has been and continues to be the complete presentation of the facts. This effort will continue for several months. A final report will not likely be published before the end of the year.

There are, however, several conclusions which I feel comfortable discussing today.

First, the organizational structure of the Federal law enforcement agencies warrant very close scrutiny by Congress. When the ATF conducted the largest law enforcement raid in our Nation's history, the Treasury Secretary was out of the country attending a G–7 meeting. His deputy was in Washington minding the store, but that deputy knew relatively very little about what was about to occur near Waco, TX.

It is difficult to criticize the actions of Secretary Bentsen. After all, we hire Treasury Secretaries to help manage the Nation's economy and not to serve as the Nation's chief of police. Perhaps what will come of these hearings is the consolidation of law enforcement functions into a single department with the necessary expertise and civilian control to ensure that the job gets done right.

In this instance, the ATF lost the element of surprise and continued with its raid anyway, setting up a tragic turn of events. We must continue to review and challenge the level of expertise, training and professionalism of the Nation's law enforcement officers to ensure that the mistakes at Waco are not repeated.

Second, the involvement of the Nation's military in domestic affairs requires further debate. It is apparent that ATF manipulated evidence to suggest the existence of a drug lab at the Mount Carmel compound.

The Department of Defense was required to accept the false evidence offered by the Department of Treasury and was forced to provide military equipment and training during the standoff and subsequent disaster. American tanks were turned on American citizens without the approval of anyone who was politically accountable to the American people. Unfortunately, the funds used to supply this equipment were paid for by monies devoted to our Nation's drug war.

Third, we must ensure that the American people can hold their Nation's leaders accountable for the actions they take and the deci-

sions they make. I am most disappointed by the dodging and weaving of the White House in the hours following the tragic ending of the Waco siege. Despite assurances by the Chief of Staff that no significant action would be taken by the FBI without the President's approval, the first comments by the President after the fire suggested abstention and avoidance:

I was aware of it. I think the Attorney General made the decision. I knew it was going to be done, but the decisions were entirely theirs.

The administration's response to the Waco disaster suggests that we have come a long way since the days of Harry Truman. A sign on President Truman's desk proclaimed, and I quote, "The buck stops here."

Similarly, President Kennedy stepped up to the plate and accepted full responsibility for the ill-fated Bay of Pigs fiasco.

In the Clinton administration, I find it very disturbing that the Attorney General and not the President steps forward to state, and I quote, "The buck stops with me."

Now, my colleagues on the other side of the aisle have argued that a day after the fire, after severe scrutiny by the Nation's press corps, the President finally admitted culpability and responsibility.

It is no wonder that the Nation is so cynical. In fact, a poll released yesterday by the President's pollster, Stanley Greenberg, found that 76 percent of respondents say that they rarely trust Washington. Americans are a forgiving people, but they want their leaders to be responsible for their actions.

Mr. Schumer has suggested that I would criticize the President if he was too involved and then would criticize him if he was not involved enough. I can understand why he himself has spent so many years criticizing Republican Presidents the same way. But the truth is, when American tanks are used in any way on American citizens, the President must be involved and darn well should admit it.

I have always believed that Presidents deserve credit when things go well and responsibility when things go badly. After the Oklahoma City bombing, the President effectively marshaled the very much-needed Federal agencies to rush aid and comfort to the victims and to investigate the crime. The President deserved the Nation's applause at that time.

Finally, I believe these hearings have helped dispel the conspiracy theories and ugly rumors that have circled this issue for the last 2 years. We have found no grand conspiracies. We have found, however, troublesome evidence of at least two powerful Government agencies which had lost touch with the missions entrusted to them by the American people.

Poor decisions were made to conduct a military-type raid. Poor decisions were made to continue the raid after the element of surprise was lost. Poor decisions were made to use military tanks to destroy the compound. And poor decisions were made to use tear gas against the elderly, the women, and the children. Worst of all, poor decisions were made by the civilian leadership of these agencies to monitor and oversee the powers of the Federal Government.

While I certainly agree with those who argue that David Koresh is to blame for the loss of over 80 American lives, the series of mis-

takes, misjudgments and poor decisions made by Government agencies did play a role in the terrible tragedy in Waco.

In the small State that I come from, people expect answers from the Government. For too long and for too many in Washington, my constituents and so many Americans have not gotten straight and honest answers. In this way, people believe their Government has failed them.

When I ran for Congress in 1990, I ran on the issue of accountability. Accountability means standing up for what we believe, making difficult choices, and taking full responsibility for our actions and their consequences. When credibility, effectiveness, and respect for Federal law enforcement is called into question, I will stand up for law enforcement. But, clearly, we must understand precisely what happened, and we must review procedures to make certain that we learn from this tragedy in order that it does not happen again.

I am troubled by the administration. It seems to me that I have heard things here which I have heard before from this White House. Attorney General Reno has testified that the President was in the loop on decisionmaking and approval. Testimony by some responsible for executing the Waco raid would suggest a lack of knowledge of responsibility for the consequences of their actions.

This, ladies and gentlemen, is not accountability. It is not responsibility. My constituents sent me here to get answers to difficult problems. My job is to get answers. Some of my colleagues may wish to gloss over what happened in Waco. My colleague from California actually has compared my conduct in these hearings to McCarthyism. Let me say, simply, that accountability, responsibility, and oversight are constitutional obligations of this body and something we in this Government must not underestimate, dismiss, or ignore.

I want to say one very important thing, and I think it is probably the most important thing that we can say, that the tragedy of four brave ATF agents that were killed as they attempted to enter the compound, carried away by their colleagues that were also wounded during the raid, I can only imagine, as the father of three sons, including a Marine, how terrible it would be to watch the video of one of my boys attempting to enter that compound window from the roof, with their lives unnecessarily taken.

There is no greater friend of law enforcement than this Member of Congress, and I believe every member of the law enforcement community who puts his life on the line every day would agree that, for their sakes, we must learn the lessons of Waco. We must not minimize the danger that our men and women who put themselves in harm's way, and missions must be clearly defined to assure success with the absolute minimum number of casualties.

Let us not forget the innocent children who died in the terrible tragedy of Waco as well. I can't begin to fathom their fears as tanks, glass, and CS tear gas entered their home. Over the PA system they would hear, "This is not a raid. This is not a raid." It was probably the last thing they heard before they died.

The people of New Hampshire, the people of Texas, and the people of this Nation deserve from their Government nothing less than

a full accounting for the tragedy named Waco. Let us never forget our responsibility to the people we represent. I, for one, shall not.

I believe these hearings have helped ensure that mistakes like those I mentioned will not be repeated and the wildest of conspiracy theories are without merit. For these reasons, they have been worth my time and I hope the time of each of my colleagues.

I am looking forward to working with Ms. Reno.

And, finally, I would just like to say, I am a small businessman from the northern part of New Hampshire in the White Mountains. I believe that I just try to look at things—I am not a Harvard lawyer, and there are many very articulate people up here. I look at things from a commonsense point of view.

What I have heard for 10 days, not all of it adds up, and that concerns me and distresses me. And I have a picture in my mind as I go to bed at night, looking at that picture of that tank going back in and out of that front door and with the announcements saying, "This is not an assault," and I just think that our Government acted very improperly.

And I hope—and my encouragement to Ms. Reno would be I hope that she takes the opportunity with Mr. Freeh, as I think he is now doing, to take a good look at the FBI from top to bottom in terms of rules of engagement for the mission. ATF ought to do the same, as we are now doing with CIA.

I think it is time that we just take a very, very close look. We need to hold people accountable. We need to be responsive to the people we represent.

Thank you, Mr. Chairman. I am glad these 10 days are over. We look forward to doing something different, but I think we have done some good work for the Congress.

Mr. MCCOLLUM. Thank you, Mr. Zeliff; Mr. Chairman, yourself. Mr. Schumer, you are recognized for your closing remarks.

Mr. SCHUMER. Well, I thank you, Mr. Chairman.

And I guess the first thing I would say is I would like to just talk a little bit about the fact this finishes the second phase of the hearings, first, about ATF and up to the date of February 28, and now that period up until April 19 and further on. And it so happens to me the second part of these hearings has been a little less satisfying than the first part in terms of just results, I am not saying how they were conducted or anything else.

In the first part, it became pretty clear what happened. First, we had somebody like David Koresh, hardly a benign individual, somebody who was not only a lawbreaker but, in my opinion, a morally corrupt individual who used religion as sort of a shield for his own desires, for his own ability to make himself into sort of a megalomaniac who could do whatever he wanted in any way.

And so that starts the conundrum. Then you have—and in my judgment the idea that the ATF or any agency could just leave him alone forever is wrong. As I said earlier today, we are a Nation of laws, and we shouldn't be rationalizing why lawbreakers can continue to break the law. We may want to change the law. That's what this Congress is all about. We may want to say that the law is wrong and agitate against it. But you cannot ignore that. And I will get back to that later.

So they had to act. They didn't act well. And the blame in the first part of the hearing was fairly easy to pinpoint. Yes, we can second-guess the plan, but the plan wasn't a bad plan. It has been used over and over again, not in this scope. But when the element of surprise was lost, so was the raid. It was that simple. And so the first part of the hearings was able to pinpoint something that had been pinpointed before.

I think the Treasury document is an outstanding document. Early on, there were attempts to discredit it, but by the end of the first part of the hearing people said, yes, it is a good document. And we found very little new from that document, very little that was materially new.

Some people said, well, what about the fact that there were these—the drug part of it? That was talked about in the document and had very little material effect on the raid; in other words, that there were drugs there and brought the military in to train, not do anything else.

And we found that there was here—this was more of a morality play—there were a couple of people who were, quote, bad guys, aside from Koresh, not on his level at all, but people who messed up, who should have had the sense to call off the raid when the element of surprise was broken. They didn't.

The second part of the hearing is more troubling, because there are no real bad guys. Someone asked Janet Reno, well, why were there no punishments the way Sarabyn and Chojnacki were punished? And, of course, the head of the ATF, Higgins, and his deputy who was here, Hartnett, lost their jobs. Why was there no punishment?

She said, I couldn't punish anyone because I couldn't put my finger on who deserved to be punished, who did something wrong.

Well, the raid didn't work. No question. You know, a few days ago I compared the nitpicking on the Republican side to—you know, I said that if this committee looked at D-Day, they would court-martial Eisenhower, but the analogy was not correct. It was correct in that aspect, but it wasn't correct because Eisenhower's mission succeeded. Yes, mistakes were made, but the goal of taking the beaches and getting a foothold in Europe succeeded.

This one didn't, because the goal here was to rescue—to apprehend Koresh, but to rescue the innocent women and children who were there didn't succeed. So we know that.

But no one in all the days has come up with a good answer. The only answers, you know, like some of the editorials which said, well, they should have waited it out, were based on misinformation that there was no food and water. And I was amazed at sort of the common sense of one of the agents who said, of course they had plenty of water. They were doing their laundry. We could see it hanging out to dry. I forget which agent did that.

OK. So this second part I say remains somewhat less satisfying, not because of blame but because once there was a David Koresh, an evil man, and once the first operation was botched, there were no good answers, none at all.

And it is not fair, in my judgment, to use Monday-morning quarterbacking unless you have a better answer that would have been a better answer at the time. And we have heard a lot of nitpicking,

again, but no one I have heard came up with a better answer. And that is sad and not satisfying. Because there ought to have been a better answer.

In retrospect, obviously, don't do it the way you did it. And I think the Attorney General admitted that here, and I am glad she did. But on that day there wasn't a better answer, and that is what you have to judge by if you are going to be at all fair.

Well, summing up the whole—I don't want to get into all the details. But I do want to do a couple of things in terms of summing up the whole situation here, the whole hearing.

First, I want to thank many different people. I want to thank both Chairman McCollum and Chairman Zeliff for their procedural fairness. We did not have one procedural dispute here. That was very significant. In other words, the amount of time was apportioned fairly.

At first, the witness list we were given I thought was all lopsided, but when we said, let us choose some of our witnesses, they said yes. And the proof positive of that is Kiri Jewell and the most riveting testimony of the whole hearing, which I thought appropriately set the stage, because the greatest evil was Koresh, and she brought it out in simple, commonsense terms. She was allowed as a witness.

I think all of us on the minority believed that procedurally these hearings were conducted in fairness by both Chairman McCollum and Chairman Zeliff, and we thank you for that.

I would like to thank my colleagues here. We are a very disparate group. We have on this committee some of the most conservative and some of the most liberal Democrats and then some people in between like me. And yet we all worked together, and we had pretty much—without getting in a room and sort of plotting, we all had about the same viewpoint. You couldn't really distinguish what Gene Taylor said from what, say, Mel Watt said, except for maybe disagreement on something like the exclusionary rule, which was not relevant to what happened here directly. And so I want to thank my colleagues.

And, finally, on my side at least, the people I would like to thank the most are the staff. They were just wonderful.

And, you know, we heard a lot of complaints on the other side: Hey, Schumer, how did you get that document so fast? You are getting an unfair advantage. Well, I will tell you what our advantage was. I don't think it was unfair. These people back here. And I think every one of us thanks them for the hard work and diligence, that they were totally committed to this, and we are very appreciative.

I don't want to get into a detailed play-by-play of the hearing, but I do want to talk about a few things, where why we go from here, because if these hearings are going to be constructive, where do we go?

Well, there are easy things. I think all of us think that we don't understand why—in the first place, why Chojnacki and Sarabyn were not punished more severely, why they were reinstated. I suppose we will look at that.

But on a bigger level, moving up a level, I heard mention we have to reexamine the structure of law enforcement. I don't see

that the record examines that structural reexamination. It brings up my fears that some will use this hearing as a pretext to cripple ATF in particular.

If that was an overriding concern, I would have liked a couple of questions asked of some of the people, whether it should be restructured, instead of just bringing it up at the end in an ad hominem way.

The mistake that was made, losing the element of surprise, has nothing to do with the structure of law enforcement. Nothing. So my view is that we ought to strengthen them. They ought to learn from their mistakes.

But the idea of weakening, abolishing or folding ATF into another agency, whether it is a good idea or not, this hearing had very little—I think it is not a good idea, but this hearing had very little to say about that, and there should have been a bunch of questions if that was in the back of the minds of people.

And then there were two other major questions that I would just like to leave hanging out there. First, why also in recent and modern America is there so much hatred and paranoia out there? That truly troubles me.

We walked alongside that feeling in doing these hearings because of the fear and hatred of a man like Koresh, who I have no sympathy for. But all the hundreds of people who faxed us every day, many of whom believed in conspiracy, many of whom saw the world in totally different views than we did, what is going on with those people? Why is it that so many people are so angry, some bigoted, taking their anger out in bigotry, some just coming up with conspiracies out of thin air?

We can dismiss those conspiracies, and we should, and I hope this hearing does, although, as I said in my opening statement, I am troubled that some have added fuel to the flames, those conspiratorial flames. But it still troubles me why they have need of conspiracy to sort of make their world view complete. And how much danger do they pose to this country?

And that is why I am glad one positive result of these hearings, in the middle of them, Chairman McCollum, who has been, as I say, somebody who I think—I don't agree with him on some of these issues and on some others, but he has been thoughtful and when he called for hearings on the militias, that may be one of the best outcomes of these hearings.

And I just hope that they will be—I don't ask that they be 10 days, but I would also hope that they don't just be 3 hours. Because if you look at the problem that we are floating in here, that is one, and we ought to look at that.

And, finally, I worry after a hearing like this—not saying, not bringing up who is more prolaw enforcement or whether the questions out there were pro- or anti-law enforcement, we will leave that aside. But I worry about the paralysis of law enforcement. I have worried about it for a while.

We are in a country of second-guessers, and we all second-guess every action that is taken. Folks over at that table are excellent at that. And so are we all, because we reflect that. We do a lot of second-guessing. That is your job. I don't begrudge that.

But that second-guessing leads to a failure to act, and we get into a vicious cycle. On the one hand, law enforcement is weaker, so the laws are less enforced, so people have less faith in law enforcement, so it gets weaker still. And the cycle goes around and around.

I was struck by Henry Hyde, a man I have tremendous respect for, bringing up at the end, well, we have to understand these religious cults and these religious types of attitude to better deal with it, and he almost was being sympathetic. He wasn't saying it justified their actions, but it was getting close.

And I also remember my frustration when those on the left would do the same with people who were wanton murderers, saying, let's understand the horrible childhood they had. Well, I want to have understanding, but I don't want it to get in the way of keeping our Nation the Nation of laws, that we are.

And I worry about it. I worry about how difficult it is to be a cop on the beat where you are darned if you do and darned if you don't, and how difficult it is to be one of the people at that table.

Now, we saw all those people, and one impression I will always have is how the law enforcement folks who came before us day in and day out, that they were good people. They were fine people. They were trying to do their jobs with the right blend of toughness and compassion.

And I think they impressed every one of us, and I think they impressed people throughout America. They weren't jackbooted thugs, nor were they bleeding hearts just sitting there examining problems. They were fine.

And what are we going to do and how can this hearing help us make them do their job with fairness and compassion and understanding but without paralysis and a Hamlet-like failure to act? I think that is one of the great challenges that we are left with here.

And I believe these hearings have had their good side and their bad side. But, overall, if instead of going off on a theory—let's cripple ATF, let's cripple FBI—but instead how can we have better law enforcement in this country that all the people in America, even those on the extreme right and extreme left will believe in, then we will have made a better country.

I thank you, Mr. Chairman.

Mr. ZELIFF. Mr. Chairman, could I make just a quick response, just so nobody walks away from here misunderstanding me, and I may not have made myself clear to you.

When I say organizational structure of the Federal law enforcement agencies, I did not say, weaken ATF. And what I am looking at is, and I say it to Attorney General Reno, she has an opportunity with Louis Freeh right now, as they look at some of the changes that are going through the FBI, take advantage of the time, of what we have learned here. Let's make it better. Let's make it so we have respect for all law enforcement.

I did not single out ATF. You did. I did not.

Mr. MCCOLLUM. I just want to conclude——

Mr. SCHUMER. Excuse me. I didn't even single out you.

Mr. MCCOLLUM. I believe he is singling out no one.

We are ready to wrap these hearings up, and I do have a few remarks I would like to make. Having had the privilege of chairing

today and the privilege of working with both you, Mr. Zeliff, and you, Mr. Schumer, for quite a number of days now, I would like to make these comments.

After 10 exhaustive days of hearings on the Bureau of Alcohol, Tobacco and Firearms February 28, 1993, raid on the Branch Davidian compound in Waco, TX, the 51-day Federal Bureau of Investigations siege, and the CS tear gas assault of the compound on April 19, 1993, all Americans have a much better idea about what happened, what went wrong and who was at fault for the mistakes and the loss of life.

More than 90 Americans died at Mount Carmel from February 28 through April 19, 1993, including four ATF agents and at least 22 children. While it will take several weeks for the compilation of a written report of these two subcommittees, all of us who participated have begun to draw conclusions, and I think it is appropriate to share a few of mine.

Before I do, I feel that I should address the issue of whether these hearings have been good for law enforcement.

The combined law enforcement experience of the Republican members of these joint subcommittees is remarkable. Our membership included a retired police officer and police chief, district attorneys, an assistant State attorney general and two Federal prosecutors. I personally have spent countless hours of the past 14 years working on crime legislation that has benefited Federal, State, and local law enforcement in dozens of ways.

We all know that the best way to support law enforcement is to support the rule of law. When we demonstrate that none of us are above the law or beyond scrutiny, we strengthen the very institution of Government, including the process by which its rules are enforced. This is why we can state without hesitation that citizens are obliged to accept peacefully the service of process of law by law enforcement and to voice their objections, not through violence against officers performing their lawful duties, but through the judicial system.

Now, none of this tragedy would have happened but for the diabolical actions and mindset of Vernon Howell, also known as David Koresh, and his fanaticism. The evidence portrays a depraved man who most probably deluded himself into believing he was the Messiah of God.

It clearly appears that Koresh captured the minds of his followers with a radical interpretation of the Bible's Book of Revelation and held absolute control over them to a degree hardly matched in the annals of American history. All females in the group appeared to have belonged to him to satisfy his sexual appetites and to no other males. Over some period of time, he had sexual relations with an undocumented number of underage girls as young as 10.

Koresh was manipulative with everybody with whom he came in contact and always had a biblical interpretation to explain his deviant and sometimes unlawful behavior. Perhaps because of distrust of the outside world and law enforcement, or perhaps because of his religious views which propelled him toward a violent, possibly fiery, confrontation with outside authorities to fulfill his destiny,

Koresh amassed a huge cache of weapons. A sizable number of these weapons were illegal under Federal law.

Notwithstanding any defects in supporting affidavits, the ATF no doubt had probable cause to obtain an arrest warrant for David Koresh and a search warrant for the Mount Carmel premises. ATF agents conducting the raid on February 28 acted with great courage and with honest convictions that what they were doing was right.

It will never be known with absolute certainty who shot first, but it is remarkable that every single ATF agent at the scene in Texas Ranger interviews stated the firm conviction that the first shots came from inside the Davidian compound. I personally am convinced that this was the case and believe that any reasonable person listening to all of the testimony we heard would come to the same conclusion.

However, none of this excuses the incredible mistakes by the ATF raid planners, the raid commanders, and those overseeing the ATF and the Treasury in Washington. There is plenty of blame to go around.

The raid plan was flawed in concept. The ATF should have taken whatever time was necessary to arrest Koresh away from the Davidian compound and then proceeded to attempt a less confrontational approach.

Evidence is clear that from the top on down ATF abandoned any idea of arresting Koresh anywhere away from the compound at least 10 days or 2 weeks prior to the February 28 raid. This was a tactical decision that had nothing to do with how often Koresh came out or whether he could be lured out.

ATF officials decided that it would be preferable to make a dynamic entry to search the premises with Koresh present. This decision lacked common sense, was based on flawed intelligence, and demonstrated the ATF's lack of appreciation of the beliefs and tenets of the Davidians and Koresh's hold on them.

Additionally, there was no compelling reason for the ATF's sense of urgency that drove the raid to be conducted on February 28, as opposed to 2 weeks, a month, or even later.

Furthermore, any real appreciation for the religious tenets and group dynamic of the Davidians would have alerted ATF to the fact that the type of assault they conducted on February 28 played into the prophesies of Koresh and the fears of his followers in such a way that a violent confrontation was predictable.

I might note that early ATF abandonment of capturing Koresh outside the compound before the raid is a critical new fact revealed for the first time during these hearings.

The undercover operation was amateurish. Intelligence was very poor. ATF really never knew enough about what was going on inside the compound to make many of the judgment calls that were being made. It is unforgivable that all the videos and still photographs taken from the undercover house were never reviewed by the key planners and decisionmakers. The plan was never reduced to writing.

As it turns out, command and control was sorely lacking. No one in Washington, either at ATF or Treasury, insisted on a written plan to review. Everyone up top seemed to assume that if surprise

or secrecy was lost, the raid would not go forward, but there was no written plan containing this, nor was there any explicit instruction from Treasury officials or ATF Director Higgins or Deputy Director Hartnett to the raid commanders not to proceed if surprise or secrecy were lost.

It appears that a primary reason that the dynamic entry route was chosen was because ATF did not have the experience, negotiators, or capability of conducting a siege of any significant duration. This fact was ignored in the Treasury report and glossed over by ATF witnesses.

A bad siege experience in the mind of ATF Agent Buford in Arkansas seems to have made him determined to avoid a siege. And because he was the seasoned agent involved in the planning, others deferred to his views and embraced the dynamic entry approach.

No thought appears to have been given to seeking assistance from the FBI before the raid. If the TV cameramen had not tipped the Davidian mailman the morning of raid, the element of surprise would not have been lost. No doubt the press should have acted more responsibly. But it should have been obvious to ATF officials that they were putting surprise at risk when they laid their cards to the officials of the local newspapers, and even ATF's own public relations agent called two television stations the day before the raid and said words that conveyed the impression something was going to take place very soon.

Of course, one cannot understate the tragic mistake of Officers Sarabyn and Chojnacki in disregarding the frantic warning of undercover agent Rodriguez the morning of the raid that the ATF's cover had been blown and the element of surprise lost. Despite their denials during the hearings, the evidence clearly points to their understanding of Rodriguez' warning at the time he gave it.

The failure of Secretary of the Treasury Lloyd Bentsen and his Deputy Secretary, Roger Altman, to meet with ATF Director Higgins at all during the 30 days or so they had been in office preceding this raid cannot go unmentioned.

If a normally routine meeting that the head of a department would have had with one of his top law enforcement agency heads in the first couple of days after assuming office had been conducted by Secretary Bentsen or Deputy Secretary Altman, there is a good probability that Higgins would have been asked to reveal any important active ATF cases, and surely the Waco case would have come up. If that had happened, the Treasury officials would have had more than 48 hours to react to the raid proposal.

One can't help but believe a more thorough review by Treasury officials superior to the ATF would have kept some of the tragic mistakes that led to this raid from appearing.

In general, the Treasury Department response after the raid was positive and constructive. The detailed investigation in the Treasury report were reasonably good but not as perfect as Under Secretary of Treasury for Law Enforcement Ron Noble wanted us to believe. Clearly, Noble and some others at Treasury tried to distance Treasury officials and the new administration from the decisionmaking process and any blame.

Mr. Noble's comments on "60 Minutes" that ATF agents had been directed by Treasury not to proceed if the element of surprise

was lost simply was not the case. In testimony, Noble admitted that no one was ever explicitly directed in this fashion.

Now, the conduct of the FBI in the 51-day siege and the CS gas assault is a different matter. In my opinion, while mistakes were made that came out of these hearings that have not been admitted by the FBI or the Justice Department, none of them rise to the gravamen of the errors of the ATF or the Treasury Department. Institutional pride appears to have caused the FBI to dismiss any idea of calling on local law enforcement to assist in the negotiations or in the tactical response.

While the operation of some technical equipment and the general direction of the onsite operation of the siege may have required FBI personnel, there was no compelling reason given not to have considered the use of local SWAT teams to maintain the perimeter should the Hostage Rescue Team have needed to stand down to refresh perishable skills had the siege lasted longer.

Also, the FBI negotiators did not appear to recognize the potential benefit of using religious experts in working with Koresh and did not give any weight whatsoever to the efforts of Koresh's attorney in the final days to draw Koresh out by appealing to his desire to be the messenger of God rather than a martyr. The attorney testified he believed Koresh would have come out in 10 days or so.

Despite statements to the contrary at the hearings, it was clear that all onsite key FBI personnel had concluded that the negotiations were at an impasse and that Koresh was a liar, would never come out, well before Koresh's attorney presented what he believed to be a breakthrough with Koresh on April 14.

Had the FBI tactical commander of the operation, Jeffrey Jamar, and the chief onsite negotiator, Byron Sage, not been so absolute in their mindset, they might have more generously projected the state of these negotiations to the Justice Department and Attorney General Reno during the 3 or 4 days immediately prior to the gas assault.

In a memorandum dated April 15, 1993, to the Director of the FBI, Dr. Murray Miron, the consultant hired by the FBI, in describing his feelings about Koresh's writings to interpret the Seven Seals, which were integral to the final few days of negotiations, stated,

> It is apparent that the muse is upon him, and he is feverishly working on his manuscript. He can be expected to value these writings in the highest regard. Their publication and dissemination would be a powerful negotiating tool.

Sage and Jamar say they never believed Koresh was really working on these manuscripts, and that it was all a ploy to stall for time.

While Miron shared the view that Koresh would use the writings of his interpretation of the seals to delay coming out, he clearly thought that Koresh was working on them, would eventually produce them, and this could be the negotiation tool to get him out. Had the FBI officials taken this matter more seriously, had the Attorney General been given a more objective flavor of the negotiations, and had the Attorney General talked directly to the negotiators and Koresh's attorney, the CS gas assault might not have been approved by the Attorney General Janet Reno, at least for a few more days.

There is no evidence to substantiate the concern of Jamar and others in the FBI that there was a danger in delaying the implementation of the CS gas plan for a few more days or even weeks. Mr. Rogers, head of the Hostage Rescue Team, said that the HRT could remain deployed for at least 2 more weeks.

The FBI apparently believed that Koresh not only would never come out voluntarily, but that he was determined to have a violent confrontation. Consequently, they concluded that with each passing day the chances grew greater that Koresh would choose to attempt to come out in some violent manner which might endanger FBI agents and the children.

While it was certainly plausible to consider this scenario, the idea that his taking such action was imminent on April 19 is not supported by the facts.

The fact that one Davidian who came out said Koresh had considered a plan to come out with explosives wrapped around him on March 2 does not justify the conclusion that 49 days later, with no intervening evidence of Koresh planning any voluntary, violent exit, waiting a few days or even weeks longer would produce this result. Somehow they rationalized their actions by concluding that time was on Koresh's side, while most law enforcement with experience would indicate time was on the side of the FBI.

Last, all involved should have recognized the probability that the Davidians would open fire when the vehicles approached to insert the gas and that the type of violent confrontation this would present would play into the hands of Koresh's religious prophesies and interpretations of the Book of Revelation. Since the gas insertion plan called for a rapid acceleration if vehicles were fired upon, it would seem obvious to everybody that this was going to happen.

It would seem equally obvious that it was a good probability under those circumstances that Davidians in the compound would not bring their children out during such a confrontation. Consequently, this plan was a very high-risk, aggressive plan from its inception.

If the FBI did not recognize this fact, they should be faulted for failing to do so. If they did recognize it and did not adequately apprise the Attorney General, they are certainly to be faulted for that.

Perhaps a high-risk, aggressive tactic to end the siege would have been necessary at some point, but it should have been recognized for what it was and judged on that basis by all concerned.

Now comes the question of whether Attorney General Janet Reno acted as a reasonably prudent man or woman would have done under the circumstances in allowing the CS gas assault to take place on April 19, 1993.

It is clear that everyone at the FBI badly wanted this plan approved and pressed very hard over a considerable period of time to get the go-ahead. To her credit, Attorney General Reno resisted for some period of time, asking many of the questions that most would have expected her to ask and consistently got answers that reinforced the contention of the FBI that this was the only responsible thing to do.

Because of this, it would be easy to conclude that despite the tragic consequences she acted in a reasonable manner in approving

the assault. However, it is not that simple. Faced with a critical question of whether there was an impasse in the negotiations, wouldn't a reasonably prudent person having to make the CS gas decision have immersed herself personally in determining the status of these negotiations, rather than accepting the characterization given her by the Justice Department and FBI officials she assigned to talk with chief negotiator Byron Sage?

One can only wonder how different it might have been had Attorney General Reno personally talked with Sage, Jamar, and David Koresh's attorney and gotten the full flavor for herself of what was or wasn't happening in the last days before the assault.

Then one must ask why the Attorney General would have believed that the Davidians wouldn't open fire on the approaching vehicles to insert the gas, thereby accelerating the insertion of the gas and creating a confrontational environment likely to lead to a total failure of the plan. And from her testimony, she apparently assumed it was likely the Davidians would open fire as, in fact, they did.

Then one has to ask why should she have assumed that the people inside would act like reasonable people when the gas insertion occurred, rather than like the followers of David Koresh, whom they were.

Had Attorney General Reno fully appreciated the nature of the people in the compound and their religious tenets and total subservience to Koresh, surely she would have concluded that it would have been unlikely they would respond to this CS gas assault by simply bringing the children out. She would have seen it far more likely that the women would huddle the children together in a dark corner, pray, and try to outlast the attack or just consider it all their destiny and perhaps their salvation to die there together.

Were there solid reasons for the Attorney General to force the resolution of the siege on April 19 rather than waiting a few more days or a few more weeks? While the FBI certainly presented it that way to her, each of the primary reasons given fails at close examination.

As has already been discussed, there is no evidence to support the concerns expressed by the FBI that there was any imminent likelihood of Koresh initiating an unprovoked violent confrontation. While there was some concern over the Hostage Rescue Team fatigue, they could have lasted at least a week or two longer while—and while not the perfect solution, local law enforcement could have backed them up during such a standdown.

Conditions inside were not good, but there is no evidence that the health of the occupants was in any immediate danger or that child abuse was any greater during the siege than it had been over a considerable period of time prior to the February 28 raid.

There was considerable question as to whether negotiations were truly at an impasse, which the Attorney General could have discovered had she taken the time to personally immerse herself in this question.

In short, the American public has every reason to wonder whether this tragic result would have happened if Attorney General Reno had followed her initial instincts and taken the time to let this siege play itself out at least a few days longer.

In the end, the same decision on the CS gas plan might have been made and the same result might have occurred. In my judgment, under the circumstances, the prudent thing would have been for the Attorney General to have delayed the carrying out of the plan at least long enough to have personally talked with all the key players at Waco involved in the negotiations and the standoff. She did not do this.

It should be noted that the FBI did nothing sinister and their agents performed, for the most part, in the usual outstanding manner we have come to expect from the FBI.

The evidence is overwhelming that the fire was started inside the compound by some Davidians. We will never know why the fires were started or who inside the compound started them or why some of the evidence is missing.

I, for one, am convinced there was no conspiracy or plot and that what mistakes were made by the FBI are attributable to the failures of human nature that one might expect from the extreme stress of these circumstances.

Surely these hearings have accomplished much of what was intended. The American public has been given the opportunity to thoroughly review the details of what happened at Waco and an assessment has been made by congressional oversight of the actions which took place and the mistakes which were made.

In the fall, the Crime Subcommittee, of which I chair, will undertake hearings on the reauthorization of much of Federal law enforcement, including the FBI and the ATF. Knowledge learned from these hearings will be invaluable in these considerations.

Now, I have taken a considerable amount of time to close and I appreciate the indulgence of my colleagues, but after you have done 10 days of hearings, and after we have been through all we have been through, I think all three of us understandably wanted to express our own personal views.

Let me state in conclusion that this is not the report of the committees. The committees will get together. There will be a written report issued in the fall.

The minority will be given the opportunity to comment on that report. Perhaps there will be corrections, changes or details made available that were different than before and they will be given the opportunity, should they still dissent from the report, to issue a written comment. But at least these are a few thoughts that I have about the details of what went wrong and what we discovered and what we learned over the past several days.

Again, I want to thank my colleagues for their indulgence, not only in regard to this close that each of us made, but also with regard to all of these days of hearings. You have been very remarkable, all the staff have been very good about it, and, yes, the media too has been patient with all of us, and we appreciate greatly the opportunity that we have had, Mr. Zeliff and I, in particular, sharing this job of chairing this to present to the American public a thorough analysis of what happened at Waco and what went wrong and maybe a lot better insight.

And at the end of the day today, I hope and I believe that Federal law enforcement going forward henceforth will have more

credibility and maybe we will be able to put a lot of the conspiracy theories and the other problems with Waco behind us.

The hearings are now adjourned.

[Whereupon, at 7 p.m., the subcommittees adjourned.]

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