WITNESSES:
DICK REAVIS, AUTHOR, "ASHES OF WACO"
STUART WRIGHT, EDITOR, "ARMAGEDDON IN WACO"
RAY JAHN, ASSISTANT U.S. ATTORNEY
AFTERNOON SESSION -- 1:17 P.M., WEDNESDAY, JULY 19, 1995
REP. ZELIFF: The subcommittees will come to order. We'll renew the panel. Mr. Jahn, if you would proceed.

MR. JAHN: Thank you, Mr. Chairman.

REP. ZELIFF: If the gentlemen in front of you would just kind of open up and give you a path.

MR. JAHN: Mr. Chairman, ladies and gentlemen, my name is Ray Jahn. Appearing with me today at the table is my co-counsel and my wife, Laura Morgan Jahn. Jointly we were the prosecution, or part of the prosecution effort into those who were charged in connection with the events which occurred at Mount Carmel. Between the two of us, we have 44 years of experience in investigation and prosecution of those responsible of violation of federal law. We are not appearing today as management within the Department of Justice, because we are not management. We are not appearing in a policy-or position-making or a decision-making position, because we are basically career prosecutors, and that's our duty: We are assigned to prosecute criminal cases.

We are here, though, because of being in that position we had an opportunity to review more information and interview more witnesses than probably any other single person within the Department of Justice. And in that regard we were made available, as you know, to your staff, to try to correct some of the myths and misconceptions that have arisen during the course of the last two years. In that regard, we appreciate the opportunity to appear here before the community to try to gain -- to give to you our insight, to give to you our direction as perhaps where so many of the answers may lay to some of these questions that are had, and to give you some of our opinion in hindsight, which of course is 20/20 and gained in background.

Some of the myths, for instance, that pop up, you see them everywhere. Just this morning, for instance -- and this is one of the things that we might want to pay attention to -- Mr. Reavis suggested there was something sinister about --

REP. ZELIFF: (?) Could you pull your mike a little bit closer to you?

MR. JAHN: Sure. I'm sorry -- something sinister about Davy Aguilar's failure to conduct an investigation during the period of August to November of 1992. I have not spoken to Special Agent Aguilar about that, and I understand he may be a witness later on
REP. ZELIFF: (?) He will be.

MR. JAHN: -- but, based on my experience, I'll tell you what the answer is. During this period of time Mr. Aguilar works for an agency that assigned the Treasury Department. Those of us who are in law enforcement know that Treasury Department, from about midsummer until November, is tied up in the campaigns. That's their main functions. They borrow from Customs, they borrow from ATF, they borrow from Internal Revenue Service. They get as many special agents as they can to augment their Secret Service. I would be willing to surmise -- and that's what it is at this point -- but I would be willing to surmise that Mr. Aguilar will answer that particular -- that that's the reason he could not conduct any investigation at the time.

It is not though, or the risk is, the danger is that it is a basis on which someone has formed an opinion, and then based upon that opinion they start to scour the record looking for evidence that will support that opinion. And that's what I hope and I feel that this panel will steer away from in this particular regard.

For instance, the other gentleman made some comment about how this was an ordinary religious movement out there in Mount Carmel. I beg to differ with you. My hair stood on end when I read the interviews of five- and six-year-old children that came out of Mount Carmel knowing how to commit suicide, knowing to put a gun barrel into their mouths and blow the top of their heads off. That is not ordinary religious doctrine. That is not what we are dealing with. So that's one of the reasons I am willing to try to share with you some of our opinions that we came to over this period of time.

And the first opinion -- we prepared a joint statement which I'd like to ask to be submitted and be made a part of the record -- but our first opinion was basically that the Branch Davidians were not coming out. That was a decision that was based -- or an opinion that came to be held by virtually everyone as of the middle part of April 1993.

The tragedy that is involved here actually began back in 1992, when David Koresh makes his prediction, moving his timetable initially from '95 up to Passover '93. In the Passover season of '92 -- this is based on our witnesses' testimonies -- he predicted that that was going to be the last Passover; that sometime during
the year 1992 to 1993 the confrontation with the beast, which in this regard he personified as the government of the United States, had to occur. That was his theology. It was based on his theology. The followers were there. They believed in David Koresh. They believed his teachings, as every survivor who testified testified to, that Koresh meant death. They followed this particular belief. They were there to die. They were there to die, and according to Koresh they were either going to die by bullet, they were going to die by fire, they were going to die by tank or, if they were fortunate, they would be translated to heaven without having to go through the agony of death. But the one message that he taught -- and this again was testified to by the three survivors who testified on behalf of the United States -- was in order to show your worthiness to go to heaven you had to be willing to kill. You could not die for God if you could not kill for God. And in the words of one of the survivors, there were no conscientious objectors at Mount Carmel.

We were prepared to prove, but the court excluded it for the reasons I'll tell you in a second, of an instruction and a plan that David Koresh discussed with his followers, and this is what we call the McDonald's plan. And in that he encouraged them to go out in the community in order to force a confrontation with law enforcement, to go out in the community, take over a public facility -- a McDonald's, or if you recall there was an incident in Killeen involving a Luby's Cafeteria -- take over a facility, take the people inside hostage, hold them at gunpoint, and force them to admit that David Koresh was the lamb of God. If they refused, he encouraged and directed his followers to do so -- to kill them if they refused. It was our opinion that what he was trying to do here was to force a confrontation with law enforcement authorities. He later backed off on that. He later came back and said, "Well, it was just a test." And of course if any of you are familiar with Jonestown and the actions of Jim Jones, that is what he did to condition his followers to take the poisonous suicide -- cyanide -- was to go through these tests of it's time to commit suicide, it's time to impose these things -- drink the suicide and die.

He also, during the same period of time -- and you'll hear from this witness -- he testified to it -- or told an outsider who was there examining the child abuse allegations -- he told her that "when I reveal myself, my true identity, the riots in Los Angeles will pale by comparison." This is right after they had the major riots in Los Angeles.
We were also prepared to prove, through the testimony of witnesses, that even when that lady came to make her interviews, the Branch Davidians had intentionally kept away from her the small children who were David's children. They did not want to see the 15 or 16 children that ran around at about the same age that were David's children, because they were afraid that if they did they would start questioning the ages of their mothers. Indeed, one of the plans that we had in the event we'd been successful on obtaining David Koresh's arrest, was to take DNA samples from him and from his children to prove that he had been having sex with minor children, and then to submit that to the state so that the state could prosecute him for being a child molester.

We established that David Koresh intended to have a confrontation -- that's what he was after. He was going to have a confrontation sometime between Passover of 1992 and Passover of 1993, and unfortunately it was ATF who stumbled into that intent. Unfortunately, it was ATF who arrived on February 28th to initiate or to execute a lawful search warrant. And instead Koresh had 45-minutes warning, had a notice that they were coming, and spent that 45 minutes, instead of preparing to surrender or to arrange his resident counsel -- he had a lawyer inside the building with him -- to arrange a surrender -- he spent that time preparing -- preparing to resist the agents.

There is some surmise concerning helicopters, and whether or not the helicopters shot at the Davidian compound that day. We presented the testimony of Mr. Maloney (sp). I know Mr. Reavis wasn't there during the course of the testimony, and he had to go back and read Mr. Maloney's (sp) testimony. Mr. Maloney (sp) was quite clear, using a map, that what he was talking about was not the first intersection, but he was talking about being at a location some mile behind the compound, back behind the hills -- this is a very hilly area -- and then beyond that seeing the helicopter circling. And that was perfectly consistent with the testimony of the citizen soldiers of the Texas National Guard, who were flying those helicopters that day, that they did some distance away, some miles away, orbit, because they were trying to wait for the time factor. They did not realize that the raid had been moved up. There was no testimony from any pilot, or any person on board those helicopters, of any gunfire. But, more significantly, there were videotapes that were made from those helicopters, and they were delivered to defense counsel, and they were played for the purpose of the jury. There is no evidence, no sound of any gunfire coming from any of those helicopters. Indeed, you can hear the bullets striking the helicopters, but you can't hear the bullet -- any sound of any gunfire going out of those
helicopters.

With this kind of mind-set, it was also confirmed the fact that there was a suicide pact within Mount Carmel. This was something that was not discussed that much in the press, but every survivor testified concerning that suicide pact. And basically what the design was, or what the plan was, was that David Koresh thought he was dying. He thought that wound that he received on February 28th was so severe that he was going to die, and when he died his followers were going to come with him. When he died, they were going to put his body on a stretcher. They were going to come outside with their women and their children -- the mighty men, the men that were loyal to him, were going to be carrying his children. They were going to have guns and hand grenades concealed. They were going to pull those guns and hand grenades and open fire on the FBI, thereby forcing the FBI to fire back. A suicide (by cops ?) -- exactly what it was -- trying to force the FBI in front of the world press to be humiliated, to be criticized for shooting women and children, and shooting people that were there at Mount Carmel.

And then if that failed, they were going to kill themselves. They even went around selecting their friends as to who was going to be the person that was going to kill you. They went around and rehearsed how they did it. This, again, is based upon the testimony. They went around and rehearsed how to do it.

"How many people can die (from a ?) a hand grenade? Shall we have three of us or should we have four us standing around when the hand grenade is pulled? Who is going to pull the pin?" That was the degree of rehearsal.

It got to the point where they finally even got down to say good-bye to each other. They gathered in the cafeteria on or about March the 2nd or 3rd. They had religious services to the extent they had. They sang songs. David all of a sudden sent out messages. He was feeling better, and that's when the message came that God said to wait.

Now, no witness testified that God told him that he was going to surrender. All he told him to do was wait. There was never any testimony that David Koresh intended to surrender.

Likewise, during the 51 days of the siege, there was never an indication that David Koresh was going to surrender. There was more negotiations, hundreds of hours of the negotiation tapes, all
of which have been released to the public. There were hundreds of hours of Title 3, and I understand now that the Department of Justice has obtained, finally obtained a court order that permits those to be released to the public.

Those indicate that there was no intention to surrender. The only people who came out of Mt. Carmel during the 51 days were people that David Koresh sent out, he selected for various reasons to go out. An example, Kathy Schroeder (sp), the lady who made a deal with us and testified on our behalf. She was sent out because she was a sinner. When David Koresh was weak, she had smoked cigarettes, she had drunk alcohol. And when he got his powers back and when he recovered his powers, he became incensed over that.

He called her in and he told her, he'd already sent her children out and they were going to stay in the world and not go to heaven, and he told her, "You have been such a sinner that you're going to interfere with my chances to get my followers into heaven. And so therefore, I'm going to send you out and you're going to stay here while I die. And then once I die, then I'll come back and get you, but because of that, because I can't risk your sin jeopardizing my mission, I'm going to send you out."

That's the reason that the negotiators, no matter what they thought, never could understand why they couldn't get more. And the reason they couldn't get more was that anytime they got something, it was because David Koresh decided they were going to give it to them.

The Branch Davidians started to fire that at least two defense counsel conceded it during closing argument. We proved it through direct testimony of experts, we proved it through a multiple type of experts, fire marshals from all over the nation that did an investigation, a Ph.D. professor who you'll hear from -- watch his tape, it's a great tape -- who came up with a fire analysis. We proved it through the scientific evidence showing the scattering of fuel through the compound. We proved it through the Title 3s. They were the ones that were heard on "Nightline" the other day. Mr. Reavis I think describes them as being murky. I'll be truthful to you. I heard it -- I heard it the first time I listened to it. If you didn't hear it, go back and listen to "Nightline" again. You can hear the instructions even through the gas masks. Even though it was too difficult to hear on April the 19th, when you go back now and listen to it, you can hear the instructions. You can hear, "Spread the fuel. Have we spread the fuel yet? Have we saved some?" You can also hear some of the passages where he says, "We
set the fires when the tanks come in."

This was the type of evidence or the degree of evidence that we used to affirm or to prove those particular matters. And then lastly, of course, it was confirmed by the presence of the forward-looking infrared camera that was located on the plane above. This is another area where we have myths that grow.

One of the myths is, well, the FBI must have known there would be a fire or else they wouldn't have put that camera up there. This operation started in the dark, this operation started before sunrise. That camera was up every night during the 51 days. It would circle, it would make those photographs, it would follow that particular area, and they were trained observers. What better choice to the FBI than to leave that camera up there even though it did go into the daylight, not because they thought a fire was going to start, but merely because they wanted the extra set of eyes that were up above.

What about the still pictures that were taken from the plane up above? Take a look at those. Examine them. It shows where the tanks were. It shows how far they went inside. One of Mr. Reavis' suggestions is that the boom operator, the tank operator went in and knocked against that bunker that you see on the later portions and knocked down some stones and killed the people inside.

Outrageous. The boom operator completely ignores the testimony of the operator, a Marine Corps -- a veteran who was trained in the Marine Corps to operate this very vehicle, who very carefully goes inside and never goes through -- look at the floor plan, even in Mr. Reavis' book. There is a room, a hall, a room, and then the bunker. Never goes past that very first room. Never penetrates beyond that first room in order to inject the teargas in there and to open up the various sides of the wall.

And one thing you need to remember on that, too. The testimony of all the survivors that came out, all but two -- two did not, but all but two of those survivors came out through holes that had been made in the walls by the FBI tanks. Two came out windows, but the rest of them came out through those holes. That was part of the reasoning behind it. There was testimony as to what the reasoning was, why that operator used his skill to go in there and open up that particular area, and it was to open up the area. It was to provide an escape route.

This is the kind of myth that we're concerned about, and this is
the kind of myth that Leroy (sp) and I would like to be here. We also established, for instance, that the survivors that came out, their clothes smelled of accelerants. They smelled of diesel fuel, they smelled of lantern fuel, they smelled of lighter fluid. And the laboratory later came back and confirmed that they had done it.

There was more suggestion or surmise that there's some sinister purpose of the tank coming down near where the bunker is. If you'll see some later film, there's a picture of the tank down there with his blade out. That ignores, again, the testimony of the operator, who has testified concerning why he was there and what he was there for. He knew that he was in danger. He knew that if that building fell over on him, he was --

REP. ZELIFF: Mr. Jahn.

MR. JAHN: Yes, sir.

REP. ZELIFF: Your time is expired. If you could kind of wrap up.

MR. JAHN: I'm sorry, Your Honor. Sorry, Mr. Chairman, I didn't realize that. (Laughter.) We submitted our other matters in there, and I think the most important thing to remember is that Leroy and I, to the extent that we can speak for anyone, speaks for the hundreds of law enforcement persons, state, local and national, whose lives have been affected by this matter, who are not the (chiefs ?). They're not out to inflict any damage, they're not out to injure anyone. They're your brothers and your sisters and your mothers and your sons and your daughters, and let's not forget that during the next few days. Thank you.

REP. ZELIFF: Thank you, Mr. Jahn. Thank you very much. We have a problem here. You've been hearing some bells. We have two votes pending, maybe three, and the process means that one will be for 15 minutes, which we're going to immediately move out to do. There may be two five-minute votes after that. The procedure is that we'll recess until five minutes after that series of votes.

So if you'll be patient, I'd appreciate that. We look forward to asking all the panel their questions. Recess. Thank you.

REP. : Till when, did you say?

REP. ZELIFF: We'll recess till five minutes after these series of votes.
(Recess until 2:10 P.M.)

(Recess.)

REP. ZELIFF: Will the subcommittees please come to order?

The procedure that we're going to use here on questions is that the subcommittee and committee chairs and ranking minority members will each have five minutes to ask questions, and the chair will begin.

Mr. Reavis -- did I pronounce that right? Is it (phonetically) Revis or Reevis?

MR. REAVIS: (Phonetically) Revis.

REP. ZELIFF: Let me just ask you, you've been researching this project since 1993, two years, and what do you believe -- and this is a real easy one, but just in 30 seconds or less, what would you believe the most important thing we can do to -- in these hearings is to -- that would come out of all these hearings?

MR. REAVIS: I think the most important thing would be if you could declassify or give to the public and the press all of the documents that we haven't been able to get at.

For example, all of the raiders gave statements to the Texas Rangers. The federal prosecution has those statements. Nobody will turn them loose.

REP. ZELIFF: I must admit, we've had trouble also.

MR. REAVIS: I understand you all have. So first of all would be the documents that exist. They shouldn't be kept secret. It's been two years. There's no longer any good reason for that.

REP. ZELIFF: Thank you. Mr. Jahn, the -- just a couple questions. When you were prosecuting the surviving Davidians, am I correct that in addition to what you have already testified to that you charged 11 of them with murder?

MR. JAHN: That's correct.

REP. ZELIFF: And 11 with aiding and abetting murder?
MR. JAHN: Conspiracy to murder and then the actually aiding and abetting the murder itself.

REP. ZELIFF: And 10 were using or carrying a firearm in the commission of a violent crime?

MR. JAHN: I'm going to accept your word on that, Chairman. I don't remember the exact number on that.

REP. ZELIFF: But approximately 10?

MR. JAHN: Approximately, yes.

REP. ZELIFF: Okay.

And is it true that Davidians stated that they were acting in self-defense?

MR. JAHN: That was a charge that was given to the jury, but there was no evidence to support that charge.

There was no evidence that they were afraid of ATF as far as being physically afraid that a particular ATF was going to fire at them or anything like that. The court bent over backwards and gave them a self-defense charge.

REP. ZELIFF: Right. But they basically -- that was their -- that was their basis? I mean, they said that they were acting -- it is true that they were acting in self-defense?

MR. JAHN: That was one of their -- that was one of their claims.

REP. ZELIFF: Right. Is it true that no Davidian was convicted on the counts mentioned?

MR. JAHN: Of the murder and conspiracy to murder? That's correct, yes, sir.

REP. ZELIFF: Thank you very much.

I want just -- to ask you that -- during the days immediately after the ATF raid, a shooting review was conducted, which involved asking questions of all the ATF agents involved, and at some point -- (inaudible) -- questions that could produce information that's helpful to understand exactly what happened.
The Texas Rangers state, referring to Treasury (base ?) number 14137, that you, Mr. Jahn, wanted the review cut off. And I guess my question is is why would you, of all people, want to cut off a process that was designed to get at the truth?

MR. JAHN: I think that was a mistake, Mr. Chairman. I didn't come on board until April the first, and it's my understanding that there was a decision made to stop the Treasury review and let the Rangers do all the investigation and gather their information, but I think that was a mistake on the report, because I had no -- no one consulted me about cutting off a Treasury review, so I think it might be a mistake.

Now, if perhaps they talked to the U.S. attorney who was on the case prior to April the first --

REP. ZELIFF: Do you have any knowledge of any other federal prosecutors cutting that off?

MR. JAHN: No, not direct knowledge, no, but I'm saying perhaps they talked to Mr. Eggars (ph). That's the only thing I can think of.

REP. ZELIFF: Okay.

Let me move on to another question. Let me see. On -- we found a set -- we had thousands and thousands of pieces of paper to go through, and many -- much of it was very well -- very unorganized. We found a set of handwritten notes that looks to me to be from someone at the Treasury Department. They read as follows: "1:20 p.m. per Tony. Ray Jahn advises us to tell Ron Noble not to open the envelope from 'The Houston Chronicle.' Contents are from illegal intercepts. Lock in safe and keep. DOJ researching possible violations by paper for printing and distributing."

I couldn't help but be intrigued by what this Waco-related note means. Can you shed some light on what was in this mysterious envelope and why Ron Noble could not open it and why was it being locked in the safe?

MR. JAHN: Yes, sir. We subpoenaed and obtained from Mr. Maloney (ph), the TV cameraman -- or, actually, I believe it was the other one -- his total tape. On his total tape, they had a scanner that was scanning cellular phones, which is probably illegal interception of those cellular phone telephone conversations. If we had permitted that to be circulated around, that would have
been, in itself, illegal in terms of spreading it around, even letting Mr. Noble listen to what his agents were monitored saying, that in itself would be illegal. So we stopped the spreading until we could edit out those portions of the illegally seized cellular phones.

That investigation was referred to Justice. I don't know what they ever did in terms of whether or not that constituted an illegal wiretap by the press or not. I don't know what the final outcome of that was.

REP. ZELIFF: If all -- this is the last one, just a quick one. If you knew all the bad things about David Koresh, why was -- why didn't you arrest him in town?

MR. JAHN: Well, I wasn't there. I didn't come on until April the first. I think what you need to do is address that question to Mr. Aguilar, who's going to be here, Mr. Johnson (ph), who will. There's no obligation, once the warrant is issued, there's really no obligation to do it. It's a matter of judgment, and we're willing to admit there were some mistakes made in judgment in this particular matter.

REP. ZELIFF: Thank you very much.

The chair now yields to my friend Karen Thurman, the ranking minority member from Florida.

REP. THURMAN: Good afternoon.

Mr. Reavis, you keep talking about these documents. Can you give me a better sense, since you'd like us to ask a question on this, of what it is and what documents it is that you're still looking for? I saw your interview on TV the other morning that had suggested that now since then you've gotten the tapes. I guess since the trials you were given tapes from the FBI. What other documents is it that you're still requiring?

MR. REAVIS: Okay, the -- the tapes, as you call them, I have transcripts of those tapes, and I got them through a process that I think was irregular. An attorney named Joe Turney (ph), who had got them for discovery, gave them to me. No one has yet been able to get a copy of those from the FBI through the Freedom of Information Act, though about two weeks ago, the FBI put a set in its Washington office, and you can go in during working hours and look at them.
So they've been declassified to the Washington, DC, press, which doesn't help us a lot in Dallas.

But in particular, the documents I just mentioned were these: After the February 28 raid, the Texas Rangers interviewed all of the raiders, took a statement from each of them, typed it up, and we have only seen about 20 of these statements from those raiders who the prosecution thought it might call as witnesses in the trial. I tried to get the other 60 statements, for example, from the Texas Rangers. They told me I'd have to sue to get them.

Let me think what else --

REP. THURMAN: Could there be a reason why? I mean -- maybe Mr. Jahn as a counselor. I'm like you. I'm not an attorney.

MR. REAVIS: I've given you the reasons they've given me. They say that there's a lawsuit and that they don't want to complicate that litigation, and my assessment of that is that if the owner of the Watergate building had sued Richard Nixon and we would have let him say, "Gee, there's a lawsuit. I can't give you any documents," history would be much different than it is today.

REP. THURMAN: Mr. Jahn, would you like to respond to that?

MR. JAHN: Well, you know, there's a billion dollars worth of lawsuits filed against the United States, and there are exceptions under the Freedom of Information Act, exceptions that are granted by this Congress, to exclude the discovery of those items that would compromise litigation, pending litigation. That's the reason until the criminal trial was over, there was virtually no discovery whatsoever.

Since that time, I know Ms. Reno has given instructions to make as much as possible, but, again, because of the fiscal limitations on manpower and duplication and copying and everything, there's a big backlog on FOIA requests. I was told that this normal -- this delay which he's meeting is just a normal delay because of all the other people who've come in ahead of him, filing their requests, and they have to be processed. You take out informants' names, you take out the names of people that were promised confidentiality, you take out privileged sources, and then you turn it over, and that's just the normal process. There's no effort to conceal anything.
In fact, Mr. Reavis, if he had called me and asked me some information -- he prints in there that I was involved in the decision making to inject the tear gas, and that's totally false. If he had given me the courtesy of calling him, I would have told him, "No, sir, I wasn't involved in the decision making to inject the tear gas." So it's not a question of trying to hide something, it's simply a question that we operate under the rules that Congress imposes on us.

REP. THURMAN: I can tell you during the crime bill, everybody in the world wanted a copy of the crime bill. We couldn't get it to everybody, either, so -- and we kept having problems. Mr. Reavis, on page 14 of your book, you talk about the fact that the main premises of your book is that the press did not investigate this event at Waco and that only you really understand these events. Could you kind of describe for us how your findings differ from the rest of the reports or the reporters who have covered this story?

MR. REAVIS: First, I want to say thanks for reading my book.

REP. THURMAN: Well, you're welcome. It's my job.

MR. REAVIS: Always glad -- (inaudible) -- who does. What happens to the press during that time, and I think most of its members will admit this to you now, is that their budgets got spent during the 51 days. The search warrant, for example, was sealed for most, if not all, of that period. So the press couldn't even find out what it was that David Koresh was supposed to have done. It had to take the words of spokesmen for it. After those 51 days were over, I went down, and for example, ran into the transcripts of all the telephone calls from Mt. Carmel to the FBI. And for a year I had those, and I told people I had them and nobody wanted them. The biggest surprise I encountered in writing this book is that I had no competitors. And naturally, my conclusions differ, or my questions differ, because I learned a lot more than they did, because they abandoned the story when the building burned down. Now, of course there were some who didn't abandon it quite as quickly as others, but in general, this represents a major failure of the press in our country.

REP. THURMAN: Mr. Jahn, another question that has been kind of surrounding this has been about whether Koresh was having sex with girls as young as 12 and 13 years old. What evidence is there that Koresh was having sex with children?
MR. JAHN: We were ready to present testimony of Frances (sp) the midwife who had given birth some of the young girls. We felt so strongly that I would say, it was our plan to take his DNA upon leaving the compound and take the DNA of the children and prove it up. Basically, I've even heard Katherine Madsen (sp), one of the ladies that was mentioned, a survivor that came out, she was interviewed in the Waco paper, and she admitted one of the girls was 14 years old when she gave birth to one of David's children. So it was kind of a secret, but it wasn't a very closely held secret from within the members of the (message ?).

REP. THURMAN: Thank you.

REP. ZELIFF: The chair now recognizes Chairman McCollum of Florida.

REP. MCCOLLUM: Well, thank you very much, Mr. Chairman. Mr. Jahn, I want to ask a question of you. First, with regard to the trial itself, in terms of testimony, was there any testimony at the trial about ATF officers carrying firearms while they were in helicopters on the day of the raid?

MR. JAHN: Yes, that they were carrying firearms, and that they had been cleared. That the rules were that they could not have a round in the chamber, and that was the rule that the pilots operated under as they flew toward the area.

REP. MCCOLLUM: What was Kathy Schroeder's (sp) at trial relevant to the helicopters and firearms?

MR. JAHN: She was on the front side of the building, and she didn't have any personal knowledge, any direct knowledge.

REP. MCCOLLUM: That was her testimony at the trial itself?

MR. JAHN: Yes, well, if she was even asked, that would have been her answer. I can't remember now whether or not she was even asked. Because she was, she was at the front side of the building during the whole time of the transaction.

REP. MCCOLLUM: Well, we just had a lot of conflicting testimony about helicopters, as you know, and I wanted to find out what had come out at the trial. Mr. Reavis, you have stated in your book and in a couple of the comments that you've made here quite a bit about the aftermath of the siege -- or I should say aftermath of the 28th of February siege and the fire itself. You didn't get to
testify much about that today, but Mr. Jahn made a big point, as I
gathered from his testimony, that there was a lot of planning
going on, and that David Koresh never intended to surrender. As I
recall, you got some indication that David Koresh would have
surrendered right along. I'm sure you sat there with me, listening
to Mr. Jahn's testimony, and I wondered if you could respond to us
what your investigation unearthed and why, if you do disagree with
Mr. Jahn on that point, why you disagree.

MR. REAVIS: Mr. Jahn said this morning that there was never any
testimony about Koresh planning to surrender and nothing in the
tapes or transcripts. In the transcripts on the 14th, 15th, 16th
and 17th of April, the 18th as well, there's discussion between
Steve Schneider, David Koresh and several FBI negotiators, in
which David says, as soon as I get the seals written, I'm coming
out. This was a big decision for him incidentally, because he
believed his doctrine should never be written down until April the
14th. And the FBI negotiators say at one point, can we go to the
bank with that? And Koresh says, yes you can. And at another point
they say, will you send us the seals out as you finish them? And
he says, yes. My interpretation of those transcripts is that
Koresh thought he had an agreement to surrender when he was
finished writing those documents.

REP. MCCOLLUM: Well now, the other side of that coin is the
impression being given maybe that Koresh was just simply lying all
along; that he was just playing people along outside. I mean, I
hear that throughout some of this from the ATF side and the FBI
side of this. Is that not your impression?

MR. REAVIS: You know, when a man is dead we can convict him of
anything and accuse him of anything. I believe that David was
being honest, because always before he had said, my message cannot
be written. God does not want it written. The Bible's already
written and that's all we need. All of a sudden, at the end of
Passover on the 14th of April, he decided that he had to write his
message. I think he was persuaded by Tabor and Arnold, two
theologians. But we can't know. We can know that he said that. We
can't know now what would have happened, because we didn't wait to
find out.

REP. MCCOLLUM: Would you care to give us your criticism, if there
is any, of the final day of the fire. You said you didn't have
time to give that, and what led up to it?

MR. REAVIS: I think the best information on this point, and it
supports what I say in my book, is that the Methylene Chloride that was injected into Mt. Carmel with the ferret rounds, that its vapors are flammable. There's a long article in the Sunday issue of the Los Angeles Times by Glen Bunning (sp) that has more expert information than my book had. It establishes Methylene Chloride as dangerous. You should not throw it inside of buildings its manufacturer says.

REP. MCCOLLUM: What about Cadigam, an Agent Cadigam, you said that after he had his little period of time that things really changed when the FBI took over the negotiations. Can you tell us about that?

MR. REAVIS: Yes, his name was Jim Cadigan -- I can now say that, I'm away from Simon and Schuster's lawyers, I think he did a good job, and Koresh and Schneider were greatly displeased when he was pulled off. He did a good job, because he let them lecture him on theology, and they thought they were making a convert out of him.

REP. MCCOLLUM: And after he was pulled off?

MR. REAVIS: They threw a fit, because they felt he had been pulled because he had listened to them.

REP. MCCOLLUM: And during the time he was on, quite a few people were let out, is that right?

MR. REAVIS: That's right.

REP. MCCOLLUM: Thank you very much. Thank you, Mr. Chairman.

REP. SCHUMER: Thank you, Mr. Chairman. First, Mr. Jahn, have you read Mr. Reavis' book?

MR. JAHN: No, sorry, I have not.

REP. SCHUMER: Okay.

MR. JAHN: I read excerpts of it and portions of it, but not the whole book.

REP. SCHUMER: Okay, from the excerpts you have read and the testimony you have heard today, how would you characterize the
accuracy, the factual accuracy of Mr. Reavis' beliefs and observations about the incident in Waco?

MR. JAHN: The ones I have direct, personal knowledge of -- I know he didn't ask me about my knowledge or my involvement or my participation, but he does assert that I had a personal interest in the outcome of the trial, but I had done it. The other one is, for instance, he describes me as short. I'm six feet, two inches tall. Maybe my Texas Ranger standard that's short, but an ordinary person it's not defined as short. I have not had a chance to go through one by one, but like so many of these -- not so many, but there are some things that are grossly wrong, some things that are slightly wrong, and some things that are correct.

REP. SCHUMER: But does it have a series -- or at least the parts you know -- a series of inaccuracies?

MR. JAHN: Yes, sir.

REP. SCHUMER: Thank you. Now, this is an AK-47 rifle that's converted into a machine gun. Let me ask you, Mr. Jahn, do you have any doubt -- any doubt -- that there were illegally converted machine guns like this in the Davidian compound?

MR. JAHN: None whatsoever. In fact, we found two, one in his car and one in the ashes, both of which still fired.

REP. SCHUMER: No doubt at all. And second, from your knowledge as a U.S. Attorney, do you believe that it is ever, ever appropriate to answer a federal warrant, no matter how poorly drafted, with a machine gun?

MR. JAHN: I don't believe that. I believe that that's the purpose of going to court so you can resolve it. That's the purpose of having excellent attorneys, like these defendants did eventually in the trial, so that you can make that determination.

REP. SCHUMER: Thank you. And it's my understanding, by the way, and we'll bring this out later, that none of the excellent attorneys, and he had some of the best in the Southwest, that none of the excellent attorneys that represented the people ever challenged the legality of the warrant, is that correct?

MR. JAHN: The warrant itself, they did not. The challenged the knock and announce provision. There was a hearing on that, and the court found that it had been complied with.
REP. SCHUMER: But not the legality of the warrant.

MR. JAHN: That's correct.

REP. SCHUMER: And if they thought the warrant was illegal or something was wrong with it, would it not be an ethical violation for them to fail to challenge it?

MR. JAHN: I never like to say an ethical violation, because you don't really necessarily force an attorney to make that decision, but these attorneys were good attorneys.

REP. SCHUMER: Thank you, Mr. Jahn. I have no further questions.

REP. ZELIFF: Okay, Chairman Clinger, Chairman Hyde are not here, so we'll move on to --

REP. SCHUMER: Mr. Chairman, would it allow me in the rules, if I didn't use all my time, to yield to one of our members? Is that --

REP. ZELIFF: If you do that, we will then have to use -- I just passed over two of our members, and --

REP. SCHUMER: No, no, no, I don't mean extra time, I mean the remainder of my five minutes.

REP. ZELIFF: Oh, okay. Alright. We will try in the next round to give Mr. Gene Taylor his time. Thank you. The chair now recognizes the four oversight ranking minority member, Cardiss Collins of Illinois. Ms. Collins.

REP. COLLINS: Thank you, Mr. Chairman. Mr. Jahn, gun control opponents have made the serious charges that four ATF agents killed in the raid were shot not by the Davidians, but in fact by other ATF agents in what is called friendly fire. I'd like to ask you to describe the evidence of exactly who shot the four ATF agents.

MR. JAHN: We did a great deal of research and work on that particular matter, Ma'am, because we figured the friendly fire allegation would be one of them. And, in fact, we found an instance in which one of the wounded agents totally removed from the deceased agents had in fact probably been hit by one of his own people during the course of the shooting in that little room up there. Every piece of particle or fragment that was recovered
from these deceased agents was examined by our firearms expert, and compared against the bullets. We took bullets off of every ATF gun that was out there -- whether they were fired or not -- and compared them against the fragments. There was absolutely no comparison whatsoever that would place it with ATF.

Moreover, many of them were killed by AK-47 fire. And the AK-47s were only handled by the -- or had by the Branch Davidians that day. There were no U.S. AK-47s at Mount Carmel.

REP. COLLINS: Could you tell me what evidence you had that David Koresh was actually abusing children with the acquiescence of their parents?

MR. JAHN: We had --

REP. COLLINS: Either or you?

MR. JAHN: Yes, at trial -- at trial we had none. We were trying to introduce that evidence, and the court held that because Koresh was dead, the probative value was outweighed by the prejudice. I understand there perhaps will be -- the best case we had may testify at this hearing later on. And I don't want to get in the position of embarrassing a juvenile by making some statement. But we -- the best we had, I understand, will be testifying.

REP. COLLINS: Well, the NRA and the committees' Republican staff had attempted to x-ray the 48 illegal weapons. And apparently they believe there's new test could prove that these were not illegal weapons. Now, could you describe the methods that were used by the prosecution to determine whether the weapons were in fact illegal, Mr. Jahn?

MR. JAHN: We used Special Agent James Cadigan of the FBI, and I understand he's also scheduled to testify, who happened to be one of the best firearms experts I've ever dealt with. I think he had 12 to 15 years experience.

What he did was go through the firearms that were fortunate enough to be intact. And he disassembled them, examine them, found out how they had been made. He read the literature. We had the books that they had purchased on how to convert these weapons. He examined the tools that were used to convert these weapons. And then he went back and made a -- basically, a firearm by firearm examination of the superficial things that he could see -- because these guns were all burned, and they were all encrusted with ashes.
and everything else. So, he could not disassemble them.

But he went through and looked for the five or six features that he found common on all the working automatic weapons that were seized in Mount Carmel. And that's what he based his opinion on. In fact, he was very conservative. There were probably some other weapons that someone else may have estimated to be automatic. But instead, he limited himself to the ones he found all of those particular portions before he made his opinion. And that was a total of 48.

REP. COLLINS: Mr. Chairman, not the green light is still on, would I be permitted to yield to Mr. --

REP. : (Off mike).

REP. COLLINS: Okay. I'll be glad to yield to Gene.

REP. SCHUMER: Mr. Chairman, at this point --

REP. : What we did, just so everybody understands what we were trying to say here --

REP. COLLINS: No. You're talking on my time, Mr. Chairman.

REP. : I won't penalize your time. I'm going to try to give you something, if you'd be willing to accept it.

REP. COLLINS: I'll accept it.

REP. : Okay. This is -- this is really strange stuff now. In the interest of being fair, we just had another huddle here -- we missed -- our two chairman weren't here, so they can't yield their time. We went back over and talked again. Mr. Schumer's comment. He does have a minute left that he can yield. You can take whatever you want to do with your time as well. So, we are doing everything we can to the best of our ability to give you every edge we can possible give you.

REP. SCHUMER: Mr. Chairman, thank you.

REP. : Yes.

REP. SCHUMER: First I want to thank you for that fairness. And second, would it be permissible for me at this point, as opposed to later, to yield my additional minute to Mr. Taylor.
REP.: Absolutely. You can do anything you'd like.

REP. SCHUMER: I yield my remaining time to Mr. Taylor as well.

REP. COLLINS: Thank you, Mr. Chairman.

REP. TAYLOR: I want to thank my colleagues.

Mr. Reavis, I'm somewhat shocked by your statements implying, in effect, that Mr. Koresh was a normal Christian preacher, and that he was just going about his normal business as a gun dealer. Do you know of any other Christian churches that buy and sell guns as a business? Is this the -- what Billy Graham or Pat Robertson or even the Pope of the Catholic church does? Do you know of any other Christian religions that compile a hit list, as Ms. Bunz (sp) says in her testimony, of former cult members that should be eliminated? Do you know of any other Christian religion that keeps people for three months at a time without their consent?

Again, Mr. Chairman, as I said earlier, I don't think we can start on the day of the raid. I think we have to look at the events that led up to the raid to get a true picture of whether or not the people who were paid this government to enforce the law -- the laws that this Congress passes -- were acting properly. I'd like you to answer that.

MR. REAVIS: I think you mischaracterize me. In the first place, I don't know what a normal Christian preacher is. And I think, if I did, I'd have a lot of denominations on the --

REP. TAYLOR: How about answering the other specific questions?

MR. REAVIS: Okay. But secondly, I don't -- how do you say it? I say that David Koresh was guilty of arms violations insofar as I can see, and that he was guilty of statutory rape, and that there were grounds on which to arrest him. Nothing I say in my book goes contrary to that.

All I was saying in my earlier testimony was that he did not invent his religion. He inherited it, and changed it within a tradition. He was not a Charles Manson who cooked up a religion out of nothing.

REP. TAYLOR: Mr. Reavis, if I may. Does your book -- and I have not had the opportunity to read it. You know, I understand that
the Presbyterians have something like a parish council that chooses the new preacher. I'm a Catholic. The bishop sends us our priest. Tell us how Mr. Koresh got rid of George Roden (sp). And if this is the normal routine within the Branch Davidians for one preacher to succeed another.

REP.: Your time is up, if you could, just kind of pull it together.

REP. TAYLOR: I've asked the questions.

REP.: Yes.

MR. REAVIS: Before 1940, the Davidian 7th Day Adventist Association -- Koresh's predecessors -- adopted a set of rules which says, "God appoints our prophet." Now, I'm not sure how you know who your prophet is when God appoints him. But Koresh's followers say God had appointed him. And George Roden's (sp) followers -- of which there weren't many -- said George had been appointed by God. And what happened ultimately was that George didn't pay the back taxes on Mount Carmel, and David's followers did. So, they took possession of Mount Carmel.

Now, your references to a gun battle --

REP. TAYLOR: Correct.

MR. REAVIS: -- where David and them went to shoot a picture at Mount Carmel, and wound up in a gunfight with George Roden (sp) who was wounded in the thumb. David and his people were tried. All of them but David were acquitted. And the jury hung in regards to David.

REP. TAYLOR: Is that the normal procedure for that church -- for one preacher to shoot at another?

MR. REAVIS: I don't -- in that church? No. It had never happened before, and I don't guess it would ever happen again.

REP.: Time is expired. The Chair now recognizes the full Judiciary ranking member, Mr. John Conyers from Michigan.

REP. JOHN CONYERS (D-MI): Thank you, Mr. Chairman. We've got some conflicting testimony here about who David Koresh was. And it's not at all clear to me what kind of picture is emerging. We find that, conceitedly, he has probably committed crimes against
minors, young girls. He's violated gun laws. We have a curious picture emerging here. And I'd just like to inquire of Mr. Reavis, who's been pretty helpful, did you state in your book on page 122 that you thought that the ATF was seeking to enforce unconstitutional firearms laws?

MR. REAVIS: I think, what you'll find in that chapter of my book is that I found a scholar who studied the constitutional history of firearms laws, and whose opinion is that they may not be constitutional. I'm not a judge and I don't know. I was quite impressed to find out that that argument could be made, and thought readers deserved a chance to see it.

REP. CONYERS: Yes. Well, now that you've studied it, and written, and promoted it, what do you think now?

MR. REAVIS: Whether or not they're constitutional?

REP. CONYERS: Aren't you worried about that? Yes. Whether they're constitutional.

MR. REAVIS: I'll tell you what --

REP. CONYERS: I mean, is it okay for everybody to carry automatic weapons and defend themselves on the basis that they're unconstitutional. The idea I'm reading in your book.

MR. REAVIS: No, on that, given the present state of the law, it's clearly not.

REP. CONYERS: Thank you very much. Now did you state that in your book anywhere?

MR. REAVIS: Did I state what?

REP. CONYERS: What you just said. Namely that it is not constitutional to carry automatic weapons.

MR. REAVIS: I said it was illegal.

REP. CONYERS: In your book?

MR. REAVIS: Sure. I just it -- and here I just said it.

REP. CONYERS: Well, on page 120 -- I know what you said here.
MR. REAVIS: Show me the line.

REP. CONYERS: Just a moment.

MR. REAVIS: Okay.

REP. CONYERS: "If the findings of these professors are trustworthy, the laws that the ATF sought to enforce at Mount Carmel on February 28th we unconstitutional."

MR. REAVIS: Right.

REP. CONYERS: Quote.

MR. REAVIS: "If the findings of these professors are trustworthy, that is a question to be litigated in the courts."

REP. CONYERS: Okay, page 293. "The prosecution heaps of evidence also included what appeared to be illegal homemade silencers for rifles and 48 semiautomatic rifles that had been converted to automatic fire." Does that concern you about being unconstitutional? That's a violation of law?

MR. REAVIS: That's certainly what I say.


MR. REAVIS: In the book I was reviewing the work of a professor who argues that these laws aren't constitutional.

REP. CONYERS: I get it. I understand. You've learned a lot since you wrote the book. That's what I'm beginning to understand. And I'm glad that we're kind of getting this down to some little finer points here. I mean, it's nice to write a book about what may or may not be constitutional or unconstitutional, but yet when you come here to testify, well, there's no question, now that you've thought about it, this is not so unconstitutional as you would have thought.

MR. REAVIS: I didn't say it was constitutional.

REP. CONYERS: Now, just a moment. I didn't ask you a question. I was just reviewing your testimony. Mr. Jahn, I'd like to just invite you to tell us a little bit about this warrant. I mean, could there be any question about its invalidity?
MR. JAHN: We didn't have any question about it, sir. We looked it over. There was a lot of (surplusage?). There's a lot of stuff that perhaps should not have been in there. There's a lot of stuff that, had I been the author, I might not have included. And in fact, there was some that was deleted before the final warrants were served. But I had no question as to its validity.

REP. CONYERS: And the people that had put it together were not newcomers to this business. They'd been doing this for quite a few years, had they not?

MR. JAHN: That's correct. And I think you'll always find room for lawyers to argue one way or the other. That's what they're paid for and that's what they're trained to do.

REP. CONYERS: Finally, the dynamic entry question. I mean, was there any way we could have --

REP. ZELIFF: The gentleman's time has expired; if you could kind of just --

REP. CONYERS: I'll just finish -- let him respond. Is there any way we could have avoided a dynamic entry in this case?

MR. JAHN: You're asking far beyond my capability, sir. That would be something that I would have to defer to the experts, which would either be the FBI, hostage rescue, SWAT-type people, or the DEAs or the ATF's --

REP. CONYERS: We'll get to them. Thank you very much.

REP. ZELIFF: Mr. Reavis, did you have a chance to respond to one of Mr. Conyers' questions? I want to make sure we're fair to everybody here.

REP. CONYERS: Mr. Chairman, I hadn't asked him a question that he didn't respond to. I was making an observation.

REP. ZELIFF: Do you agree?

MR. REAVIS: I do not agree.

REP. ZELIFF: Okay, would you like to respond?

REP. CONYERS: Well, I don't agree with the witness.
REP. ZELIFF: Would you like to respond? Go ahead and respond.

MR. REAVIS: Yes.

REP. CONYERS: Mr. Chairman -- just a minute, Mr. Chairman.

REP. ZELIFF: I'm just trying to be fair.

REP. CONYERS: I want to be very fair. But any questions my witnesses don't answer, I'll get to the bottom of it. I don't need the chairman to help me get the response from questions I ask the witnesses. Thank you very much. And anybody else that wants to ask him about it can do it on their own time, regularly accorded.

REP. ZELIFF: I would just like to ask my colleague, in the event -- if the witness was cut off and didn't get a chance to respond, I just wanted to be fair and give the man a chance to finish what he was saying.

REP. CONYERS: I was just pointing out to you that he did not fail to respond to any questions that I asked. I was satisfied with that.

REP. : Mr. Chairman?

REP. ZELIFF: Yes, sir.

REP. : Mr. Chairman, I think it is incumbent upon all of us to extend courtesy to these witnesses, and I don't see what harm would result or ensue if the gentleman were allowed to explain perhaps a response he didn't get a chance to do.

REP. CONYERS: Mr. Chairman, since everybody wants this question that I didn't answer answered, I'd be delighted to invite Mr. Reavis to make any further comment --

REP. ZELIFF: I thank my colleague from Michigan. In the interest of fairness and everything, thank you very much.

MR. REAVIS: I think we have to distinguish between illegality and constitutionality. I'll give you an example. One time I was convicted of vagrancy and leading a profligate life in Alabama. What I did was illegal. Later it turned out that the law under which I was convicted was ruled unconstitutional. There's always that gap. You never know when a law is constitutional. You presume
it is at the point of arrest. Things are afterwards tested. David Koresh's possession of arms was illegal. Whether or not the arms laws are constitutional will be -- at this point the courts say they are. Tomorrow they may say different because of the research I cite in my book.

REP. ZELIFF: Thank you very much. This completes the first panel, and I thank the witnesses for coming. Thank you for your patience in all of the votes and everything. And we'll look forward to the next panel, if they would move forward. Thank you. I yield to Bill McCollum.

REP. MCCOLLUM: If I could, I would thank the chairman of the subcommittee on oversight for yielding to me. We are going to share this podium today by pre-arranged agreement. The committee will be in order. And I would like to, by name, introduce the panel of the next group of witnesses who are coming forward to be our testimony for this second round.

The first witness is Gerald Goldstein. Mr. Goldstein is president of the National Association of Criminal Defense Lawyers. Next to Mr. Goldstein is Robert DeCamp (sp), president of the National District Attorneys Association. The third witness is Henry McMahon, a firearms dealer who did business with David Koresh. The fourth witness is David Thibideaux, who was a resident at Mount Carmel throughout the siege. The fifth witness is Kiri Jewell, who also was a resident at Mount Carmel. And our final witness on this panel is Louis Barber, a former lieutenant with the McLennan County sheriff's office. Now, if each of you would stand, I'm going to have to swear you in at this point in time according to our procedures. If you'd raise your right hands. Do you solemnly swear or affirm that the testimony you are about to give will be the truth, the whole truth and nothing but the truth?

WITNESSES: I do.

REP. MCCOLLUM: The record will -- you may be seated. The record will show that all answered in the affirmative. At this point in time, under the rules that we have unanimously agreed to do in this joint committee, I yield 15 minutes to Mr. Barr. Mr. Barr?

REP. BARR: Thank you, Mr. Chairman. Do we have the names in the proper locations there?

REP. MCCOLLUM: Well, I think we do have a little reversal. Let's see if we got it right here. Thank you.
REP. BARR: Mr. Thibideaux --

REP. MCCOLLUM: Excuse me. Before we get started, is Mr. Barber here with us today? Did we miss him as a witness? We asked him to come forward and apparently he is not with us today. Is that correct? Well, we apparently are missing Mr. Barber from this panel for whatever reason. Would the gentleman sitting next to Mr. Thibideaux and Ms. Jewel tell us who you are, please, sir?

MR. JEWELL: (Off mike.)

REP. MCCOLLUM: That's very good. We're happy to have you.

REP. : Mr. Chairman, I couldn't hear that.

REP. MCCOLLUM: He is Carrie's father. Would you turn on the microphone and put that on the record, please, sir?

MR. JEWELL: My name is David Jewel.

REP. MCCOLLUM: Sir, you need to turn it on. There's a little flick right under there. There you go.

MR. JEWELL: Okay, thank you. It's working now. My name is David Jewel. I'm Carrie's father.

REP. MCCOLLUM: Thank you very much. Apparently we are missing Mr. Barber and we don't have him here. So if we get a chance to bring him up on another panel, we will. But otherwise --

REP. BARR: Okay. Thank you, Mr. Chairman. Mr. Thibideaux, if you could, please -- over here, to your left. I appreciate your coming here. If you could, please, recount very briefly the extent of your knowledge of the compound at Mount Carmel. How long were you there, and in what capacity, please?

MR. THIBODEAUX: I met Koresh in approximately '91. And I had the opportunity, after about three or four months of getting to know him and some of the people, of going to passover of '91, I believe it was, in Waco. I was there for about two or three weeks, and then I went up north to Maine. And then I went back to California, where David had a property there, and I spent some time there. I also had an apartment at the time and I was between the two. And then finally they decided they were going to move back to Waco for a while, so I went with them. At this point I was becoming
involved in the music and the spiritual teachings and decided to move. I was there for some time, and for the next couple of years was on and off between California and Waco.

REP. BARR: Were you familiar with Mr. Koresh's daily habits, what he did?

MR. THIBODEAU: Yeah.

REP. BARR: Including on what occasions and under what circumstances he would leave the compound?

MR. THIBODEAU: Pretty much. I mean, I lived with him on a daily basis on and off. I mean, you know, I had certain things that I did. I was really concentrating on music and I obviously would not be questioning him when he would go to town and things. But there were times when, you know, I would go various places with him. So I guess yes.

REP. BARR: Okay. Was there any regularity to his leaving the compound? Did he leave certain days, certain days of the week, certain times? Or was it sporadic?

MR. THIBODEAU: It was sporadic. I mean, there would be times when he would not leave at all, when he would just stay in and give studies. And there would be other times when he would leave. But it was -- he left frequently.

REP. BARR: Would that include during the two or three months prior to the raid in February? In other words, during the month of February and January and then December of 1992, did he leave the compound on numerous occasions?

MR. THIBODEAU: Right before the -- I'm sorry, the two or three weeks before the raid?

REP. BARR: During the two or three months --

MR. THIBODEAU: Yes.

REP. BARR: -- before the raid.

MR. THIBODEAU: Yes, he did. Yes, he did.

REP. BARR: Okay. Do you recall or do you know what was the last time he left the compound?
MR. THIBODEAU: I recall that approximately two weeks before the raid he was going through a period of time where he wanted to get back into health and back into shape, and so he would go out running. And some of the guys would go jogging with him. And he would go up the driveway to where the EE -- I believe it was the EE Ranch Road, the dirt road that was in front of the building. And he would jog directly in front of the two houses that are across the street -- one, of course, was the surveillance house -- all the way down to the stop sign, maybe about a mile or so -- I'm not really sure what the measurements were -- and then back. And then usually, you know, some of the guys would come on the property and, you know, we'd do some jogging on the property as well.

And I know that he went to town infrequently, but still went to town on a number of occasions. I guess one thing that I could try to refer you to is that I remember during the course of the 51-day standoff, when the FBI -- I believe it was the FBI initially said that he never left the building; you know he never left. We couldn't possibly have gotten him. I remember the Waco Tribune-Herald and some other media came forward because a number of people within the community of Waco had come forward saying that they had seen him in their places of business just days before the raid. I believe one was Chelsea's Bar & Grill. And that's the only one that really stands out, but I remember a couple of businessmen from Waco came forward saying, "He was in my store just last week or just the other day."

REP. BARR: When he would go jogging, was this at night or during the day?

MR. THIBODEAU: During the day.

REP. BARR: Would he make any effort to hide the fact that he was leaving the compound to go jogging?

MR. THIBODEAU: No. When you go jogging with a group of five or six guys, I don't think you can really conceal that.

REP. BARR: Okay. Are you familiar, Mr. Thibideaux, with the affidavit in support of the search warrant in this case?

MR. THIBODEAU: I have read it but I'm not that proficient with all the technicalities in it.
REP. BARR: I understand that. But you have read it? You're generally familiar with it?

MR. THIBODEAU: Generally, very generally, yes.

REP. BARR: Do you recall it as being a rather lengthy document?

MR. THIBODEAU: Yes, I do.

REP. BARR: Do you recall it as being a document that had all sorts of stuff just kind of thrown together in it?

MR. THIBODEAU: Yeah, it's -- to me, it seemed to be kind of like a press report, only in a legal document. I mean, you know, it talked about obviously -- I mean, from my understanding of the law, if you're going to go after someone for what you consider to be illegal activity, that's what you would concentrate on in a search and arrest warrant. And from my understanding, you know, it went into the wives and the different aspects that have been covered today, certain aspects of child abuse that's trying to be proven. So I guess that was irregular.

I remember one thing that kind of stood out, and it only stood out because it was pointed out to me later, is I believe, if I'm correct, it talks about an AK-47 having an upper and a lower receiver. I think anyone who's familiar with that particular firearm knows that there is no upper and lower receiver to an AK-47, which would indicate that there was a problem with the search warrant, specifically with that one particular firearm.

REP. BARR: Okay. You saw I forget who it was on the other side make a big deal of holding up a weapon a few moments ago.

MR. THIBODEAU: Actually, I think I was outside. I had to leave for a moment.

REP. BARR: Well, you missed quite a show. There was, you know, a weapon held up stating it was a machine gun or what not, which certainly raises questions about what it's doing here. Do you recall seeing machine guns --

MR. THIBODEAU: No.

REP. BARR: -- at the compound?

MR. THIBODEAU: No. I did see AK-47s and I did see AR-15s. And
there were times, various times, when different people would go out and shoot on the firing range. There were times when people that we knew from the community would come out and fire at our firing range. And, you know, to me, I'm from the East. I'm from up in Maine, and I was not raised around firearms. And to me it wasn't -- I mean, it wasn't something that I was really into. But being there, I did notice that there was kind of a different mentality, I don't know if it would be Texas or whatnot, but it seemed like a lot of our neighbors would come over, you know, neighbors from in the country would come over and fire. It didn't seem to be as big a thing as it did where I was from, so it became acceptable.

REP. BARR: Okay. Is it possible that there were machine guns there that you weren't aware of?

MR. THIBODEAU: Yes, that's possible.

REP. BARR: Okay. There was also, in this rather lengthy affidavit, discussion of a meth lab, which I believe, I haven't been a prosecutor, but that refers -- would refer to methamphetamine, which is a controlled substance, a mind-altering drug. Are you aware of any -- of any such facility anywhere on the compound?

MR. THIBODEAU: There was absolutely no drugs in Mount Carmel, period, other than alcohol once in a great while when it was -- when we'd worked particularly hard and, you know, everyone feels that they just needed to unwind, but generally anything like that was done -- there was a sobriety there that was to be practiced, and anything like that was done was on a very sporadic basis, and David Koresh was absolutely against drugs. David Koresh was --

REP. BARR: Is it possible that there was a laboratory manufacturing controlled substances?

MR. THIBODEAU: Not while I was there.

REP. BARR: You'd have known about it.

MR. THIBODEAU: I've been all over that property, and I never saw anything that would even -- that I would even think would be. That's really impossible.

REP. BARR: Okay. Another one of the items that was contained in the affidavit referred to pineapple-style hand grenades, those that I suppose you'd see in magazines, that people use for
paperweights. Have you seen those?

MR. THIBODEAU: I saw the casings for those, but I didn't, you know, an actual grenade. I mean, I saw the casings, yes.

REP. BARR: Okay. Were these live grenades?

MR. THIBODEAU: Not to my knowledge.

REP. BARR: Okay.

MR. THIBODEAU: I mean -- let me put it to you this way: I didn't -- I've never seen one exploded or go off other than war movies and things like that, but I just don't know.

REP. BARR: Okay. Do you know whether or not the compound was ever visited by agents of the Drug Enforcement Administration investigating allegations of a methamphetamine lab?

MR. THIBODEAU: No, I don't. I know that there was some activity that took place in 1987, a few years before I was there, and it was revolving around what the gentleman over here brought up, the George Roden (ph) issue, and from what my understanding was, and this came from a couple different people that were within the community there was that when David came out on that particular -- that particular instance that was discussed earlier, he was shot at by George Roden (ph) and some of the guys especially -- I think it was Dan Silva (ph) and Floyd Halven (ph) were shot at. And so they were in an open field, and to protect them, David shot at George, hitting the tree in front of him.

Now, what I found out later -- and, again, this is word of mouth -- was that there were things that were found that could constitute making a methamphetamine lab. There was certain chemicals and things that were found.

Now, the understanding I have from a couple different people was that that was turned over to the sheriff's department, and when the whole thing went to trial, the evidence of the methamphetamines somehow were not at the trial. They seemed to have disappeared.

I don't know what all that means, but these are the stories that I heard from a number of different people that were around at that era of time.
REP. BARR: Okay. Would you tell me what the term "mag bag" (ph) means, if anything, to you?

MR. THIBODEAU: I knew mag bag (ph) just to be a garage that was about two to three miles away from where the building was. I know that there was a car restoration company going there.

REP. BARR: So it was two or three miles from the living quarters?

MR. THIBODEAU: Yes. That's a rough estimate. I'm pretty bad with distances and numbers.

REP. BARR: It was quite a ways.

MR. THIBODEAU: Yeah. Yeah.

REP. BARR: Well, maybe not by Texas standards --

MR. THIBODEAU: Yes, by Texas standards --

REP. BARR: -- (inaudible; crosstalk) --

MR. THIBODEAU: -- that's what I was thinking. Yes, it was quite -- it would have been a long walk for that length, you know? You probably could have biked it in about an hour.

REP. BARR: Okay. And what was the mag bag (ph)?

MR. THIBODEAU: Well, like I said, it was just a garage where they restored cars, custom Camaros, things like this. I know that Peter Histamin (ph) and Michael Schroeder (ph) were down there pretty frequently. They actually lived there. And Bob Kendrick (ph) for a time was there, as well. But it was Peter that did the majority of the work, actually painting and restoring the cars, and Mike did the mechanical work.

REP. BARR: Okay. Did the term refer to anything else, as far as you know? For example, a corporate entity by that name?

MR. THIBODEAU: That's possible.

REP. BARR: Okay. You're not aware of that, though?

MR. THIBODEAU: No, that's not my -- (inaudible) --

REP. BARR: Mr. Goldstein (ph), if I could ask you if you have had
the opportunity to review the affidavit that I've been taking a few moments here to review with Mr. Thibideaux. I have --

REP. : Mr. Goldstein (ph), would you please turn your mike on?

REP. BARR: Thank you.

MR. GOLDSTEIN: I have --

REP. : Could you please -- we've heard testimony, speculation, earlier about efficiency and whether or not it was subject to a successful challenge or not, and apparently it withstood at least whatever judicial scrutiny it was afforded previously.

What, in your opinion as a learned attorney, with experience in reviewing and, I suppose, challenging affidavits, is your impression of this affidavit?

MR. GOLDSTEIN: It, like many other affidavits, lawyers that practice in the criminal courts from one courthouse to another across this country is not terribly atypical. I will tell you that it is chuck full of irrelevant, highly inflammatory material. That's not that unusual. Many of you are good lawyers. That's what lawyers usually do, is try and convince somebody of something.

It definitely has matters that fall well beyond, for example, the either expertise or jurisdiction of the particular agency seeking the warrants -- that is, smatters of child molestation that obviously would inflame anyone that read it, just like it probably has the people that listen to this hearing. Nevertheless, they have little to do with the underlying justification for the injury.

There are allegations that many of these matters are misstated. Quite frankly, one of the problems that we have is quite -- if I could tell you gentlemen anything about what we need to do is that those of us who are in the trenches trying these cases day in and day out are gumming these law enforcement agents to death. We have been deprived of any teeth in the exclusionary rule and the mechanism that we have, the sole Fourth Amendment protection that we have, to attempt to regulate these agencies, and efforts to dilute that protection is frustrating any -- if you want to know why nobody filed a motion to suppress, I would suggest that that probably goes a long way.

For example, misstatements. If there is an omission, critical
omission that would have made a difference to a magistrate, if one of these statements in the affidavit in fact is an outright lie, in order to get a hearing, in order to subpoena a single witness, in order to ask a single question, we've got to show by affidavit or sworn testimony otherwise that there is a lie in the affidavit before we even get a chance to have a hearing.

I wish I had eight days of congressional hearings on every warrant that I suspect is flawed with misstatements. I've never had a suppression hearing that lasted eight days, much less this time of inquiry.

The fact that the warrant may lack probable cause -- it's a pretty close call. This one might -- just might lack probably cause. But quite frankly, for the lawyers that were out there in the trenches trying this case, it didn't make a hill of beans. It wouldn't matter, because the good-faith exception allows the judge to admit evidence even though the affidavit and the warrant totally lack probable cause.

That's where the problem and that's where the solution can come -- not in providing more authority to law enforcement, not in being concerned about this abuse on today and yet passing measures that, in fact, apply the good-faith exception that I just described from warrants and apply it to warrantless searches -- Senate Bill 3, Section 507 will do away with the exclusionary rule altogether. We'll have no way of restricting and discouraging officers from engaging in these kinds of activities.

REP. ZELIFF: Mr. Barr, your time is up.

REP. BARR: Thank you, Mr. Chairman.

REP. ZELIFF: Before we proceed further, I notice Mr. Barber has joined us at the witness table. You need to be sworn in, Mr. Barber. If you'd stand and raise your right hand?

Do you solemnly swear and affirm that the testimony you're about to give will be the truth, the whole truth, and nothing but the truth?

MR. BARBER: (Off mike.)

REP. ZELIFF: Let the record -- thank you. You may be seated. Let the record reflect the witness responded in the affirmative. I now yield 15 minutes to Ms. Thurman.
REP. THURMAN: Thank you, Mr. Chairman. At this time, I believe that all of you have some testimony in front of you from Kiri Jewell. I'm going to ask for part of my time for her to have the opportunity to read into the record her particular testimony, and then we can proceed from there. Kiri, welcome and thank you for being here. You can begin.

MS. JEWELL: When my mother and I first joined David Koresh, he was still Vernon Howell and his group was living in a little two-bedroom house in San Bernardino, California. I was five or six. We lived with the group off and on there and in Pomona, California, in Palestine and Waco, Texas, and in Laverne (ph), California.

When we joined, David was planning to lead the group to Israel to retake Jerusalem. He taught that there would be a big battle between the forces of the world and David and his people. The world would win, and we would be killed, but we would come back in a cloud and smite the wicked and retake the world. The details would change as David received more messages from God, but there was never a time when we didn't expect to be killed by the Feds, who David said were Babylon. While we waited for this to happen, we built up an army for David, so that the battle would be a big one and all the world would know the power of David and God.

In the meantime, David was very strict about how we should live. He only spanked me twice, though I knew he spanked other people or had them spanked. He personally spanked me because I said I was going on a diet when I was about eight years old. He used the big wooden (board ?) they used for adults, not the wooden spoon they called "little helper."

The second time David spanked me and the other kids it involved getting candy from vending machines against his teachings. Before spanking us that time, he bought an enormous lot of candy and made us eat it until we were sick.

It was common for David to sleep in a bed with women and children. Sometimes I fell asleep in his room after meeting, or maybe I'd fall asleep on his bed watching MTV. I didn't even think about it, because the women and girls were all David's wives, or would be, and many of the kids were his too. Even if he wasn't really our father, we were taught that he was our real father.

I've slept together with him and my mom and Lisa Farris (sp). I've slept with him and Iyesha Garvis (sp). Iyesha (sp) was older than
I was -- she was probably 13 when I was six or seven. She became one of David's wives when she was 14, and had a baby for him. Once she was pregnant, I never saw her; she was kept hidden, because she wasn't adult.

David took me on a motorcycle trip with some of the guys to Mount Baldy (sp) when I was about seven. On that trip, he took me for a ride down a mountain speed trail on a chair lift. There wasn't any snow, but it seemed like we could see the whole world. That was when David said to me personally that one day I would be one of his wives.

We all knew about sex, because David talked about it a lot. He made us watch movies that showed sex and war, like "Platoon" and "Hammergahill" (sp) over and over again. I was scared by the rape scenes, but I would have been more scared to try to leave the room when he was there. We also watched "Miracle of Life" to see how babies were born.

David talked about having sex with his sister-in-law Michelle Jones for the first time. She was young and scared. He said he got into bed with her and was trying to pull down her underwear while she was trying to keep it on. He said her heart was beating really fast. He talked about how he liked -- (inaudible) -- playing with nipples, and that Jeannine Bunz (sp) had the type of pussy that really held onto his dick -- those are completely his words -- not mine.

I was in the meeting at the White House in California, where he told Judy Snyder (sp) to stand up, and then asked the guys if any of them lusted after her. A few of them nodded. He told her to pull her skirt up. She pulled it up a little way, and he told her to pull it higher. He told her "higher," several times before she got it up enough.

REP. MCCOLLUM: I don't want to interrupt you with this -- I hate to do that, Kiri, but we just realized that your testimony has very graphic material, explicit material, and that you have very general audiences watching this, and I just think they should be warned about that fact. It is the testimony of record. Your father is with you. You have been asked by a member of Congress to read it. But I think we need to be aware that you have a very wide television audience, and this is not in any way censured. So I'd just, as a fair warning to the public generally -- I'll let the time be added --
REP. ZELIFF: (?) Can I just ask Ms. Thurman if you -- since it's your witness, do you feel comfortable --

REP. THURMAN: Mr. Chairman, I have actually talked with Kiri about this, asking her if she felt comfortable in responding to this very same issue that I might have raised here. She does. She wants the story out there. She feels compelled to tell the story. These are the words, and what she heard and saw during the time that she was there. I agree that they are explicit, but I think that we also need to understand who we were dealing with.

REP.: Will the gentle lady yield?

REP.: Oh, please.

REP.: I just --

REP. THURMAN: Excuse me, I believe we have a witness here, 14 years old --

REP. MCCOLLUM: (Off mike) -- at this point in time, the questions have been asked and whatever, and the witness may proceed to give her testimony. I think we needed to put on the record more for the home audience than anybody else or whatever. But, nonetheless, you may proceed, and I'll add the additional minute or two that we have taken up for this discussion. Kiri, please proceed.

MS. JEWELL: Thank you. He told her "higher" several times before she got it up enough. Then he asked the guys, "Now do you lust after her?" Lots of them said yes loudly. Judy just seemed shocked and embarrassed, but like everybody else she wanted to please David. You couldn't really think about not doing what he said.

When Mom and Lisa and I went to Texas in 1991, David took the three of us to a motel. There were two chairs in the room, one bed that we all slept in. My mom and Lisa made soup in a crock pot. We were there for two or three days, just mostly hanging around the room. David preached to us. I sat on the floor playing with the shoelaces while he talked. We watched "Ernest Goes to Camp." The cops came once and just sat outside. After my mom threw something in the trash, they checked the garbage; then they went away. My mom and Lisa went to do a little shopping. I took a shower, and then I was brushing my hair, sitting in a chair, and David told me to come and sit down by him in the bed. I was wearing a long white T-shirt and panties. He kissed me and sat there. But then he laid me down. He took his penis and rubbed it on the outside of my
vagina while he was still kissing me. I had known this would happen some time, so I just laid there and stared at the ceiling. I didn't know how to kiss him back. Anyway, I was still kind of freaked out. When he was finished he told me to go take a shower. I walked to the bathroom with my panties down around my ankles. In the bathroom I realized I was all wet and gooey on my legs. That freaked me out more. I just stayed in the shower for maybe an hour. When I came out, David was in his jeans and the bed was made. He told me to come here again. This time he read to me from the "Song of Solomon."

I was 10 years old when this happened. I remember sitting in the gas station wondering when he would do it again. I wasn't afraid, but I was nervous. I knew I couldn't get pregnant, because I hadn't started having periods yet. This was soon before I left my mother, for what turned out to be the last time. I didn't tell her about what David had done in the motel. Some time later she asked -- she said David's habit was to sleep with one of his wives and then leave them for a long time. I said, "Yeah, I know." She said, "What? Did he take you?" I just said, "Yeah." She wasn't mad or anything. I asked my mom, "What would we do if we ever left here." She said, "We'll never leave, so why ask?" I never liked it there, but I wouldn't leave my mother, so I figured I'd be there with her until the end.

The end meant the great battle between David and his people and the rest of the world. We were always waiting for him, preparing for the Feds to come in. The people in the group didn't have to train for war, but if they didn't choose to, David would ask them why not. (Inaudible) -- and Janet McMean (sp) were in nursing, and Janet said that maybe Jeannine (sp), who is also a nurse, could and would provide cyanide so that we all could commit suicide if it came down to it. It was also accepted that the best way to shoot yourself if necessary in this battle with Babylon was to put the gun in your mouth, back to the soft spot above your throat before pulling the trigger.

When it was almost time for me to leave Michigan and go back home to my mom from my last visit to Michigan as a Davidian, my dad told me he had a court order for me to stay with him. I was shocked and scared. My mom and Steve Snyder (sp) were on the phone to me telling me stuff like, "Remember little Esther," so I would remain true to David. She told me David had given beer to Rachel Sylvia (sp), who was then 11 or 12, to soften her up. My mom said I needed to hurry up and get back there, or I would lose my place to Rachel. She told me, "It's time to fight -- are you ready?"
REP. THURMAN: Kiri, thank you. Let me ask you a couple of other -- well, let me give you a few minutes. Do you want to get a drink of water? Okay. Could somebody give her a drink of water please?

Mr. Chairman, since we have a vote going on right now, could it be a possibility that we could go ahead and vote and let her have some time, and also --

REP. MCCOLLUM: I'd be very happy -- I'd be very happy to do that. In fact, we'll add another minute or two back to your time and give you 10 minutes when you get back.

REP. THURMAN: Thank you. Thank you very much.

REP.: If I could inquire -- I thought the time was up. How much time is remaining?

REP. MCCOLLUM: Well, she has about eight minutes remaining on her time. The first clock went up. So there's about eight minutes left on Ms. Thurman's time. At this point in time -- apparently we have a second vote after this. This is the type of vote we had previously. We'll recess until five minutes after the conclusion of the last of this series of votes. (Sounds gavel.)

(Recess.)

REP. ZELIFF: This joint hearing will come to order. When we took a recess, we were in the middle of Ms. Thurman's questioning. Ms. Thurman, you have eight minutes left. I will turn the clock on. It turns for five of those eight, and then we'll notify you as you get your three minutes down. Ms. Thurman?

REP. THURMAN: Okay. Let me ask you a couple of questions now dealing with some of the issues that have surrounded this case. In February, it's my understand that you were actually -- or went to Waco actually before February 28. Is that correct?

MS. JEWELL: Yes.

REP. THURMAN: Do you want to tell me what happened when you talked to the -- was it the ATF or FBI that you actually talked to?

MS. JEWELL: I don't know.

REP. THURMAN: Why don't you just tell the panel what happened
while you were there?

MS. JEWELL: While I was there, I went to a courthouse -- the same courthouse I was in when George Roden (ph), that whole thing with him was going on, it was that courthouse, and the only thing I really remember talking with them that stands out in my mind was they asked me about being molested, and I told them everything that I told you. And we -- my dad and I and the agent that was with us drove around, like, pretty much all of Waco looking for the hotel or motel that I was molested in, and we couldn't find it, because I really don't -- it was dark when we got there and it was dark when we left, so I really didn't get a very good view of the outside of the motel, but that was pretty much all that we did while we were there.

REP. THURMAN: Okay. And then on February 28, when the raid took place, what did you tell your father about what you thought might happen there?

MS. JEWELL: I told him there was no way that anybody was going to get out. They were -- somehow they were all going to die.

REP. THURMAN: What makes you believe that?

MS. JEWELL: He taught it. He told us from the beginning -- from the beginning -- some time we were all going to die, and I didn't know when and I didn't know how, but I told my dad the day the raid happened, none of us were -- or none of them were going to get out.

REP. THURMAN: Then you went on "Donahue," I understand, and I believe that was March 10.

MS. JEWELL: Mm-hmm (acknowledgement).

REP. THURMAN: And were -- what kinds of questions happened on there or maybe what happened from there?

MS. JEWELL: They asked a lot about the Star of David that everyone wore. They asked --

REP. THURMAN: What was the Star of David?

MS. JEWELL: It was just a sign that you were in the group. I mean, that's all it was. A lot of people -- there've been a lot of rumors that it meant that you were a wife and -- but the men wore
it, too, so it couldn't have meant you were a wife. I mean -- but it was just signifying that you believed and that you were in it and, you know, it wasn't anything, really, about the wives, because the men had them. So. On "Donahue," I told Donahue and the audience that it was my belief that they were going to commit suicide and the cult expert that they had told me I was wrong, and I told him, "Watch."

REP. THURMAN: And then, Kiri, it's my understanding that your father actually sent a letter to President Clinton, and I believe it was March 28, I believe. Have you had an opportunity to look at that letter?

MS. JEWELL: Just briefly. My dad wrote it.

REP. THURMAN: And it kind of based itself on the situations that I guess he and you had talked about. Have you and your dad had a lot of time to talk and converse about what happened there?

MS. JEWELL: Yeah.

REP. THURMAN: So he kind of knew what was going on. It might be for our benefit, if it's okay, if we just put that letter into the record. I'll be glad to have a copy of it. I just --

REP. ZELIFF: Without objection.

REP. THURMAN: -- received it this morning. In that letter, basically, it talked about the allegiance and the possibility of them committing, I guess, suicide. Nobody was going to get out of there, but that the government needed to do something at this point, or we could even have a harder time. Kiri, do you know of any other children of your age or maybe a little older that were put into the same situation that you were?

MS. JEWELL: Michelle Jones (ph), Iyesha Garvis (ph), Karen Doyle (ph) -- I know there are more, but this is just, like, off the top of my head, and I can't -- it's not coming to me.

REP. THURMAN: And you had said in your testimony that once, I guess, they were pregnant, they were removed from the rest of the group? Is that --

MS. JEWELL: Not always. Actually, Iyesha (ph) was the only one that I was around when she was pregnant, because I don't know about Michelle (ph), when she had her babies, but when Iyesha (ph)
was pregnant, I never saw her. She was kept inside the house.

REP. THURMAN: Do you know why?

MS. JEWELL: Because it was Passover and there were a lot of people from all over coming, and she didn't -- she wasn't supposed to be even pregnant because she was young.

REP. THURMAN: Tell me about the suicide stuff a little bit, because you mentioned that at the end about the cyanide and the guns. How did you know about that? I mean, was it taught to you? Did you just kind of know it? I mean, can you explain that maybe a little bit to us?

MS. JEWELL: It wasn't taught. It was known. Ever since I was little, I have spent -- I've had big ears and I like to learn. I like to observe, and I heard -- I -- I observed, and it was known. I mean, I just -- I didn't think up this stuff as a 14-year-old kid. I have -- you know, it was learned.

REP. THURMAN: (Not with ?) your family?

MS. JEWELL: Yeah.

REP. THURMAN: And I found it interesting in talking with you that you knew so many of the players in all of this, when I talked to you about the mailman, Mr. Jones (ph), I mean, you just kind of responded as if you knew all about him. Kiri, why do you think it's important that you gave the testimony that you gave today? These are your (friends ?).

MS. JEWELL: I don't think it's right that people are getting things out of this that they shouldn't be. People are hurting, and they need to know the truth. This is my truth. It might not be somebody else's truth, but this is what I saw and this is what happened to me.

People are getting too much out of this that they don't deserve. They have not worked for any of it. They don't -- it's not for them. They're making too much out of this than it should be, and I just thought people should know what I saw.

REP. THURMAN: Thank you, Kiri.

MS. JEWELL: Thank you.
REP. THURMAN: I'm through, Mr. Chairman.

REP. ZELIFF: Thank you very much, Ms. Thurman. You were right almost on the money anyway, without realizing it, I'm sure, but thank you.

And thank you, Kiri. That was not an easy testimony, but we really do appreciate it and understand it and appreciate what you've gone through. It's very, very difficult.

Mr. Schiff, 15 minutes for you, if you're ready.

REP. SCHIFF: Thank you, Mr. Chairman.

Before beginning my questioning of this panel, I want to explain -- thank you -- I want to explain -- before beginning my questioning of this panel, I'd like to explain what my point of view is going to be in these questions. David Koresh has never been a hero to me. I think it's obvious that he broke laws. In my view, if he'd have surrendered, at some point, the greatest loss of life which did occur may well not have occurred.

But the difference between David Koresh and the Department of Alcohol, Tobacco, and Firearms and the Federal Bureau of Investigation is that David Koresh was not working for the federal government in 1993, but the FBI and the ATF were all federal employees in 1993.

Now, the point is that federal agencies like the Federal Bureau of Investigation and Alcohol, Tobacco, and Firearms have an accountability to the government and to the people at all times, no matter what kind of people they are dealing with, so in my judgment, Mr. Koresh's personal practices, however despicable they obviously were, has nothing to do with a hearing on how the Department of Alcohol, Tobacco, and Firearms handles a firearms violation case.

And I want to say to you, Kiri, personally, that I'm very sorry that you were not protected from David Koresh. I'm very sorry that you were not protected during this hearing, because it could have been arranged that you testify with no cameras going if we had known what your testimony would have been, but I can only say to you I'm very glad you weren't in that compound in February of 1993, and later when it burned down.

With that, I'd like to ask a question of Mr. McMahon, if I may.
MR. MCMAHON: Yes, sir.

REP. SCHIFF: Sir, it is my understanding that you are a firearms dealer. Is that right?

MR. MCMAHON: Yes, sir.

REP. SCHIFF: Could you tell briefly where that is and for how long?

MR. MCMAHON: Well, I started in Jump Bridge (ph), Florida --

REP. SCHIFF: Right at the scene, though, we're talking about.

REP. : Mr. McMahon, could you move the microphone up closer, please?

MR. MCMAHON: Yes, sir.

REP. : We're not able to hear you very well. Thank you.

REP. SCHIFF: So how long in Waco, Texas? I'm sorry.

MR. MCMAHON: Two and a half years.

REP. SCHIFF: And that's in --

MR. MCMAHON: '91 to 1993.

REP. SCHIFF: And you have a federal firearms license?

MR. MCMAHON: I did, yes, sir.

REP. SCHIFF: At the time you did?

MR. MCMAHON: Yes, sir.

REP. SCHIFF: And did you do business with David Koresh?

MR. MCMAHON: Yes, sir. I did.

REP. SCHIFF: And did he purchase firearms from you?

MR. MCMAHON: Yes, sir, he did.
REP. SCHIFF: Did you ever sell him any illegal firearms?

MR. MCMAHON: Illegal? No, sir.

REP. SCHIFF: Did he ever say that he wanted illegal firearms?

MR. MCMAHON: No, sir.

REP. SCHIFF: Did he ever say why he wanted firearms in the first place.

MR. MCMAHON: As an investment.

REP. SCHIFF: And how can one use firearms as an investment?

MR. MCMAHON: The guns that he was buying would go up in value. No question.

REP. SCHIFF: Okay. And do you know other people who do that?

MR. MCMAHON: Yes, sir.

REP. SCHIFF: It's not uncommon by itself, is it?

MR. MCMAHON: No. Not by far.

REP. SCHIFF: All right. And did you have a visit specifically from ATF Special Agent Aguilar in June of 1992 related to Mr. Koresh?

MR. MCMAHON: July '92.

REP. SCHIFF: July of 1992?


REP. SCHIFF: Okay. And did -- they were investigating Mr. Koresh at that time, is that right?

MR. MCMAHON: That is apparent now. It wasn't at that time.

REP. SCHIFF: All right. But wasn't there a phone call between you and Mr. Koresh while the special agent was there?

MR. MCMAHON: Yes, sir.

REP. SCHIFF: Would you briefly say what that conversation was
about?

MR. MCMAHON: Yes, sir. While ATF was there asking questions about David, they were question — "Where did he get his money? What's he going to do with these guns? Why does he need these guns?" They were asking these type of questions. And these weren't compliance check questions. And that's what he was there to do, was ask compliance. They were there to do compliance. These weren't compliance check questions.

And so, I was concerned that I was going to give them an answer that I shouldn't. So, I called David up, and I told David they were here asking these questions. And David said, "Well, if there's a problem, tell them to come out here." And I said, "Well, hang on." I got this walk around phone. I walked back into my gun room, and there was Davy Aguilar sitting down. Jimmy R. Skinner is standing up to the left. And I go, "Well, I got David Koresh on the phone." And Davy Aguilar, he goes -- he jumps up and -- (inaudible) -- "Don't go. Don't go. And I go, "I got him on the phone." And he goes -- and so, I looked at Mr. Skinner and I said, "Well, do you all need to go out there?" I mean, you know, he's going -- you know, he said, if you had a problem, come out there. And he's going, "We do not need to go out there at this time."

So, I looked at Davy, and I said, "Do you need to go out there? Is there anything you need to ask him? Is there anything he needs to do?" He said, "No." And so, I told David that they did not need to come out there, and I hung up.

REP. SCHIFF: So, the special agent was directly invited, by telephone, to go out and see Mr. Koresh personally?

MR. MCMAHON: Yes, sir.

REP. SCHIFF: Okay. All right. Let me turn to Mr. Goldstein and Mr. Descamps. There has already been substantial discussion of the search warrant in this case. And if there is time, I would like to go back to that. But before we do, I have a couple of other warrants that were issued. And warrants holding up aren't as good a photo opportunity as an AK-47, I know, but they may be more important to this case. There were also a warrant for arrest against Mr. David Koresh, a criminal complaint to go along with that. Have you two gentlemen seen all these documents? Mr. Goldstein?

MR. DESCAMPS: I'm Mr. Descamps.
REP. SCHIFF: Mr. Descamps?

MR. DESCAMPS: I have seen the affidavits. I have not actually seen the warrant or the complaint.

REP. SCHIFF: All right.

Mr. Goldstein?

MR. GOLDSTEIN: I have been provided with a copy of the search warrant. I have not seen the affidavit for the arrest warrant.

REP. SCHIFF: Well, let me tell you, the arrest warrant says that it's an arrest warrant to the United States of America versus Vernon Howell, aka David Koresh. And it gives the number of the western district of Texas. And it charges him with the following crime. And I'm reading now. It charges him with the lawful possession of a destructive device. Have either of you ever heard of a crime called the lawful possession of a destructive device?

MR. GOLDSTEIN: I would suggest that would not be a crime.

REP. SCOTT: Mr. Chairman, does the gentleman have --

REP. MCCOLLUM: Is there a parliamentary inquiry here?

REP. SCOTT: Parliamentary inquiry. Does the gentleman have a complete copy of the warrant?

REP. SCHIFF: As far as I know, I do.

REP. MCCOLLUM: Apparently, he does.

REP. SCHIFF: I do.

REP. MCCOLLUM: So, if you two want to refer to it, you can. But it's the gentleman's time.

REP. SCOTT: I have a copy that says -- the letter "N" is there, and it looks like the "U" here is not copied. So that it looks like it's unlawful possession on the copy I have.

REP. SCHUMER: That's my copy.

REP. MCCOLLUM: So, in other words, there's a reason that some of
them think that it is unlawful possession is actually printed on there.

REP. SCHIFF: All right. Well, let me go on then.

REP. SCOTT: It's a parliamentary inquiry, but --

REP. SCHIFF: But it's not on my copy, Mr. Chairman. I mean, it says lawful possession of destructive device.

REP. MCCOLLUM: You have an additional minute added back to your time, Mr. Schiff.

REP. SCHUMER: Let me go on then to the statute numbers. It's presumably -- obviously, it meant to say unlawful possession. But let me go to the statute numbers. It says, "In violation of 26 United States Code, Section 5845-F." Are either of you gentlemen familiar with that particular section of the United States code?

MR. DESCAMPS: I am not.

MR. GOLDSTEIN: I've read that statute.

REP. SCHIFF: All right. Are you aware that that section does not create a crime. It creates a definition of a destructive device. And the actual crime of possession of that device illegally is 26 United States Code 5861.

MR. GOLDSTEIN: You are correct. I believe the citation is to the definition section of that statute.

REP. SCHIFF: Now, my point is this. Assuming I don't have a miscopied section there that I've read the section of the code properly there -- I'm making the point that isn't it rather sloppy law enforcement work to put the wrong section of a code into a warrant for which somebody is about to be arrested? Mr. Goldstein? Or either one of you first.

MR. GOLDSTEIN: No question it's sloppy. I would suggest that on, day in and day out, courts affirm arrests of individuals -- even though the citation to the code is wrong, even in -- convictions are even upheld when an indictment contains the wrong citations of the Code.

REP. SCHIFF: I wasn't asking you if it was legal. I was asking if it was sloppy.
MR. GOLDSTEIN: It certainly is sloppy.

REP. SCHIFF: All right. Mr. Descamps, do you have a view on this?

MR. DESCAMPS: Well, I'd have to say that it's sloppy -- although, lots of times, problems happen with -- in transcription ways, secretaries and others. And it happens all the time, as Mr. Goldstein has said.

REP. SCHIFF: Well, what I'm getting at is, that's practically the first document in this whole set of events. And I am suggesting that -- starting with the documents, and point by point -- one can see that law enforcement, at various times, may have been doing a questionable job. And I'd like to go back to the search warrant, if I may.

MR. GOLDSTEIN: I would suggest that if they had spent as much time worrying about the warrants as they had been amassing military type equipment to execute the warrant, they probably wouldn't have made those kids of mistakes.

REP. SCHIFF: Well, let's talk about the warrant a bit, because you didn't have time to complete your statements when testifying before. Starting with Mr. Goldstein, do you have any specific observations of the warrant that you think are substandard? I'm not raising the issue of is it probable cause. That's ultimately a legal determination. But is there anything that you personally question in that warrant?

MR. GOLDSTEIN: Well, I think I have stated that there is a lot of surplusage. There is a lot of inflammatory material in the warrant that -- while it is terrible to read, just like it was terrible to listen to -- has little to do with federal law enforcement, and is certainly outside of the scope of the jurisdiction of the agency that was trying to get the warrant.

REP. SCHIFF: Okay.

MR. GOLDSTEIN: I would point out that --

REP. SCHIFF: No, but let me -- I'm going to stop you right there and just emphasize that. There is some rather graphic sexual testimony in the affidavits for the search warrant also.

MR. GOLDSTEIN: Yes, there is.
REP. SCHIFF: But the offense for which the search warrant is being drafted is a firearms offense. Is that --

MR. GOLDSTEIN: No question. And the ATF wouldn't have any jurisdiction to enforce the child sexual laws, or pornography laws, or deviant sexual activity laws of the state of Texas.

REP. SCHIFF: Well, you know, Mr. Jahn said that if he arrested David Koresh, he was going to take DNA samples for some reason. Do you know for what federal offense he was going to do that for?

MR. GOLDSTEIN: As I understood Mr. Jahn's testimony, he said he was going to turn that over to state authorities. But that's what I heard.

REP. SCHIFF: Do you -- do you know if the state authorities asked for his assistance?

MR. GOLDSTEIN: I do not.

REP. SCHIFF: Do you --

MR. GOLDSTEIN: There's a nice deputy sheriff sitting next to me, but I haven't asked him.

REP. SCHIFF: All right. All right. Let's go back to the warrant then. That's something you've read. Would you have some other specific examples, with respect to use of informants, currentness of the information? I'll let either of you pick up wherever you -- wherever you wish on that. I just want to stress, I'm not trying to make a legal determination if probable cause still exists. I'm trying to get at, was due care shown professionally in the drafting of this document?

MR. DESCAMPS: Well, let me respond to that, if I may, Congressman. The fact is, officers who draw these applications tend to put in more information often times than they necessarily need to, simply because they want to make sure that they cover all the bases. And there isn't any doubt that there are some irrelevant prejudicial material in this application. But I think that it's common for officers to put that in in the hopes that they don't inadvertently leave something out that they should have put in.

REP. SCHIFF: How could --
MR. DESCAMPS: It's better to have too much than not enough.

REP. SCHIFF: How could sexual information possibly, if left out, have anything to do with a firearms charge?

MR. DESCAMPS: It couldn't.

REP. SCHIFF: Okay. Thank you.

MR. DESCAMPS: It's irrelevant.

REP. SCHIFF: All right. Even some of the firearms information -- for example, there's a quote that's referred to at least once, I think twice, of a child who had been living in the compound, who said, "I hope to grow up, because then I can practice with long guns like adults." Do either of you know of a federal offense in practicing with long guns by adults?

MR. GOLDSTEIN: It's not just that it's irrelevant. It's inflammatory. It wasn't mistakenly put in there. Someone intentionally put that in there in the hopes that that would move a judge -- the person that issues the warrant. The problem we all have is that the state of the law right now is that a judge will take -- even if you had an outright lie that you could prove that they had perjured themselves on the affidavit -- the judge would simply excise that out, and you'd redact it -- is what it's -- it's redaction. And that's the problem that defense lawyers out there, and citizens who want to enforce these rights, which are the way that we actually protect ourselves from unlawful government abuses.

REP. SCHIFF: Okay. All right. Let me point out, the affidavit did mention -- since it went into child abuse -- that a child case worker from the state of Texas human services department went out to the compound. That person was allowed in the compound, wasn't restrained or shot in any way. Was that your understanding of the affidavit?

MR. GOLDSTEIN: That is mine. And I would question both the resort to this kind of amassed military like force, when it does appear that there were a number of other opportunities. But this is hindsight and second guess.

REP. SCHIFF: Well, we have two things to start off. We have the fact that a Texas government official went out there, and went out and returned unmolested.
MR. GOLDSTEIN: Yes.

REP. SCHIFF: And we have at least a telephone invitation directly to Alcohol, Tobacco, and Firearms to go out.

MR. GOLDSTEIN: And it does appear that David Koresh had been out during that period of time, and perhaps could have been apprehended without this. Although, that doesn't relate to the search of the premises.

REP. SCHIFF: Right. Speaking further on that, was there anything in this affidavit for the search warrant that indicated that exigent circumstances existed so that there had to be a no knock entry? Did either of you see that?

MR. GOLDSTEIN: No, but I can tell you this much -- before, interestingly enough, Justice Thomas' unanimous opinion on Wilson versus Arkansas, you probably couldn't have found a defense lawyer out there that would have thought that the knock and announce provisions of the Fourth Amendment had any teeth in them.

REP. SCHIFF: Did you --

MR. GOLDSTEIN: Quite frankly, there is nothing in there that would --

REP. SCHIFF: Did you see them even try to argue exigent circumstances in this affidavit?

MR. GOLDSTEIN: Other than the argument that weaponry always presents some danger --

REP. SCHIFF: Right.

MR. GOLDSTEIN: -- there is nothing either addresses specifically to exigent circumstances --

REP. SCHIFF: Right.

MR. GOLDSTEIN: -- nor is there a request for authorization to enter without knocking and announcing.

REP. SCHIFF: Just to conclude then, whenever there's firearms, there's potential danger. Right, Mr. Goldstein, in a search?
MR. GOLDSTEIN: No question.

REP. SCHIFF: All right. But in every other search, or most other searches, there is not dozens, if not 100, militarily trained ATF agents staging the raid either, right?

MR. GOLDSTEIN: No question. It does appear that they did not do much in the way of availing themselves of less intrusive opportunities. And it looks like they spent all of their time amassing military type equipment to engage in this raid, and perhaps even lied to state and federal officers and officials to obtain that equipment.

REP. SCHIFF: Okay. Thank you. No further questions, Mr. Chairman.

REP. MCCOLLUM: Thank you very much, Mr. Schiff.

Mr. Schumer, you're recognized for 15 minutes.

REP. SCHUMER: Thank you. And I didn't intend to get off on this. Mr. Goldstein, where -- what military type equipment were used in the raid we're talking about?

MR. GOLDSTEIN: Well --

REP. SCHUMER: I don't know of a single instance.

MR. GOLDSTEIN: The helicopters and other aircraft that would not normally be assigned to the police department. I would suggest that they are not military in the sense that they are unique to military. Here is what concerns me. And I'm not suggesting --

REP. SCHUMER: Or police. The NYPD -- I don't know out in Texas -- all have helicopters.

MR. GOLDSTEIN: They don't borrow them from the National Guard and --

REP. SCHUMER: What does that have to do with it?

MR. GOLDSTEIN: Well, because it goes to what we're talking -- the callousness or the concerns I think many of us have --

REP. SCHUMER: Okay.

MR. GOLDSTEIN: -- to irregularity.
REP. SCHUMER: Yes. Other than helicopters --

MR. GOLDSTEIN: It doesn't -- it's not unusual.

REP. SCHUMER: Other than helicopters, was there any other military equipment used?

MR. GOLDSTEIN: If you're suggesting that --

REP. SCHUMER: I'm just asking a yes or no question, Counselor.

MR. GOLDSTEIN: Yes. I think that we don't need the --

REP. SCHUMER: What? What was it?

MR. GOLDSTEIN: Okay. I think the military style attire.


MR. GOLDSTEIN: Yes.

REP. SCHUMER: Okay.

MR. GOLDSTEIN: I think that -- I have a concern --

REP. SCHUMER: I've finished this line of questioning. I -- that's fine. Military style attire indicated --

MR. GOLDSTEIN: I think the ninja masks, the black --

REP. SCHUMER: Right. Do you know if that's standard ATF procedure?

MR. GOLDSTEIN: I think that it is becoming more and more standard in not only ATF, but law enforcement --

REP. SCHUMER: Right. And you --

MR. GOLDSTEIN: -- even down to our local law enforcement.

REP. SCHUMER: Okay. Thank you, Mr. Goldstein.

MR. GOLDSTEIN: And it's one of the things that I think defense lawyers are concerned about.
REP. SCHUMER: I'm not interested in your general views on what type of attire police and ATF ought to wear.

MR. GOLDSTEIN: I think every law enforcement agency is now using it.

REP. SCHUMER: Okay. Please, Mr. Goldstein. That's enough.

I have a series of questions here. I just -- you hadn't read the affidavit, and yet you were commenting on what happened there, and led to the -- led people to a conclusion that was all sorts of military types of things. And now we find out it's typical ATF uniforms and a helicopter.

MR. GOLDSTEIN: I don't think ninja --

REP. SCHUMER: My question is now to Mr. Barber. And what I'd like to establish here with you, Lieutenant Barber, is that the ATF just didn't pick this place out of the clear blue, that -- and first let me just introduce you to the panel, that you are a member of the -- you were a member of the McLennan County Sheriff's Office at the -- during this time. Is that correct?

MR. BARBER: Yes, sir. That's correct.

REP. SCHUMER: Okay. When did you first become aware of the problems at the Branch Davidian compound?

MR. BARBER: The first notification I had had nothing to do --

REP. SCHUMER: If you can just pull the microphone closer. Thank you.

MR. BARBER: The first notification that our department got involved with actually came through the Immigration and Naturalization Service.

REP. SCHUMER: When was that?

MR. BARBER: Nineteen-ninety.

REP. SCHUMER: Yes.

MR. BARBER: And this had to do with the possibility of illegal aliens being out there, having over-stayed their