REP. ZELIFF: Will the next panel please come forward? In the interest of time, I will start to introduce them. It'll be to my left, your right, Joyce Sparks, Texas Department of Child Protective Services; George Morrison, Los Angeles police department; Tim Evans, attorney; John Kolman, formerly with Los Angeles County sheriff's department; Victor Oboyski, president, Law Enforcement Officers Association. Are all members of the panel here? It's customary that the witnesses be sworn in to the subcommittee, so if you'll all stand and raise your right hand. Is the testimony you are about to give to these subcommittees the truth, the whole truth and nothing but the truth?

ALL: Yes.

REP. ZELIFF: I heard an affirmative answer from all members of the panel. The chair recognizes Mr. Clinger from Pennsylvania for five minutes.

REP. CLINGER: Mr. Chairman, I'm pleased to yield my five minutes to the gentleman from Indiana, Mr. Souder.

REP. SOUDER: Thank you, Mr. Chairman. Ms. Sparks, I understand you have had conversations with a Fran Haga, who I guess is with the NRA. This was not part of our committee investigation and I'm sorry that someone falsely represented themselves to you. Will your testimony today at all be influenced in any way by those conversations and things that you wouldn't have said otherwise?

MS. SPARKS: No.

REP. SOUDER: Thank you very much. I also want to state for the record that our job on this committee is an oversight function of the federal agencies and we don't have jurisdiction over child abuse cases and that regardless of how repulsive and wicked an individual is -- and I can't see that I've read of anybody much worse than David Koresh -- we don't have jurisdiction over that. But let me tell you anyway, on behalf of many of us, that we're pleased with your dedicated commitment to those children. You persisted in that case.

One of the frustrating things in child abuse is that many people, such as the mothers in this case and others, apparently would not grant you interviews. They would not file charges. It's one of the most difficult things in the protection of children is that you can't go forth with many of these cases unless somebody will come to you and be willing to go to trial. It also appears that at least you're alleging that local law enforcement agencies, you feel, were tipping them off that you were coming, which is not a regular problem but a problem we have around the country with people doing that.

I also read in your testimony that even Kiri Jewel, who was so brave here the other day, wouldn't testify, which is no fault against her but shows how hard it is to pursue such cases. And I wanted to make sure that was in the record because I've worked many years on the child abuse issue and I am very -- I find the whole thing repulsive and the man repulsive based on what we've seen. But that is not what we're doing here. And what I would like to do is ask you a few questions related to the raid. Could you describe how you felt about the raid? And was the government considering the best interest of the children when they went in?
MS. SPARKS: I personally think the raid was a mistake. I've been pretty opinionated about that. Once the raid started, the fire was inevitable. It set into motion what he would construe as the fulfilling of his prophecy. So once that happened, children were going to die.

REP. SOUDER: There was a quote, but in the end, the last comment I had from Janet Reno is when I said, "Now, I want you to tell me once more why you believe we should move now rather than wait for more," and she said, "It's because of the children. "Do you think that that is a fair statement?

MS. SPARKS: Well, we recovered an arsenal of weapons but we lost 20 children. I'd say there was a flaw in that plan.

REP. SOUDER: That was, by the way, a statement from President Clinton. You said in your testimony that when you saw the ladders and you saw the raid occurring, you knew the children were going to die. Is that correct?

MS. SPARKS: That's correct.

REP. SOUDER: What evidences and what had you heard that led you to believe -- can you elaborate a little further why you believe that this type of raid would result in the death of the children?

MS. SPARKS: Well, I talked with David Koresh many times. Initially in my investigation I tried to keep the biblical references that he continued to want to give separate from my investigation. He repeatedly told me that "You can't understand me unless you understand what I believe." And I came to understand that, so I started watching how his beliefs manifested in his actions. And it was real clear that, I mean, he said that the enemy will surround the camp and the saints will die, and that was real clear. "There will be blood and fire, an explosion at the end." And he believed that, and the people that followed him believed it as well. So once you set in motion the enemy surrounding the camp, he and his followers would have believed that that was the end time.

REP. SOUDER: If there had been longer time before they had gone in with the raid, do you believe more of his non-biological children could have been released?

MS. SPARKS: No.

REP. SOUDER: You believe those that were in there, regardless of what happened, were going to be remaining in there?

MS. SPARKS: I think that -- at first I thought, "Well, maybe something's going to happen."

"And then as I saw that it was not his biological children coming out, he believed that to be -- you know, you had to be with him at the last days. And so he was sending out probably as a delaying tactic the other children.

REP. SOUDER: And those were all out by the end except his biological children?
MS. SPARKS: Every child who came out was not one of his biological children.

REP. SOUDER: Were there any non-biological --

REP. ZELIFF: The gentleman's time has expired. Sorry. Mrs. Thurman, you're recognized for five minutes.

REP. THURMAN: Thank you, Mr. Chairman. Good afternoon, Dr. Sparks. We're glad you're here today. On Wednesday we heard some testimony from Kiri Jewel, and I've understood that you have talked with Kiri as well over, I guess, since she was down in Texas.

MS. SPARKS: Yes.

REP. THURMAN: She talked about her molestation. Did his religious philosophy include having sex with minors?

MS. SPARKS: He never said that to me. He was very cautious. But I did my homework. I studied when he asked me to. And Psalm 45 was a real important psalm to him, and it's the wedding psalm. And so he was much too smart to tell me that he was doing that, but all of his teachings said that that was okay.

REP. THURMAN: So he had biblical references for all of his actions?

MS. SPARKS: There are a lot of references in the Old Testament that would lead one to believe that it's okay.

REP. THURMAN: How often or for how long did you stay in contact with Mr. Koresh?

MS. SPARKS: My initial contact began in February of '92, and probably the last conversation I had was about December of '92.

REP. THURMAN: You've worked, it's my understanding, for over 16 years in the child protective services. Is that correct?

MS. SPARKS: That's correct.

REP. THURMAN: Okay. Were you concerned about the safety of the young girls after hearing some of these religious views?

MS. SPARKS: Yes, very concerned. Not just the sexual abuse, but there were other things going on. We knew that babies were being spanked, but we didn't -- we never saw a bruise. So it was real difficult for us to do anything with that. But children were telling us things that we couldn't pursue because of our limited access.

REP. THURMAN: At any time, did he also talk -- because you had just mentioned earlier that they probably would never come out of there. Did he, in his religious beliefs, talk about that as well?
MS. SPARKS: That was consistent. He said that the enemy would surround the camp and he talked a lot about Babylon and the government being the beast. And one of the things that they were supposed to do was to try to confuse the enemy. And so even when he lied to people, he thought that was what he was supposed to do. But his plan was there would be blood and fire at the end and everyone would die. The saints would all die.

REP. THURMAN: When Kiri testified before, she talked about cyanide and guns. And, I mean, that kind of goes along with the same thing she had said that they knew about suicide.

MS. SPARKS: When I talked to David, there was an incident where there were some rumors of mass suicide. He was adamant that suicide was not in their plans. But you have to understand that he thought that he was -- Christ came and he was the gentle messiah. He tried to tell us the truth and we didn't listen. And so he thought that he was here as a military intervention. And so that was his position. He thought that he was here to militarily intervene, and that colored a lot of the things that he did.

REP. THURMAN: (Let's do?) his punishment a little bit here, because I know there were some views, I think, that you wanted to share with us about his punishments and why he did them and what he thought the reason was for that.

MS. SPARKS: He had a very interesting philosophy on disciplining children, and he confirmed that that started at about eight months old.

REP. THURMAN: He said that?

MS. SPARKS: Yes. And he said that you hold the baby. I said, "How do you discipline a baby? "He said, "You hold the baby, and if it cries, you say, 'No. 'And then you look away. And you do that several times, and that's where you start. "And then I said, "Well, you know, what if the child's going to be burned, sticking its hand in the fire? "And he said, "Well, you say, 'No, I told you don't do that. You'll get hurt. "And so I said, "Well, what if he tries again? "And he said, "If he tries again, you tell him the same thing. I only tell you the truth. And if you don't listen to me, you're going to get hurt. "And he said, "Then the next time you just let him get burned and he'll remember. "

And I said, "Well, David, I hear what you're saying. What happens if a child runs in front of a car? You can't just let them do that. "And he said, "No, but you can get a mutilated cat and you can show it to the child and say, 'Look, this is what will happen if you don't do what I say. "So it was a very threatening thing. With Kiri Jewel, she was scared to death that she was telling me and that he might find out. That was one of the reasons she wouldn't testify, because she knew that he would be there.

REP. THURMAN: And she also knew her mother would be there? Is that--

MS. SPARKS: Yes. And she said that she sometimes wondered what it would be like if David was right and if she was -- if his teachings were right. And she thought that she would die and burn in hell for telling. So he had a great hold on those children. It was very difficult to get them to talk
because it was very monitored.

REP. THURMAN: And that happened to you as well, I think, when you were at the compound and when you went in initially to talk to the children; you found that same kind of--

MS. SPARKS: Yes. We ended up interviewing the little boy on the back of a flatbed trailer outside, and his eyes were darting around. He was clearly frightened. And he was being real careful what he said. When I had a meeting in my office with David Koresh just after that, he knew every question I had asked the child. I mean, he must have sat the child down and just interrogated him to get every single bit of information, because then he was explaining everything to me.

REP. THURMAN: Thank you, Dr. Sparks.

REP. ZELIFF: Ms. Thurman, your time has expired. Ms. Ros-Lehtinen from Florida.

REP. ROS-LEHTINEN: Thank you, Mr. Chairman. I yield my time to Mr. Souder.

REP. SOUDER: I want to make it clear that I hope no one watching this hearing or looking at the record believes that this man Koresh's perverted view of Scripture somehow justifies child sexual abuse. He may have thought it was within his religious philosophy, but the Bible also says even the devil can misquote Scripture.

With that, I'd like to move to Mr. Evans. My colleague, Congressman Barr from Georgia, introduced a set of memos that originate from the Department of Treasury and concern the tragic events around Waco. Would you tell me what you believe to be the significance of these documents? And they've been circulated to all the members.

MR. EVANS: Yes, thank you very much. I first learned of these documents while I was here observing these hearings two days ago, and I'll have to tell all of you that I was amazed that they existed and shocked at what I saw in them. And I would like to go over these with you at this time because I think it takes someone who's involved in the legal system to actually let you know what the importance of these documents is. I was one of the lawyers in the Davidian case in San Antonio. I represented Norman Ellison, a British citizen who was acquitted of all charges, even though he was charged with the same conspiracy to murder federal agents that everyone else was.

What is significant about these documents is that there is the theory in the law and in our Constitution, and the Supreme Court endorses it firmly, that the government must reveal to anyone that is accused of a crime in this country evidence that is exculpatory; in other words, that might point to their innocence or that might disagree -- in other words, show that there is two different sides to the story or that the government witnesses are telling two different stories. That's clearly a burden.

These documents show, to my interpretation of looking at them, they show that there was an effort to keep that from happening and to just abandon that responsibility. I'd ask you first, to set the stage, we must understand that not one agent who was at the raid on the scene on the 28th made a written report of it. That's highly irregular. We brought that out in the trial. The Texas Rangers testified that
it was highly irregular. I've practiced criminal law for 25 years. I've never been in a situation where agents who worked at a -- who had personal information, who were at a site and observed an incident, certainly one this spectacular and egregious, did not make a written report.

We asked at the trial, "Why didn't you make written reports? " "Well, we were just told not to and there was going to be a review by the Rangers and we wanted this to look like it was an independent -- look like an independent investigation."They told us that that was their reasoning. And now we see these documents which I have just seen today that were not revealed to us. And I'll tell you, this is something new that these hearings have brought out, I'll guarantee you that.

And let's start with the first one up there, and that's page -- the page that starts with the memorandum to Ronald K. Noble. And I'll not get to go through all of these at this time, but I'll go through this first one to set the stage for what's important. That memorandum from Sarah Elizabeth Jones to Ronald K. Noble was written on March the 1st of 1993. That's the day after the shootings; they started a shooting review team. That's what they should have done.

They sent -- and that document will say -- if you could point to it, March the 1st -- well, take that down because I believe we have a blow-up of the paragraph that I'm referring to -- and it says, "On March the 1st, the ATF initiates a shooting review. David Troy and Bill Wood interview four agents" -- and their names there; I won't read their names, but four of the first agents. Two of them are supervisors. "Troy tells review they immediately determined that these stories did not add up. "They immediately determined that these stories did not add up.

And if you'll look under the parentheses down there where it says, "Note," here was the response to that. "Note: Johnston, the assistant United States attorney, at this point advised Hartnett to stop the ATF shooting review because ATF was creating Brady material" -- not because they wanted the Rangers to do an independent investigation but because ATF was creating Brady material. Brady material, ladies and gentlemen, is information that might tend to show that someone accused is innocent. I see my red light is on.

REP. ZELIFF: Do you feel that you've sufficiently answered the question? You have 10 seconds just to wrap it up. I mean, we don't want to shut you off.

MR. EVANS: Well, to be fair with you, there are several other documents and I hope I get a chance --

REP. ZELIFF: Okay.

MR. EVANS: -- to go through it. And, no, I have not answered the question, but it'll take more than a minute to do so.

REP. ZELIFF: Well, maybe the next gentleman I'm about to introduce will give you time. Mr. Schumer, you have five minutes. (Laughter.)

REP. SCHUMER: It might snow tomorrow also.
REP. ZELIFF: (Inaudible) -- my friend.

REP. SCHUMER: Right. I'm sure that folks on the other side will want to review your very lawyer-like presentation, Mr. Evans. No, I have some questions for Dr. Sparks. And Dr. Sparks, I know that you didn't come to Washington to talk about the role of the National Rifle Association in setting up this hearing, but I must ask you about it because I think it's important that we get into the record, the official record, what happened in terms of your interview. So what I'd like to do is first play this tape and have you identify it.

REP. ZELIFF: May we inquire what the tape is about?

REP. SCHUMER: Yes. This is the tape of --

REP. ZELIFF: Are you doing wire taping now?

REP. SCHUMER: No, we are not doing wire taping, wire tapping or anything else. We are simply -- this is the tape that we have talked about before in terms of an interview -- a phone message left for Ms. Sparks by a Ms. Fran Haga.

REP. BARR: Excuse me. Could the -- (inaudible) --

REP. SCHUMER: Wait a second. The tape is --

REP. BARR: -- parliamentary inquiry?

REP. ZELIFF: Can you state your parliamentary inquiry?

REP. SCHUMER: I just want to make sure this isn't my time.

REP. BARR: Mr. Chairman, every time our side has attempted to do something even somewhat less spectacular than the gentleman from New York always tries, the other side objects to it on parliamentary grounds.

REP. SCHUMER: No, we haven't.

REP. BARR: And there was also discussion earlier formed as a parliamentary inquiry that nothing could be distributed or used unless it was shown to the other side, namely them, in advance. So I would object to the introduction of this at this time based on precedence --

REP. : (Off mike. )

REP. BARR: I'm still talking -- based on precedence that the other side has already set by way of parliamentary inquiries.

REP. : Parliamentary inquiry, Mr. Chairman.
REP. SCHUMER: Just --

REP. ZELIFF: Give me a chance. Do you want to be in the chair?

REP. SCHUMER: Nope.

REP. ZELIFF: Okay. I know you do.

REP. SCHUMER: In two years, I do. (Laughter.)

REP. ZELIFF: Mr. Barr, I think, in all due respect, in the sense of fairness, I can remember the CNN tape that we had in the beginning. So I think maybe --

REP. BARR: To which they objected.

REP. ZELIFF: Well, they did, and we spent a lot of time. But you're a man of much greater flexibility, I think. So if we can, let's --

REP. BARR: I think our side generally is, and I appreciate the other side now recognizing that. I remove my objection.

REP. ZELIFF: Thank you very much. Proceed, Mr. Schumer.

REP. SCHUMER: Okay, thank you.

REP. ZELIFF: Your clock is ticking.

(Audiotape is played.)

FEMALE VOICE: I'm at 202-543-6000, extension 102. That's in Washington DC. And I expect that this is not exactly the voice that you want to hear on your voice mail this morning, but I'm with the Waco hearing team that is working on putting together the Waco hearings that are slated to -- well, they were slated to begin the 12th of July, but it looks like they're going to be backed off to the 18th. And I was trying to get in touch with you to chat with you about some of your direct knowledge of the things that came down in Waco. If you can get back to me, please do.

REP.: (Inaudible.)

REP. SCHUMER: Hmm? No. Unfortunately, the National Rifle Association did. But let's let Dr. Sparks answer the questions, and I will be quick and to the point. Was this message left on your voice mail, Dr. Sparks?

MS. SPARKS: First I need to clear something up.

REP. SCHUMER: Please.
MS. SPARKS: Don't call me doctor. (Laughs.)

REP. SCHUMER: I'm sorry. It says "Dr." over there. Ms. Sparks.

MS. SPARKS: Wrong. Sorry.

REP. SCHUMER: I apologize. Was this message left on your voice mail, Ms. Sparks?

MS. SPARKS: Yes, it was.

REP. SCHUMER: Did you return Fran Haga's call?

MS. SPARKS: Yes, I did.

REP. SCHUMER: When you called her back, how did she initially identify herself?

MS. SPARKS: She said she was with the Waco team and she wanted to talk to me about what I knew about Waco.

REP. SCHUMER: Okay. And how did you get her to admit she worked for the NRA?

MS. SPARKS: As we talked, something just didn't seem right and I asked her, "What is your role? Tell me what your role in this is?" Because it seemed to be getting fuzzy to me. She sort of talked around in circles. And finally I said, "Wait a minute. Who pays your salary?" And when pressed, she did tell me that it was the National Rifle Association.

REP. SCHUMER: Did you feel deceived by Ms. Haga?

MS. SPARKS: Yes.

REP. SCHUMER: And would you have called her back if initially, when she first played the tape, she identified herself as being from the NRA?

MS. SPARKS: No, I wouldn't have.

REP. SCHUMER: Okay. Thank you, Ms. Sparks.

REP. ZELIFF: May I just ask, what was the point? I mean --

REP. SCHUMER: Well, we'll let the record --

REP. ZELIFF: Did I miss something?

REP. SCHUMER: Yeah, what you missed -- well, I don't think anybody in the audience missed it, Mr. Chairman. (Laughter.)
REP. ZELIFF: (Inaudible.)

REP. SCHUMER: Okay. No. I don't want to use my time to elaborate the point--

REP. ZELIFF: Someone left a message on her recorder.

REP. SCHUMER: Ms. Fran Haga, at the beginning, before--

REP. ZELIFF: Who is Fran Haga?

REP. SCHUMER: Fran Haga is a consultant for the National Rifle Association, who instead of--

REP. ZELIFF: Do we know that?

REP. SCHUMER: Yes, we do. She admitted it to Ms. Sparks. But when she called Ms. Sparks to interview her, she said, "I'm from the Waco hearing team" and did not tell Ms. Sparks who she was being paid by and where she was from. The attempt, in my judgment, Mr.--

REP. ZELIFF: What's that got to do with Ms. Sparks?

REP. SCHUMER: Well, this is my regular order, please, Mr. Chairman. If you want to question, please go ahead.

REP. ZELIFF: Well, you're now over time anyway.

REP. SCHUMER: Not--I was interrupted, and I'd ask to finish.

REP. ZELIFF: Okay. I'll give you another minute.

REP. SCHUMER: Okay. And so in any case, we'll let--just as your side says, we'll let the public decide. I just have one other point that I would like to make to you, Mr. Chairman, not related to this--I thank you, Dr. Sparks--and that is that--

REP. ZELIFF: Not Dr. Sparks.

REP. SCHUMER: Ms. Sparks--sorry--that you, Mr. Chairman, and I think Mr. Mica, have complained Wednesday that members haven't been able to see the illegal guns found in the Davidian compound. And I agree that we ought to see those guns. And so I just want to let the committee know that I've asked the Justice Department to bring all of those guns to Washington. The Justice Department has agreed it will happen. The guns will be brought to Washington next week, and all the members can see these guns for themselves. And with that, I yield back my time.

REP. ZELIFF: One quick question. Does that mean that we now have approval to have those guns X-rayed in a third-party opinion of whether they've been altered, when they were altered, before or after the fire? You seem to have connections with the Justice Department. We don't have the same.
REP. SCHUMER: Well, let me tell you the history, if the gentleman might yield. The history was that you sent a letter a month ago requesting making that request. The Justice Department sent you back a letter saying they would try to comply with the request and then had no answer from you. When I saw Mr. Mica's letter this morning --

REP. ZELIFF: Your time --

REP. SCHUMER: Please. If you're asking me a question, I think -- I'll take another 20 seconds and get the story out, and that is, when I saw Mr. Mica's letter this morning again asking and saying, "Why couldn't all the guns come up?" I renewed a request to the Justice Department. They told me yes. I don't want anything to be private here, and I'm making that notice quickly to the committee.

REP. ZELIFF: I think the comment came back that the state of Texas -- it was going to cost thousands and thousands of dollars. This came back on the Justice Department. That's why we were surprised to see those weapons here.

REP. SCHUMER: Right.

REP. ZELIFF: Moving on to Mr. Heineman --

REP. : Point of parliamentary inquiry?

REP. ZELIFF: Yes. State your inquiry.

REP. : If I were going to bring one of the Bradley tanks in here, what would be the procedure for -- would we have to have the doors widened and submitting it as evidence?

REP. CONYERS: No, just go through the doors. (Laughter.)

REP. : Kind of like they did in Waco, right?

REP. ZELIFF: While the gentleman is not stating a legitimate parliamentary inquiry, I believe the gentleman from Michigan appropriately answered it. Mr. Heineman, you have five minutes.

REP. HEINEMAN: Thank you, Mr. Chairman. I'd like to yield 30 seconds to the gentleman from Illinois, Mr. Hyde, and four minutes and 30 seconds to the gentleman from Indiana, Mr. Souder.

REP. HYDE: I thank the gentleman for yielding me 30 seconds. I think it's incumbent on Mr. Schumer and his side to explain to this committee in regular order how Mrs. Sparks' testimony has been tainted by the deceit imposed upon her and used by the National Rifle Association. I concede that was deceitful and untrue. But how do you leap from that act of cupidity to taint? That's the core of your obstructionism during all these hearings is that the NRA has tainted. Now, I take Mrs. Sparks' testimony as free, as fair, as full and as untainted. Do you feel tainted by this NRA lady? Is your testimony in any way affected by it?
MS. SPARKS: I said things to Ms. Haga -- I said things to Ms. Haga that I probably would have been more careful how I put my language together.

REP. HYDE: But you'd say that to us, too, wouldn't you, the same thing?

MS. SPARKS: Well, I didn't lie to her. But I'm just real cautious about people who are not up front with me because I don't know their agenda.

REP. HYDE: You were deceived, but it hasn't affected your testimony here today, has it?

MS. SPARKS: It was her method that I was concerned with.

REP. SCHUMER: Would the gentleman yield?

MS. SPARKS: It has not affected my --

REP. HYDE: Absolutely.

MS. SPARKS: It has not affected my testimony.

REP. HYDE: But it has not -- just a minute. I'm trying to make a point. It has not affected your testimony.

MS. SPARKS: No, sir.

REP. SCHUMER: Would the gentleman --

REP. HYDE: Thank you very much.

REP. SCHUMER: Would the gentleman yield?

REP. HYDE: I suppose, but I don't have that much time.

REP. ZELIFF: His time was already yielded.

REP. SCHUMER: Well, wait a second.

REP. ZELIFF: No, it's Mr. Souder's time. He has a right to yield, if not, or he can use his own time.

REP. SOUDER: I'm going to use my own time. We already have under oath that it didn't affect her testimony. This is typical delaying tactics. All we've heard this whole hearing is there's no new evidence. We get new evidence, and the next thing we know, there's a diversionary tactic. I already said I was sorry for something we didn't do, we didn't have anything to do with. I'm upset that we keep hearing about it when it didn't affect the testimony; it wasn't any part of us. We're trying to go through what does appear to be new evidence, what does appear to be an attempted cover-up by the federal government, and we need to get into the questioning regarding what we're supposed to be
Mr. Evans, could you -- you were in the process of elaborating on these different memos. Could you tell us about the second shooting that occurred on February 28th?

MR. EVANS: Well, there was also a false affidavit in connection with that second shooting. And I can elaborate on that; I have a copy of it. And the reason I can say it is is because they gave the affidavit on the one hand, and on the other hand, an interview from one of the Texas Rangers of another ATF agent gave information to show that that affidavit just wasn't true. That second report from the ATF agent, Mr. Marvin Richardson, an honest agent, a good man, said that when he examined my client's gun, it did not appear to have been shot or fired. He smelled it. He looked at it, and it hadn't been shot.

Another agent sworn in affidavit to hold -- that contributed to holding my client in jail without bond for a year and said that my client had shot at them, made the definitive statement that he shot, withholding the information that they had known for months before that was in this other report. They didn't give me that report till the eve of trial, in violation of this very Brady doctrine we've been talking about. And if I get a chance to ever get through the rest of those blow-ups over there, I can show four or five more instances when they have said this.

Listen, would you move that and go to the blow-up -- yeah, right there. It's somebody's handwritten notes that say, "Texas Ranger. Ray Jahn does not want them, Chuck, Phil" -- that's the two supervisors -- "reinterviewed because Jahn does not want any more exculpatory statements generated. "Exculpatory means it might tend to show that somebody facing life without parole might be innocent. And it says right there in black and white. Now, they tried to explain this to say, "Well, that just meant we didn't want a lot of additional reports generated" or "That just meant, you know, we don't want to, what, compromise the prosecution. "You don't want to compromise the prosecution by revealing evidence that might tend to show that somebody is not guilty of the charges? Well, that's not where we are in this country, I hope. Let's keep going through there. I won't -- my time is up.

REP. SOUDER: Well, if you can come to a conclusion in 10 seconds, it would be great.

MR. EVANS: Well, there's one other document that's not blown up that I received in the documents that were introduced by Mr. Barr, and it says this. "Statements from agents -- should they go to the USA" -- U. S. attorney -- "or us? Do they want us to create new" -- and then it stops, and then it says, "asking questions to which would require us to make a new document," and then in parentheses the word "exculpatory. "What are we talking about, making new documents, in parentheses, "exculpatory"?

REP. ZELIFF: We're going to have to move, and I thank you very much. Mrs. Collins, you have five minutes.

REP. COLLINS: Mr. Chairman, I yield the same lengthy 30 seconds to Mr. Conyers that was yielded to Mr. Hyde.
REP. CONYERS: Thank you, Mrs. Collins. With reference to whether the evidence was tainted, it's the attempt to taint, not whether it was successful or not. This is a very strong woman before us here. And Mr. Chairman, for your information, if you didn't get the point, in 18 United States Code, Section 1512, it prohibits the use of misleading conduct to influence witnesses before an official hearing, including before a hearing of Congress. That carries a criminal penalty. And I thank the gentlelady from Illinois for yielding to me.

REP. COLLINS: Reclaiming my time, Ms. Sparks, I understand that Dr. Perry, who later interviewed the children who survived, testified that the adults in Mount Carmel compound had apparently instilled in the children a strong reluctance to tell outsiders of any physical or sexual abuse. Now, is that consistent with your contacts with the children before the trial?

MS. SPARKS: That's correct. David worked real hard to keep the children away from any outside contact. They were not even in public school.

REP. COLLINS: They were not in public school.

MS. SPARKS: No.

REP. COLLINS: Did you ever hear of any accounts of young children locked up as punishment in places where there were rats?

MS. SPARKS: That was a part of one of our initial allegations. And I did talk with the child about that. He was very good at being evasive. He was real uncomfortable with the question. And finally, as we talked, he said, "Well, you know, there was one time, but it was a long time ago." Later, in talking to others, I asked Steve Schneider, an adult at the compound, about that incident and he did remember something like that. And there was some statement to Cyrus about, "Do you want to sleep in the garage?" And there were rats there. But he said, "Oh, it was nothing." So he did not admit that the child was actually put there. But the child was very nervous about the question.

REP. COLLINS: Let me get this straight. At the time that the agency file on David Koresh was closed, did you have the information you later had from Kiri Jewel?

MS. SPARKS: I had had some contact with Kiri Jewel. At that time she was not willing to really talk about it. It was not until just prior to the raid that she had decided she wanted to testify, and that's when I did the interview with her.

REP. COLLINS: Would you be able to say why it was at that particular time that she decided she wanted to testify?

MS. SPARKS: I really wasn't involved in that. The ATF agents came to me with a sexual abuse referral, and that's when I got involved with it.

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REP. COLLINS: Do you feel that his followers, David Koresh's followers, can accurately say that he was fully investigated and found innocent?

MS. SPARKS: Not at all.

REP. COLLINS: During your visit, you did have several opportunities to talk to children. Did you have any opportunities to talk to adults, besides the children?

MS. SPARKS: Yes, I did.

REP. COLLINS: And what was your general feeling after you talked with these adults?

MS. SPARKS: They truly adored him. He was very much in charge. Sometimes they sort of seemed to set up the conversations we had, but you could tell that they were basically doing what he had said.

REP. COLLINS: Let me ask you a question. You mentioned something about the 45th Psalm.

MS. SPARKS: Yes.

REP. COLLINS: Now, what impact did that have on his religious teachings?

MS. SPARKS: Well, that was basically the introduction -- it was the wedding psalm. When we were talking about studying and he wanted to teach me the seven seals, that was a really important passage to him.

REP. COLLINS: And some of that goes -- if I paraphrase that, some of it says, "My heart is overflowing with a good theme. I recite my composition concerning the king. My tongue is the pen of the mighty writer. You are fairer than the sons of men. Grace is poured upon your lips. Therefore God has blessed you forever," et cetera, those kinds of things, what he sort of used as a religious doctrine?

MS. SPARKS: Yes. And then he told me that you must learn by tasting.

REP. COLLINS: By tasting?

MS. SPARKS: Yes.

REP. ZELIFF: (Inaudible) -- take a break. Your time has expired. We are going to take a recess for 20 minutes, and we will adjourn here at 10 of. And we thank you for your patience. We'll reconvene in 20 minutes.

REP.: (Off mike.)

REP. ZELIFF: Huh? No, no, we're taking a recess for 20 minutes. Mr. Buyer from Indiana will start.
(Recess. )

REP. ZELIFF: The subcommittees will now come to order.

(Off-mike conversations. )

REP. ZELIFF: I would just like to say that I want to congratulate our colleague from Oklahoma, Bill Brewster, for his honesty and integrity relative to the release that just went out through AP. I think what is important, and I think he and I and all of us here need to get to the bottom of what the business is that we're here for, and the bottom is that we need -- let me just finish -- we need to find the truth and we need to get away from any outside influences that could affect that.

So I just want to compliment you, just as I did Louis Freeh last week when he took the courageous move of reopening Ruby Ridge, and I think that was also courageous.

REP. : Could I get --

REP. ZELIFF: Now I --

REP. : -- some time now?

REP. ZELIFF: Well, actually, Mr. -- Mr. Barr has the time.

REP. BARR: Thank you, Mr. Chairman. Mr. Evans, how many years have you been practicing law?

MR. EVANS: A little over 25.

REP. BARR: Sorry. A little over 25, and has that been specializing in criminal law?

MR. EVANS: That's all I've done for that --

REP. BARR: Both civil and -- I mean, both federal and state?

MR. EVANS: Yes.

REP. BARR: Are you familiar with bail procedures in the Bail Reform Act in federal courts?

MR. EVANS: Yes, I am.

REP. BARR: Are you familiar with testimony here today regarding David Koresh leaving the compound and the reasons why he was not apprehended or why no effort was made to apprehend him away from the compound and references to him getting right back out on bond?

MR. EVANS: Yes, I've heard a lot of that.
REP. BARR: Does that comport with your understanding of the Bail Reform Act?

MR. EVANS: Absolutely not. It's very misleading, because the Bail Reform Act says you can detain persons without bond for a variety of reasons. One of them is if they might be a danger to the community, and the government gets to file a notice of that and then they get three days to prepare for a hearing. So anybody that gets arrested in the federal system is looking at three days in jail without --

REP. BARR: Is there any doubt at all in your mind that Mr. Koresh, had he been arrested away from the compound would have been detained by a federal magistrate?

MR. EVANS: Well, the greatest proof of that is that every person that was on trial has been detained for a year before they went to trial, so these people -- these other people were detained. Surely David Koresh would have been.

REP. BARR: Okay.

At this time I'm going to go down to your charts here. We have heard a great deal about pain, and I want to show the American public some (faith?). We have documents here, the first one talks about a directive from the government of the United States of America directing that no interviews and no discussions with any participants who might be defense witnesses are to be conducted, hoping that the passage of time will dim memories. That is pain.

Our Department of Justice of the United States of America is directing that the Treasury Department of the United States of America not conduct interviews to get at the truth. You want pain? That's pain. Our government, in response to the ATF carrying out a legitimate and due course investigation of what went wrong on February 28 is being told by the assistant United States attorney of the United States Department of Justice to stop the ATF shooting review, which we have heard by experts is designed to get at the truth, to find out what went wrong and why. They are being told to stop the interviews and those that must go forward go forward without notes being created. You want pain? That's pain.

The way the government conducted -- began conducting before the coverup this shooting review, it was immediately determined that the stories did not add up, and then the interviews were told -- the interviewees were told by the Department of Justice representative, "Don't go further. "You want pain? That's pain.

What I would like to do at this point, Mr. Evans, is go back to you and give us your expert opinion as to whether or not this represents standard operating procedures for the Department of Justice and the Department of Treasury in conducting investigations of potential wrongdoing.

MR. EVANS: Well, if it does, we're all in a lot of big, big trouble, because people that are on trial and there might be something to show that they're really innocent, that evidence would never come out, because we'd never know about it.
REP. BARR: Have you ever, in your 25 years of handling cases, including many involving criminal cases involving the United States Department of Justice in federal court seen documents as explicit as these in directing that interviews not be conducted because they may turn up evidence of innocence?

MR. EVANS: Never have I see documents that explicit.

REP. BARR: Do you ever hope to see such a thing again?

MR. EVANS: Only if it happens again, because if we couldn't find it out, we'd never know. The trouble is we, the defense lawyers, never got those documents --

REP. BARR: But you did through this hearing.

MR. EVANS: Through this hearing, and I saw them for the first time sitting on the front row here two days ago. I didn't come up here to talk about those documents, I just saw them after I got here.

(Off-mike conversations.)

REP. ZELIFF: The chair yields to Mr. Conyers for five minutes.

REP. CONYERS: Thank you very much.

Counsel Evans, did you examine the search warrant in this matter?

MR. EVANS: Yes, I did.

REP. CONYERS: Did you challenge its validity?

MR. EVANS: No, I did not.

REP. CONYERS: Did you think that it was valid?

MR. EVANS: Two reasons I didn't --

REP. CONYERS: Oh, wait a minute --

MR. EVANS: I understand about --

REP. CONYERS: The question --

MR. EVANS: -- about answering the questions.

REP. CONYERS: The question is did you think that it was valid?

MR. EVANS: I thought it was probably legally sufficient --
REP. CONYERS: Okay.

MR. EVANS: -- and so, yes, I will spot you probable cause.

REP. CONYERS: That's fine. Thank you very much.

MR. EVANS: Is that the same thing as good enough for government work? (Laughter.)

REP. CONYERS: I don't need any comments, Counsel.

MR. EVANS: Sorry.

REP. CONYERS: I'm going to someone else. Mr. Kolman, you have a military background in addition to your current status?

MR. KOLMAN: I have some, sir, but predominantly my experience has been within civilian law enforcement and tactical operations.

REP. CONYERS: Do you have a familiarity in conducting the review to be able to comment about the CS gas and its use in this incident?

MR. KOLMAN: Well, of course, our charter was not to look at anything that took place subsequent to the release of responsibility to the FBI, so I can't comment with any personal knowledge in terms of what they did or why they used CS. I do have an opinion based upon my experience, however, concerning --

REP. CONYERS: We're going to go into detail about it in another panel, but what's your general familiarity with it? I mean, what -- what -- what is the circumstance in which it can be used?

MR. KOLMAN: Generally speaking, CS tearing agent -- because gas is a misnomer; it is not a gas, it's a particulate matter -- it's used in either crowded riot control situations or in situations involving barricaded criminal suspects.

REP. CONYERS: Do you know anything about its health hazards or potential health hazards?

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MR. KOLMAN: I have utilized CS myself. I have seen it used in literally hundreds of cases, both in crowded riot control situations, as well as barricade situations. I have never, ever seen, in all of that experience, anyone suffer any health hazards or become injured as a result of it.

I'm acquainted with the British study that has held over the years of looking and researching into the use of CS that people who have previous healthy conditions will suffer no harm from the use of CS. People that were previously in bad health could perhaps have an episode just as it would be prompted, for example, if a person had seizure disorders. The pressure might cause them to have a
seizure, and the use of CS, because of that additional pressure, could, of course, cause them to perhaps have an episode.

REP. CONYERS: Thank you, Mr. Kolman.

With reference to the use of flashbangs, the noise devices, do you have any experience that would lead you to believe it may not be dangerous?

MR. KOLMAN: I'm sorry, sir, I didn't -- did you say --

REP. CONYERS: Do you think flashbangs are dangerous to children or not?

MR. KOLMAN: It depends upon how they're utilized. If they're utilized properly, they are, in fact, a proven life-saving device. They're designed to be utilized to distract the criminal suspect or someone that perhaps is mentally deranged so that a few extra seconds can be gained so that the entry team or the police officers or federal agents can hopefully take that person into custody before they arm themselves or before they utilize those items of weaponry against law enforcement. In effect, what you're doing is preventing a shooting and making it safer for those involved on both sides.

REP. CONYERS: Finally, isn't dynamic entry -- doesn't that contain the element of surprise as an important factor?

MR. KOLMAN: Absolutely.

REP. CONYERS: As a matter of fact, it would be hard for me to imagine a dynamic entry without an element of surprise. I guess maybe you could do it without it, but it seems to me that that would normally accompany the circumstances around using dynamic entry.

MR. KOLMAN: That's correct, sir, and I think there's been a lot of misunderstanding about the term "dynamic entry," and I know some confusion about what it consists of. A dynamic entry is nothing more than vigorous, sudden, unexpected entry, and the term unexpected entry, of course, implies the element of surprise, and that is very essential.

REP. CONYERS: Well, thank you very much, Mr. Kolman, and thank you, Mr. Chairman.

REP. ZELIFF: Thank you. Mr. Buyer from Indiana, five minutes.

REP. BUYER: Thank you, Mr. Chairman.

Before I -- actually, I just want to make some few comments, and let me -- I guess I'll share -- yesterday in the morning I shared with some of my colleagues here about my experiences of growing up on the Tippecanoe River and what that meant and what a shallow river is and what a deep river is.
I guess I have a -- I still am young when it comes to this town, young in that I've been in this town for, now, two and a half years. I still have a bit of naivete -- naivete in that I think that Congress can conduct its oversight responsibilities, that we can begin to really look into things, that there really are separations of powers, that there are legitimate roles and duties for us to undertake, and that we can do that free of any forms of taint. And I've heard Mr. Schumer, Mr. Conyers, and others talk about this cloud over the proceedings and whether they're tainted in any way, and they reach so far as some form of, you know, some independent counsel out there that may have been paid by the NRA, but, you know, to me it's extremely disappointing on the AP article that was mentioned, but, you know, one thing I have to kind of joke about is that, you know, there is the federal statute that was read earlier about tampering with a witness or forms of intimidation, and for the Treasury secretary, who's now in charge of the ATF to, in fact, call a member of his own party (and informs ?) to, "Hey, let's not try to embarrass the administration or federal agencies," the problem here is is I don't think anybody could ever intimidate Mr. Brewster. You are -- you're quite a gentleman, and I just think that it's a disappointment the administration would do that, and I think that, hopefully, Mr. Rubin will clear the air somewhat on what, in fact, had occurred, because if there was a cloud, that, in fact, would be one. I'd like to yield to Mr. Henry Hyde the balance of my time.

REP. HYDE: Well, I thank you, and it just seems to me that to some people this a PR exercise and -- rather than a serious inquiry into the truth, and maybe we can put aside all of these diversions and proceed to find out what the facts are.

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Ms. Sparks, I listened to you talk about your understanding of the Branch Davidian theology, and -- you've studied it, I take it?

MS. SPARKS: Yes.

REP. HYDE: Did anybody ask you for your opinions during this siege of 51 days as to what David Koresh was all about and what their attitudes were towards coming out as we played records of rabbits being slain and rock music and whatever else -- did anyone ask you for your assistance on the theology that was driving these people?

MS. SPARKS: No, sir. I gave information as I could. Sometimes that was kind of difficult. Everybody had their own task, and it was real hard to disseminate information. I had the number for the negotiators, and there were a couple times when I felt like there was something significant, but it was pretty frustrating.

REP. HYDE: It is factual that the negotiators and those people in charge of this event totally misunderstood the theological basis for what the Davidians were doing -- resisting the Babylonians, we're going to kill them, they were going to die, and they couldn't go to Jerusalem until they died, but they had to fight like it was an Armageddon to get the hosts of God down -- and all of that would have been terribly important in understanding how to avoid the immolation that occurred with 86 people. Isn't that true?

MS. SPARKS: That's true.
REP. HYDE: But you couldn't get through to anybody, could you?

MS. SPARKS: Well, I thought at one point I got through. My husband didn't understand it, either, and I used the scriptures that David had given me over the (month ?). We started trying to put together something, and an FBI agent asked for that document and I provided it. It's pretty clear about what I thought was going to happen.

REP. HYDE: We just went at it exactly wrong. To get them out, you don't hurl gas in and try to drive them out with noise, you talk to them on the basis of the scriptures, isn't that correct?

MS. SPARKS: That's correct. What happened to them meant that it was fulfillment of the prophecy.

REP. HYDE: Sure. When the 70 SWAT team -- 70 with their helmets on and their guns, I mean, this was it. This was a fulfillment of the scriptures, but they had to fight back, and nobody understood that, did they?

MS. SPARKS: Well, they were -- you have to understand that they were looking forward to that --

REP. HYDE: You're talking about the Davidians.

MS. SPARKS: Yes!

REP. HYDE: I'm talking about on our side, the servers of the warrant and the search warrant -- nobody understood really what was driving these people.

MS. SPARKS: I tried to communicate it, and I thought I was heard. I think part of that information got passed on. I was really angry after the raid, and I --

REP. HYDE: You thought that it was avoidable --

MS. SPARKS: Yes.

REP. HYDE: -- had somebody really known what they were doing.

MS. SPARKS: The result was very predictable.

REP. HYDE: I thank the gentlelady.

REP. ZELIFF: The chair yields to Mr. Scott, five minutes.

REP. SCOTT: Thank you. Thank you, Mr. Chairman.

Mr. Evans, getting back to the search warrant, I believe, based on my reading of the affidavit, that there was plenty there to support probable cause for the arrest and search. If you could show that the search was -- that the warrant was defective and the search was illegal, but done with probable
cause -- with good faith by the police, was executed in good faith by the police officers, what constructive purpose would have been served by a motion to suppress?

MR. EVANS: It wouldn't have helped us under the current state of the law, because all the police officers have to say was, "I didn't know that warrant was bad. I thought it was good. The judge signed it," and once they say that, then anybody's going to find good faith and -- (inaudible) --

REP. SCOTT: So even if it were an illegal warrant, there'd be no constructive purpose to be served to go forward with a motion to suppress?

MR. EVANS: No, sir, not under the current status of the law. You might do it and hope that someday the Supreme Court would help you on that issue.

REP. SCOTT: Before the Leon decision, you could have made a motion to suppress, is that right?

MR. EVANS: Oh, yes, and did frequently.

REP. SCOTT: I yield the balance of my time to the gentlelady from Illinois.

REP. : I thank the gentleman for yielding.

Ms. Sparks, I didn't get a chance to finish asking the questions that I wanted to ask you about the theology that the Davidians had, and one of the things that we were talking about was Psalm 45, and I'm going to read to you some of the verses of Psalm 45, the new -- the King James Version.

It says, "You love righteousness and hate wickedness, therefore God, your God, has anointed you with the oil of gladness more than your companions. Listen, O daughters, consider, and incline your ear. Forget your own people also and your father's house so the King will greatly desire your beauty because he is your Lord. Worship him. The royal daughter is all glorious within the palace. Her clothing is woven with gold. She shall be brought to the King and robed in many colors. The virgins, her companions who follow her, shall be brought to you, with gladness and rejoicing, they shall be brought."

Now, what exactly did you take from those passages that you thought would encourage him to do the things he did to young children and to young girls?

MS. SPARKS: Well, you have to remember that he was a very intelligent man. He didn't -- he didn't give you direct statements about the fact that he was sleeping with young girls. What he did was read those passages and then make comments about being the Lamb and that this is the scripture. So he never actually said it, he just used the scriptures to tell you what was right and what he thought the law was.

REP. : And people believed that because he read the scripture and they'd fall into that because of his urging, that it was all right for him to abuse young women, young girls?

MS. SPARKS: Yes, ma'am. The men actually gave up their own wives to him. They believed it
very strongly.

REP.: And is that because he was so -- he was such an overpowering personality that they did that?

MS. SPARKS: He was a very personable man, but when he was intense, he was frightening. He would get real intense looking at you, and his voice would raise in a kind of a threatening manner, and he was just very -- he felt threatening.

REP.: And so he felt that the glories of the Messiah and his bride were -- they were all his glories and all the brides were his, is that it?

MS. SPARKS: That's correct.

REP.: And all of the -- the virgins were also his?

MS. SPARKS: That's right. All the women belonged to him.

REP.: And therefore that made everything all right in his kingdom on Mount Carmel?

MS. SPARKS: Remember, he thought he was the law, so he didn't have to answer to anyone, because he was the law. And so anything he did -- I mean, he wrote the book, he was the Lamb of God, so his interpretation would be unquestioned for him.

REP.: I yield back to the gentleman. Thank you.

REP.: -- (inaudible) -- time.

REP.: Thank you.

I'd like to ask Mr. Oboyski a question. He -- Mr. -- Secretary Bentsen went to great lengths to say what they had done after the facts to cure the problems that had happened. I was wondering if you could tell us what kinds of things we could look at in advance to measure whether or not we are properly prepared for these kinds of raids. I understand that this was somewhat unprecedented in the AFT (sic), where -- ATF, I'm sorry -- and they were not prepared for the raid, and they have subsequently upgraded their training and whatnot.

What kinds of things do we look to to make sure that we don't get into this same kind of situation again?

MR. OBOYSKI: Well, very briefly, you have to look at the intelligence gathering, you have to look at the type of training. You also have to look at the type of weapons that we're facing today, and I heard somebody talk about Darth Vader helmets and I heard -- we've been called jack-booted and we wear Nazi helmets. Those helmets protect us. We want to go home at night. When we're facing assault weapons, we have to wear those helmets, so people have -- we have to realize that law enforcement, professional law enforcement, has changed. We may not look -- like the way they look, but that's the way we look because we want to survive to the end of the day, so we have to
look at equipment, we have to look at intelligence, we have to look at who's stockpiling weapons for what purpose? Are there other cults out there? Are there other groups out there? And are we prepared to face another standoff?

Do we have the behavioral science people? Do we have the people we can call upon to say, "What's wrong with those people in there? How come they're not listening to us? What's going on? What do you think is in their minds?"

But, most importantly, we have to protect the public, and that's where we stand. We stand between the Koreshs of the world and everybody here. We stand there. Law enforcement.

REP.: Thank you, Mr. Chairman.

REP. ZELIFF: Thanks. Mr. Ehrlich, five minutes.

REP. EHRlich: Mr. Chairman, I will be pleased to yield my five minutes to my friend and colleague Mr. Bryant.

REP. BRYANT: Thank you.

Ms. Sparks, I want to ask you just a few questions, if I might begin with you. You work for the state of Texas, and, as I understand, you were out in the Mount Carmel campaign -- compound two or three times during the course --

MS. SPARKS: -- (inaudible) --

REP. BRYANT: -- three times.

MS. SPARKS: Yes.

REP. BRYANT: Were you allowed inside?

MS. SPARKS: Yes.

REP. BRYANT: Were you allowed to question people, both adults and children?

MS. SPARKS: We had somewhat limited access, but we were allowed to question some.

REP. BRYANT: Did you have any problem going in there?

MS. SPARKS: No, we didn't. We were invited in.

REP. BRYANT: When Agent Aguilera proposed to you the idea of perhaps assisting them in luring him outside, I understand that you offered to do that --

MS. SPARKS: Yes, I did.
REP. BRYANT: -- initially, but as they went up your chain of command, your supervisor decided that you would not do that.

MS. SPARKS: That's correct.

REP. BRYANT: Was your decision to cooperate in trying to get Mr. Koresh outside the compound for the purposes of these agents arresting him, would that have been colored by the fact that you were familiar with his charismatic effect over the people there and perhaps if he were separated that it would be easier to take both sides down, so to speak?

MS. SPARKS: Yes. I had a pretty good working relationship with David Koresh. I mean, we discussed scriptures and he was very open to meeting with me.

REP. BRYANT: And it was your feeling that once, again, separated from their leader, that it would just have been the people in the compound that were left back there were less likely to resist?

MS. SPARKS: That's right, because they had to all be together for the prophecy to be fulfilled.

REP. BRYANT: Now, there've been a number of allegations. We've had graphic testimony from a young lady who came in here and, in my view, was exploited publicly. Back in my home state, we don't even print the names of minors in that type of situation, and to go on public television and said what she did I think was some type of exploitation, but were there any -- were there any state charges? Were these advancing -- this, you know, this type of charge is not a federal offense, you know that.

MS. SPARKS: Yes.

REP. BRYANT: Were there efforts being made to process or prosecute these folks, and Mr. Koresh in particular, within the state of Texas.

MS. SPARKS: I interviewed the child. She was afraid of David Koresh and didn't -- she was afraid to testify, so they didn't move forward on it.

REP. BRYANT: What about the other children, though?

MS. SPARKS: We didn't have enough information. We didn't get a good investigation, because we didn't -- we had limited access.

REP. BRYANT: As I understand -- now, let me skip forward a little bit, because my time is getting short -- the CS gas has been mentioned, and, based on what you know of CS gas, would you have recommended that they put this inside that compound with those children and elderly people there?

MS. SPARKS: I don't know very much about CS gas at all. I had one conversation with an agent about it and asked some questions about it, and what he told me is basically all I know. My concern was that I knew when I was there there were propane tanks in the hallway, and I
wondered if that was going to present a problem.

REP. BRYANT: Did you pass along this information?

MS. SPARKS: I had a discussion about what would it do and how would it affect, yes.

REP. BRYANT: Were you asked by the FBI to set up a contingency plan for CS gas on children, to have showers and treatments set up for them?

MS. SPARKS: Yes, that was a week or more prior to the actual fire.

REP. BRYANT: To be clear, that was the second and final raid back in April, not this first entry in February, but back in April.

MS. SPARKS: Yes.

REP. BRYANT: And did they follow up with you and did you, in fact, do this?

MS. SPARKS: We discussed all the tactics that we would use. I was supposed to meet with the medical team that evening. About 5:30, I got a call, and they said, you know, forget it, forget all about it. Don't even think about it.

REP. BRYANT: And who -- who told you this?

MS. SPARKS: And we never -- it was the ATF agent who called from the command post.

REP. BRYANT: And, again, this is in April prior to the second dynamic entry?

MS. SPARKS: Actually, I think it was more like the end of March. I couldn't find my notes.

REP. BRYANT: Mr. Chairman, I have other questions, but they're for other witnesses. Do you want to continue at this point?

REP. ZELIFF: No, I believe your time has expired, and we'll move on to recognize the lady from Texas, Sheila Jackson Lee.

(Off-mike comments. )

REP. ZELIFF: Okay. Do you have -- the minority has someone else -- (inaudible) -- okay.

(Off-mike comments. )

REP. : Thank you, Mr. Chairman. I know the bells have rung. I'm not sure what I'll be able to fit in --

REP. ZELIFF: Well, we -- you'll get your five minutes in.
REP. : All right. Let me ask Ms. Sparks, if I could, simply to pursue a line of questioning that deals with children, and I know there've been several questions about the women, but was it your sense that even the children, in their young minds, might have been -- we'll use the term mesmerized -- if you have a better term -- by the words or teachings of this individual, Mr.

MS. SPARKS: Yes. They were -- they were very clear in their belief that he was the Lamb. As a matter of fact, the girl that you've heard from already, when I interviewed her, she said -- I said, "How did you feel when this was going on? "And she said, "Well, I felt scared, but I also felt privileged."

REP. : So if we are in these hearings to provide corrective measures to ensure that this tragedy does not happen again, and we heard a very -- a fairly extensive list by my colleague, Mr. Lantos, about various sects -- S-E-C-T -- whether it be in Japan or elsewhere, they do exist, and so this is an important component for law enforcement maybe to understand, because as I hear you speaking per your testimony, it seems that these were even young children that seemed to have been under this -- I will just say "spell. "Is that accurate, even the young children?

MS. SPARKS: The young children were real clear that David was in charge.

REP. : And did you see any progression as they got older, maybe 10, 11, 12, 15, the teenagers?

MS. SPARKS: Well, I think the older children were a little bit more well versed in how to talk to us when we came. They knew how to confuse the enemy, as David would say, so they were more cautious in their words.

REP. : As a solution, then, what would you offer for advanced training or additional training for law enforcement dealing with these exceptional-type groups?

MS. SPARKS: Well, I guess training for law enforcement wouldn't be my first choice, it would be to say there needs to be a collaboration of different people who have expertise in whatever sect you're looking at --

REP. : -- (brief audio break) -- offer a corrective measure. You've emphasized collaboration and knowledge and that at least they would participate with any who had the expertise, real expertise, about these very different circumstances. Is that my understanding?

MS. SPARKS: Yes, when you -- when you know that you have information that's helpful and it -- you can't get it to the person who needs, it, it's very frustrating.

REP. : I thank you for that. Mr. Oboyski -- do I have that correct, sir, I hope?

MR. OBOYSKI: -- (off mike) --

REP. : Thank you very much. We have, over the last couple of weeks, been listening to a great deal of discussion on talk radio. I hold it in the highest level of respect. It communicates to Americans,
but we've heard one of the gentlemen -- and maybe this has been said, but I want to emphasize it even more -- G. Gordon Liddy talked about this whole idea of shooting in the head, but I want to get to the point of the kinds of equipment that has to be worn, and I know that you've answered it in a manner that explains some of the type of equipment. I've heard Ninja-type suits being used, but, more importantly, are we in a different era because we have the privileges of the First Amendment in this nation, and it seems that people have taken a different tone -- does that not even require more safety and equipment that protects individuals who I would hope have the first responsibility of saving lives themselves and protecting themselves?

MR. OBOYSKI: Yes, ma'am, without a doubt. The day of a couple of agents or a couple of detectives walking up to somebody's front door or knocking on a door in three-piece suits to execute a warrant of any kind is over. Not with the proliferation of firearms we have today, not with the type of weapons we find all over this country, urban and suburban America -- assault rifles converted to automatic machine guns, nine-millimeter handguns with banana clips. We are -- we are really at danger out there.

And Mr. Liddy's remarks did not help any, encouraging people to shoot ATF agents in the head because they're wearing bulletproof vests -- obviously we have to go out there with helmets on. We have to wear this type of gear because of the type of people that we are dealing with. We are not dealing with people carrying a Saturday night special.

We also have to wear protective goggles, because a lot of times we go in, we have things thrown in our face. We have a very aggressive criminal element out there.

REP. : I thank -- I thank you very much, Mr. Oboyski, and I thank -- Mr. Chairman, I thank you and I think even at Waco some were shot in the head, as I understand, ATF officers. I think I understood that to be the case.

REP. ZELIFF: The gentlelady's time has expired. I'll tell you, before we recess, I'm going to yield to Mr. Mica for one second.

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MR. MICA: Mr. Chairman, thank you, and I'd like to yield my time to you when you return.

REP. ZELIFF: Thank you very much. What we'll be doing -- this is the last time we'll be interrupted. We have, I believe, two votes. We will go and vote and we'll return here five minutes after the second vote, and we'll be here for the rest of the evening without interruptions for those that demand to say.

(Off-mike comments. )

REP. : -- (inaudible) -- amendment and (then follow the final ? ) passage.

REP. ZELIFF: Okay, so what ever the amount of votes is, we'll be back five minutes after the last one to resume. Thank you very much. Stand in recess.
(Gavels.)

REP. ZELIFF: Subcommittees will now come to order.

The chair yields to Mr. Bryant.

REP. BRYANT: Thank you, Mr. Chairman. We resume after voting here, and I'm not sure we have a -- could we wait to start my time until we get a complete panel?

REP. ZELIFF: -- (off mike) --

REP. BRYANT: I think we're --

REP. ZELIFF: Okay.

REP. BRYANT: Because I have questions for Mr. Morrison, and he -- well, it's as complete as I need right now, if you don't mind.

REP. ZELIFF: Mr. Evans.

REP. BRYANT: We can go ahead and start.

Mr. Morrison, let me follow up with some questions. I know you testified before this panel yesterday --

MR. MORRISON: Yes, sir.

REP. BRYANT: -- and I expressed concern over the issue of the lack of the element of surprise in this raid, and we have talked to a couple of panels since that time, and we've had, from the actual participants and their superiors, different stories as to what they should have done when the element of surprise was lost in this raid, the initial thrust on February 28, 1993.

And as I mentioned yesterday, as a former Army prosecutor and former U. S. attorney and a defender of sheriffs in civil litigation during my career, I'm very much aware that when you go out there on a raid such as this and you lose the element of surprise, there are only two things that can happen. One's good and one's bad. The good thing is the person there accepts the warrant peacefully. The bad thing is what happened here at Waco and caused the loss of four people and 20 people injured on the ATF side and ultimately led to the second disaster, when the civilians were lost in April.

I wanted to ask you, if you could tell me, how important -- well, let me back up and ask it this way. In the context of serving a warrant, in this case they had an arrest warrant for David Koresh, and they had a search warrant for the 77 acres of property there. They could have been served separately, could they not?
MR. MORRISON: Yes, sir. That's legally possible, yes, sir.

REP. BRYANT: You could catch Mr. Koresh off the compound and serve the arrest warrant on him and arrest him and subsequently go out and serve a search warrant on the property, which that had to be done.

MR. MORRISON: Yes, sir.

REP. BRYANT: Now, in a dynamic raid, dynamic attack such as this, in the context of serving warrants, where do the warrants go? Who's got the warrants and where is that person?

MR. MORRISON: Well, it depends on the jurisdiction. I'm not totally familiar with the restrictions on the federal agencies, but you have to get, basically, a no-knock warrant in the state of California. You have to have that by the judge, you have to explain the need for the type of service that you're going to do.

If you do not have that legal condition in the service of the warrant, then the dynamic entry is not an option that you'd have, so you're limited by the legal considerations. If you develop to the satisfaction of the court the need for surprise, then you have the warrant in your back pocket, basically, but you're not serving it on anybody until you make entry.

REP. BRYANT: Was the object here on February 28, 1993, to not knock but rather go up and kick the door down and go in --

MR. MORRISON: -- (inaudible; crosstalk) -- to go in. I believe that the warrant provided for a no-knock entry.

REP. BRYANT: And where would the warrant have been in that situation? Where should the warrant have been? Did it make any difference?

MR. MORRISON: The warrant would be with the serving -- or with the responding agency; in this case, with ATF, and there would be somebody designated to have the warrant or the warrant information.

REP. BRYANT: But isn't the warrant only carried to the door? What if Mr. Koresh had come to the door and said, "Okay, I'm here. What have you got for me? "Should not that person --

MR. MORRISON: I'm not --

REP. BRYANT: -- have given him--

MR. MORRISON: I'm not --

REP. BRYANT: -- the warrant at that time?

MR. MORRISON: -- legally -- or I'm not experienced and qualified to answer for the federal side of the house. My whole experience has been in state and local government. I can only speak from my
knowledge of California.

I'm not trying to be evasive there, sir.

REP. BRYANT: (No, that's fine?).

MR. MORRISON: I think you need to ask a federal agent that.

REP. BRYANT: But at a minimum, the tactical side of this raid should have had clear guidance on the possibility of avoiding that raid and when they could have done it in the event the element of surprise was lost. That should have been a clear message up and down the chain of command, should it not?

MR. MORRISON: That should -- ordinarily, the standard is that that's part of the tactical plan when the tactical plan is approved, and if it's going to be a dynamic entry and you lose the element of surprise, you normally will abort the dynamic entry unless you have a well, clearly developed contingency plan for an alternate means to do that.

REP. BRYANT: Did you see any of those in this particular incident, in this particular plan?

MR. MORRISON: Well, let me answer that by saying what I was aware of. I believe the element of surprise was critical to the service of this warrant. I believe the element of surprise was lost, and I believe that the raid should have been aborted.

REP. BRYANT: Could I ask Mr. Evans that same question, if you followed me.

MR. EVANS: I'm sorry, I did not.

REP. BRYANT: Okay. All right. I was asking about the element of surprise in terms of the warrant and --

MR. EVANS: Oh.

REP. BRYANT: -- the issue of aborting the raid when that element was lost.

MR. EVANS: Well, I need to correct one thing. There was not permission for a no-knock given in this warrant. We did have a hearing in court about that issue. That warrant was not a no-knock warrant.

REP. BRYANT: What would have been the proper process, then, for servicing this warrant?

REP. ZELIFF: Time for the gentleman has expired. I let you go to finish up one. When you start jumping on another one, there has to be -- I have to call it.

Mr. Condit from California, you have five minutes.
REP. CONDIT: Thank you, Mr. Chairman.

I would like the records to indicate I have been on the floor for the last couple of hours debating and participating in the ag appropriations bill that's on the floor. I have not been here. I apologize to the witnesses and I apologize to you, but it was necessary for me to be on the floor.

After saying that --

REP. ZELIFF: -- (off mike) --

REP. CONDIT: Thank you. I would like to yield to my colleague Mr. Brewster from Oklahoma for my time, Mr. Chairman.

REP. BREWSTER: Thank you, Mr. Condit. Would you also like to -- (inaudible) -- amendments (won ?) Mr. Oboyski, you made a point in your statement a moment ago that I've brought up a couple of times with other people. David Koresh was not a good guy. I think anybody that's listened to what's gone on has to believe that at this point. I think there's certainly ample evidence that everyone should understand there's a high likelihood that he had converted semi-automatic weapons into fully automatic weapons, and yet it amazes me that ATF agents were asked to go in there underarmed, in my opinion.

I've had a chance to go out to Quantico and shoot some fully automatic weapons the FBI had and some other federal agency. It amazes me that your people went in there armed much less than the people who were in the compound.

MR. OBOYSKI: I believe that the plan was to get in there as quickly as possible, even though they did not have a no-knock warrant, and to get between the men and the firearms, but I would like to add the fact that we do this every day. This is nothing new. We do this every single day. We go out there with warrants, knock, announce. When we don't get the proper response, we knock the door down and we try and get in there as quick as possible to separate the bad guys from the bad weapons that will be used against us.

This is nothing new. This goes on every single day, state and local and federal law enforcement. ATF makes hundreds and hundreds of arrests like this.

REP. BREWSTER: But now wait a minute. You don't every day go into a compound that has three (hundred) or 400 weapons and 75 or 80 people. You do make raids every day. You do a lot of good things in separating criminals from weapons, but I don't think every day you go into a compound such as this.

My point is you don't have to use fully automatic weapons, but you need to have the capability in case something goes wrong. My goodness --

MR. OBOYSKI: You're absolutely right --

REP. BREWSTER: -- you had no place to hide, looking at the area around the building, and you
weren't armed as well as the guy inside. So there's got to be a contingency plan.

MR. OBOYSKI: You're absolutely right. I believe one of the problems that ATF faced at that compound was the structure itself, that if you go in with an overwhelming firepower, with fully automatic weapons, and start spraying bullets all over the place, then you would have had children laying all over the place --

REP. BREWSTER: I agree.

MR. OBOYSKI: -- with bullets.

REP. BREWSTER: You should not do that.

MR. OBOYSKI: So you -- you have to strike a balance. And in my work in New York City, we're deathly afraid of firing a round, it's going to go out a window and hit some woman a block away reading a newspaper.

So we are always very cognizant of the structure, the area, and even though we may be outarmed -- you know, armed as far as firepower, we have to use other methods such as flashbangs, such as dynamic entries, such as the equipment we have to wear --

REP. BREWSTER: I understand.

MR. OBOYSKI: -- so we don't get into a big firefight.

REP. BREWSTER: Right.

Ms. Sparks, I'm certainly impressed with the written testimony that you did, as well as the oral testimony. It is apparent that you've spent a lot of time thinking about everything involved. It's apparent you have a deep feeling for the children that you work with with the Texas protective group there. I admire your thoughts on this and certainly appreciate your conclusion at the end of it. Yield back the balance of my time, Mr. Chairman.

REP. ZELIFF: Thank you. The chair yields to Mr. Coble from North Carolina.

REP. COBLE: I thank the gentleman and Mr. Chairman, the lady and gentlemen, thank you all for being here. Televised hearings have a way of going far afield. Everyone likes to have his respective mug on television. I guess I'm no exception, but you all bear with us.

Mr. Morrison, yesterday we heard from a panel referring to Mr. Rodriguez, the undercover agent who left the compound, came back to the undercover house with the announcement that the surprise element had been lost. Now, this was referred to as the golden egg of intelligence, but, the witness continued, it was ignored.

It seems to me, conversely, it probably accelerated the decision to raid, with that knowledge given to them by Mr. Rodriguez. Given this scenario, Mr. Morrison, if you will, evaluate the decision to
Mr. Morrison, let me extend my first question. Comment, if you will, about either the presence or the lack of contingency plans that were in place in the event the dynamic entry went sour.

MR. MORRISON: I believe that, first of all, that's covered in my independent report that's contained in the Treasury report. I reference the lack of contingency plan. As a manager of special

Mr. Evans, you are a criminal lawyer, defense lawyer for the most part. Oftentimes people uninformed might casually respond to evidence that might be missing as incidental. Oftentimes missing evidence, though presumably incidental, can be very significant in the turn of a trial. Of the two matching metal front doors, it is my belief that only one has been recovered, indicating that from something of the legions of paper I have read that indicates that the shots came from outside the compound. Do you know -- strike that. What became of the other door?

MR. EVANS: I do not know, but it's very troubling.

REP. COBLE: It's very troublesome?

MR. EVANS: Very troublesome, again because of the weakness of the excuse about why they couldn't come up with it. We were told that, well, it must have burned up in the fire. The trouble with that is it's a big metal door and there were other metal doors inside even in hotter places that didn't burn up, and there were cans of food in there that didn't burn up, and a door like that isn't going to totally vaporize. Some (limit ?) of it would be around.

REP. COBLE: Thank you, sir.

Mr. Morrison, let me extend my first question. Comment, if you will, about either the presence or the lack of contingency plans that were in place in the event the dynamic entry went sour.

MR. MORRISON: That background, sir, has to be taken into consideration with the raid plan that existed. That raid plan called for other components that were equally critical to the announcement by the undercover officer -- that is that the other raiding points had to be in place if they were going to proceed, having lost that element of surprise.

That possibly would have been a wise decision if the person in charge was aware of all those components. I think that by losing the element of surprise, clearly that was an issue to be considered, that by not having certain pre-positioned -- or, rather, planned positions in place or without knowing that they were in place, to proceed with the raid in a fragmented manner, the command and the control aspects of that raid were lost. That would be my concern.

So I'm not trying to avoid your question. The element of surprise I think was critical. The concern that was expressed by the undercover officer I believe was critical and needed to be evaluated. It clearly needed to be evaluated in the course of other elements of the plan, and when the communication is isolated so that all elements of the raiding party from the units going in the front door to the person in charge of the whole thing aren't talking to each other or cannot talk to each other, then there's a serious jeopardy for the entry officers.

REP. COBLE: Thank you, sir.
operations, I would not have approved the plan without contingency.

For several reasons, ones that have been mentioned already, the exposure of that area, the fact that, unlike making raids in urban areas, this was a rural area, widely exposed. There were a number of hazards present that were known and considered by the tactical planners. I think, based on the information that they had, they did an excellent job of putting together a plan, but there was a lot of information available to ATF that was not passed on to the tactical planners, critical information.

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Therefore, to go into that type of a dynamic entry in the context of the topography of the location, the types of buildings, the known weaponry, the information that was contained in the search warrant, it was critical to have had contingency plans not only for -- if they lost the element of surprise or if they had to abort the service of the warrant, but also if they ran into something they hadn't expected. For example, if they started taking hostile fire before they ever got to the front door, they had people in conveyances that could not easily move out of that area. What was the ability to cover them and extract them safely at that point? I would have looked for those things in the plan, and that's in my -- basically in my report.

REP. COBLE: Thank you, Mr. Morrison, our chairman gets anxious when the red light illuminates. I will conclude. I thank you all for being here.

REP. ZELIFF: The gentleman -- I thank the gentleman for stating the obvious. Thank you. We'll move on to Mrs. Laughlin -- Lofgren, I'm sorry, from California.

REP. LOFGREN: Thank you, Mr. Chairman. Ms. Sparks, you have -- obviously care about children and care about the children whose welfare you investigated in Waco. I'm wondering if, as we don't have a lot of time, whether -- did you read the sinful Messiah story in the Waco papers?

MS. SPARKS: We went to Dallas and I didn't have a chance to really --

REP. LOFGREN: So you didn't read that.

MS. SPARKS: No.

REP. LOFGREN: If I can summarize from a very long story, it basically catalogues the young, very young girls, 12, 13, who were the wives of David Koresh and that you referenced also that the men had -- were celibate and gave their wives to Koresh, and the beatings and the like.

Were you -- had you developed information prior to the raid that would have led you to some of those same beliefs? I'm not saying whether you had a case you could have brought in court, but did you believe that was happening?

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MS. SPARKS: The same thing that I said before, David never said anything directly that he would,
in scripture, tell you what his belief was. When we interviewed children, they were very cautious.

REP. LOFGREN: Right. Now did you talk to Mr. Aguilera, who did a lot of the research work for ATF prior to the raid.

MS. SPARKS: Yes. Yes, I did.

REP. LOFGREN: And did he, he had -- I've seen his notes, he had a lot of information from talking to ex-cult members along the lines of raping the children, the little girls and the like. Did he share any of that with you, or did you share anything with him of that nature, or was it private?

MS. SPARKS: Well, he actually had my entire case file, but we shared information.

REP. LOFGREN: So you both kind of knew the same thing.

MS. SPARKS: Yes.

REP. LOFGREN: I'm wondering whether -- one of the things that struck me, and I want to know what happened, and I will eventually, I hope to find out, the Laverne (sp) Police were called in 1989 in California, Laverne (sp), California, to -- they were called by the, I think it's the Bund (sp), Robin Bund (sp), who by then was 19, and apparently Koresh had taken her son, and they gave Koresh 48 hours to return the little boy, which was done. But when the police returned, Koresh had gone to Texas with a 14-year-old girl, and Robin Bund (sp) explained what was happening; that he was raping this little girl. Were you ever notified in Texas that there was this rape going on, by the California authorities, or I wonder -- apparently the FBI was never notified either by Laverne (sp) Police.

MS. SPARKS: I had no information.

REP. LOFGREN: Let me ask you, reading through the description of the compound, and I'm familiar with California law on child abuse and neglect, not necessarily Texas law, but as I heard the physical description of that compound with the various hazards, the weapons, the propane tanks, no plumbing so that waste -- human waste was in buckets, that would, in my county, those children would have been removed for general neglect if not for abuse. That didn't happen in this case. Why wouldn't that happen in a case like this?

MS. SPARKS: (Well ? ) in Texas, we're really (invested ? ) in the family, and our first option is to try to work with those families and try to get them to make the necessary repairs.

REP. LOFGREN: But your case was closed, so you weren't working with them for the repairs, correct?

MS. SPARKS: Right.

REP. LOFGREN: I guess I am very sympathetic to your position, and I felt this for a long time that I think people try to do the best they could with the information they had, but I have a concern that
the strict law enforcement raid approach was not -- and as it proved, did not prove effective in dealing with this particular cult and their psychology. You said you disagreed with it. Do you think -- you dealt with the agents; you had interface with them, do you think that there was disregard for the welfare of these kids or just a misread of the situation? What do you think was going on in terms of the decision making or how the line agents felt, for example?

MS. SPARKS: I don't know how the decision was made; I've still tried to get that. But I think they had no malicious intent. I think they had no idea that they were going to -- I think they thought when they all rounded about that those people would just give up. So they were pretty shocked to see what happened. I was at the command post the night of the raid, and it was like a funeral; it was just really tragic.

REP. ZELIFF: The gentlelady's time has expired.

REP. LOFGREN: Thank you.

REP. ZELIFF: I yield now to Mr. Blute from Massachusetts.

REP. BLUTE: Thank you very much, Mr. Chairman, and I'd like to thank all the witnesses for your testimony. I'd like to focus in on Mr. Morrison if I could. I see you're LAPD, and you've had extensive experience in these types of raids, is that correct?

MR. MORRISON: Yes, sir.

REP. BLUTE: And you were one of the founders of the SWAT Team in LA, is that right?

MR. MORRISON: Yes, sir, in 1965.

REP. BLUTE: Well, my own view is that the intelligence problems in this raid and some of the undercover problems led, almost inexorably, to some type of future problem that was very dangerous to ATF agents. You, in your report, agree with that, and you state that intelligence was compromised from the starting point of the investigation, up to and including the hour before the raid. And I think the testimony that this committee has heard for the first few days of this hearing backs that up totally. Time and time again, you hear about intelligence problems and problems with the undercover operation. But I want to ask you particularly, what in your judgement, how was the intelligence compromised in this case?

MR. MORRISON: Well, principally, the intelligence was compromised by a lack of case management for intelligence. The procedure, if there was one, and we did not have during the Treasury investigation, the investigators were looking for all published procedures and policies, and we were not able to develop any clearly existing policy or procedure. That, as a background, there was no case management for the intelligence function that I could find. Secondly, there were great lapses in the intelligence function, and that the information was not reported sequentially; it was not brought to closure. If information, for example, was reported and followed up on, it was turned out to be erroneous.
That needed to be noted in the intelligence log, so it wouldn't be subsequently passed on for purposes of either obtaining a warrant or expending additional investigative man hours. Secondly, when operations were mounted for intelligence gathering purposes, there was no solid supervision over the agents involved. They were allowed to do what they wanted.

REP. BLUTE: Let me pick you up on that. What was your opinion of the relative quality of the undercover work and the agents who were pretending to be someone who they weren't, a classic undercover role, what was your opinion of the quality of that work?

MR. MORRISON: Well, let me preface it. I'm going to be a pure Monday morning quarterback when I say this. There were two parts of this; one, the cover of the college students was bogus, and it was poorly handled. It was a very difficult place to surveil; it was a very difficult place to mount an undercover operation. I think the second concern, I believe again that this is well covered in the Treasury Department investigator report of September93, is that there was concern that the undercover agents selected to go into the place did not have the experience or the training to handle the type of stresses that were going to be presented to him in that process. I've done undercover work; I have managed undercover work, and that is one of the things that I'm very sensitive to is the stability and the preparation of an agent or an officer to go into an undercover capacity, and to survive the stresses involved.

REP. BLUTE: It's a very dangerous thing, normally.

MR. MORRISON: It's extremely dangerous for several reasons. First of all, the personal danger to the officer, and secondly, the accuracy of the intelligence the officer can bring out. If the officer's mind gets clouded with stress and fear, we're not going to get accurate reports.

REP. BLUTE: You also note in your report that "the absence of management review led to a serious breach of integrity, falsification of documents." I wonder what documents, to your knowledge, were falsified.

MR. MORRISON: Well, I believe, in part, that that was brought out during the course of the investigation. This was information provided to me and to the other technical and tactical experts by the investigative team of Treasury that there was information known and denied prior to the raid plan. There was information known and apparently either destroyed or falsely articulated after the raid. We recognize that, as outsiders brought in to assist the Treasury Department, we recognized the very difficult task facing the Treasury investigators having to wait so long, having such a cooling off period before they could start their investigation. But there were large gaps in the stated position of on-duty agents, supervisor managers and the facts of the case.

REP. BLUTE: I thank the gentleman. Thank you, Mr. Chairman.

REP. ZELIFF: Thank you. The chair yields to Mr. Wise of West Virginia.

REP. WISE: Mr. Chairman, I would yield one minute to Mr. Schumer.

REP. SCHUMER: I thank the gentleman. I just wanted to follow up on the Justice Department
policy of stopping criminal investigations, because my colleague from Georgia, Mr. Barr, said that some third party, independent third party, told him that Justice -- Department of Justice policy is not what I said it was. Well, I'd like to ask unanimous consent to submit for the record Justice Department's statement on law enforcement procedures, and I'd just like to quickly read it. Joanne Harris (sp), the assistant --

REP. BARR: (Inaudible) -- reserving the right to object, is this the Department of Justice news release that they just issued.

REP. SCHUMER: That is correct.

REP.: Okay, I'd like the record to reflect this is simply a news release coming out of the Department of Justice in response to this hearing.

REP. SCHUMER: Yes, it is. Alright, I would like --

REP. WISE: (Inaudible) -- my time.

REP. SCHUMER: That's, please, that's correct. And I would like to see Mr. Barr can characterize it as he wishes. It is on Department of Justice letterhead; it's a Justice Department statement on law enforcement procedures. Joanne Harris (sp), hardly part of the news department --

REP.: (Inaudible) -- object?

REP. SCHUMER: No, not on my time.

REP. ZELIFF: State your objection.

REP.: Well, I don't see the purpose of a press release being inserted in this hearing. How does that -- germaine. If the Justice Department wants to come forward and testify, they can come forward and testify. But can we insert new testimony from any source by simply walking in here and saying, by the way I have a press release that I'd like to put into the record.

REP.: Well.

REP.: Mr. Chairman, I've watched, I believe, press releases being distributed that were involved with the Waco situation. You inserted as Exhibit 3 Mr. Sparks' (sp) thoughts which nobody could even identify as to who put them in, when did we suddenly get this high standard?

REP.: Mr. Chairman, I reserve the right to object and ask --

REP.: This is ridiculous.

REP.: I just want to yield to the gentleman -- (inaudible) -- question about it.

REP. ZELIFF: Without objection, so ordered.
REP. : I do not intend to object.

REP. SCHUMER: As long as it's not on my time, I don't mind answering anything.

REP. : Well, I believe I have a reservation -- (inaudible) --

REP. SCHUMER: Thank you.

REP. : And I will yield to the gentleman from New York --

REP. SCHUMER: I appreciate it.

REP. : And I just wonder if the issue is appropriate policy for the Department of Justice, and was it followed here or not. Do they not have a policy manual or a policy statement, rather than a press release that might be admitted to the record. I yield to the gentleman from New York.

REP. SCHUMER: Thank you, I would say to the gentleman that this is the Justice Department policy, and I defy anybody to challenge it.

REP. WISE: And I would take -- reclaiming my time, and point out the Justice Department will be here in a few days, and we can go directly into that --

REP. SCHUMER: We can ask them. May I resume just reading it?

REP. WISE: I would like to get to a couple of --

REP. ZELIFF: As long as it's on his time.

REP. SCHUMER: Thank you. Yes, well I haven't even taken my minute, I just began, and I was asked.

REP. ZELIFF: Well, you have 15 seconds.

REP. SCHUMER: Okay, well I'll just read -- the policy says what I said, and the last sentence said, this is Prosecution 101, and any prosecutor worth his or her salt should know it. And the entire statement, which I will distribute to every member of the committee and every one in this room since I'm being -- not being allowed to finish reading it, even though I didn't get my one minute, says that the Justice Department policy of doing this is routine and was done here in a routine way as it was under Reagan, under Bush, under -- Clinton.

(Laughter. )

REP. ZELIFF: That was the best performance of the whole week. We'll round it up and give you like two and a half minutes.
REP. WISE: Mr. Chairman, what -- is that known as the New York minute now?

REP. ZELIFF: We'll try to convert that to a West Virginia long minute.

REP. WISE: Mr. Morrison, I appreciate everything you've said. And as I recall, you were involved, you were involved in the compilation of this report, were you not?

MR. MORRISON: No, sir, not in the compilation of the report. I was involved as a technical and tactical advisor to the Treasury investigative team. I did prepare an independent, totally independent report that is part of that report, but I did not prepare the report.

REP. WISE: Thank you for that clarification. Have you read this report?

MR. MORRISON: Yes, sir, I have.

REP. WISE: And the point I would like to make is what you're doing is confirming, I believe, every criticism that goes on for ten pages in here about lack of communication, the loss of the element of surprise, failure to have a contingency plan. All of that is in this report, is it not?

MR. MORRISON: Yes, sir, as I have indicated in my testimony yesterday and previously today that these are things that I articulated prior to September of 1993.

REP. WISE: So all of this is already -- so what you're doing is confirming, and I think that's valuable for people to hear that, but

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in terms of learning new criticisms about that raid, it's all in here to begin with.

MR. MORRISON: Sir, I was brought here under subpoena. My understanding is to answer the --

REP. WISE: Oh, I understand that, yes sir.

MR. MORRISON: --questions of the members of Congress when they ask me a question, and I'm doing that to the best of my ability.

REP. WISE: Yes, sir. But it's also important to acknowledge that what you're testifying to has all been covered already in September of 93. I would turn --

REP. ZELIFF: I'll tell you what, I'll let you have one question.

REP. WISE: And that's all I wanted. Turning quickly to Mr. Evans, Mr. Evans, as I understand it, you had represented the Davidians pro bono, do you have any kind of financial interest, book contract, movie contract, continued representation of any of those associated with the Davidian movement ongoing at this point?
MR. EVANS: Not a one. And I don't represent the Davidians, plural. I represented one man, Norman Allison (sp); he's back in England with his family. And I don't have any--

REP. WISE: But you don't have any kind of financial contract for any kind of books, movies, any interest -- financial interest that might come out of--

MR. EVANS: No, sir.

REP. ZELIFF: Okay. I yield to Mr. Chabot from Ohio.

REP. CHABOT: Mr. Chairman, I'll yield one minute to my good friend and colleague from Georgia, Mr. Barr.

REP. BARR: Thank you. Well, curiouser and curiouser, as Alice said. We have the Department of Justice now, which presumably wasn't paying any attention to what's going on here, because nothing new is coming out of it, feeling the need to have the assistant attorney general for the criminal division find nothing better to do than to waste time sending out a news release for spin control. Isn't it interesting if nothing new were coming out of these hearings, why would they need to do this? Even more curious than that, I would say to my colleagues on the other aisle, is the fact that we have an assistant United States attorney, with this Department of Justice, who is in charge of these cases, who sat at this table two days ago, looked at these same documents and presumably, he's been to Prosecution 101 as well, and he says this is not standard operating procedure; he's never seen anything like it. So I suspect that the Department of Justice may want to send him to their new Prosecution 101.

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Mr. Evans, again for the record, have you in your years of experience handling criminal cases in federal court seen documents like these, and I would also note for the record that if these were standard operating procedure, the ATF would be stopped in every single case in which they conduct a shooting review, if this document reflected official consistent Department of Justice policy, Mr. Evans.

MR. EVANS: I must hope that whoever wrote that press release has not actually scrutinized these documents to see what they really say.

REP. BARR: I suspect they have.

MR. EVANS: Because if they see the words on here, they would know that a statement like that says that they could violate the Constitution of the United States.

REP. BARR: Thank you, Mr. Evans. And I appreciate my colleague from Ohio.

REP. CHABOT: Thank you. Ms. Sparks, I just had a couple of questions for you, and I wanted to thank you for your testimony thus far here today, and for the care that you took in this matter, particularly with respect to the children in Waco. You had prepared a statement that we received,
and in the statement you said that there were many dynamics that contributed to the end result at Mt. Carmel, including in some cases, attitudes of individuals who felt that they were accountable to no one. Who are the individuals that were talking about there, and what did you mean by your statement that they felt that they were accountable to no one?

MS. SPARKS: Well, when I wrote that, all through all the agencies, state and federal, there were people who didn't think they needed to listen; they thought they had all the answers. They had a task to do, and they were going to do it. And they -- you know, you couldn't get them to even stop and listen to information that could have been very vital. And they just thought they were above it.

REP. CHABOT: And you had the opportunity to go out to the compound a number of times, I think you mentioned at least three times or so.

MS. SPARKS: That's correct.

REP. CHABOT: When you went out there, did you ever see any evidence or hear anybody talk about any sort of drugs or in particular, a methyl amphetamine drug lab of any sort?

MS. SPARKS: Yes. We talked about that with at least two different people. David Koresh explained to me that the previous prophet had been involved in drugs; had a drug lab there, and said that he had given that material, the needles and the drugs, a book explaining how to make drugs, he'd given that all to the Sheriff's Department in McLennan County.

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REP. CHABOT: Okay, so you're saying it was gone already then.

MS. SPARKS: Yes.

REP. CHABOT: That was what you knew? Okay, now relative to -- you had met with the children a number of times. How old were the kids that were there? What were the youngest?

MS. SPARKS: I think the youngest was about three months old, as I recall. The oldest one -- we didn't get to see all of the teenage girls, there was one 17-year-old girl who was there.

REP. CHABOT: Okay. And I think you had stated that was really your principle concern was the children that were in the facility?

MS. SPARKS: Yes, sir.

REP. CHABOT: Okay. And I just want to say, because my time's just about up here, I didn't get to get into too many of the questions that I wanted to get into, maybe I can later, but I have tremendous sympathy for the law enforcement agencies and their families that were killed here. I have tremendous sympathy for the children, as well, that were in this facility. They were completely innocent in this whole matter. The gun toting minions of David Koresh, those folks, I have no sympathy at all for the adults that were responsible for this. But the law enforcement officers and
the children, in particular, were completely innocent in this matter.

REP. ZELIFF: The gentleman's time has expired. The chair recognizes Mrs. Slaughter from New York for five minutes.

REP. SLAUGHTER: Thank you, Mr. Chairman. Ms. Sparks, I'm very impressed as well with your hard work, and the fact that despite the fact that even law enforcement was working against you, you went on to do your job. Every trip that you made out there, it was carefully controlled, isn't that correct? You only saw what David Koresh would allow you to see.

MS. SPARKS: We always felt like we weren't getting the full picture; that things were being kept from us, and that was verified during some of the interactions.

REP. SLAUGHTER: At that point, you did not understand that every young girl knew that some time in her life, she would be raped by David Koresh.

MS. SPARKS: I knew the allegation was that, but we didn't get that specific information in our initial investigation.

REP. SLAUGHTER: And he did not talk to you about guns.

MS. SPARKS: David Koresh was very open about the guns.

REP. SLAUGHTER: That he had the guns there.

MS. SPARKS: Yes, he was very open about that.

REP. SLAUGHTER: I understand that. I wish that the law enforcement people had listened to you a bit more and perhaps we'd know more than we do -- used to then. But the federal officers (real job?) was to serve those warrants and to look for guns, and not really to understand his religion which has been irrelevant here. But given your knowledge of David Koresh and his followers, do I understand that you believe there was some way that someone could have reached him so that he would have submitted to a warrant and arrest?

MS. SPARKS: My point is that if they had separated him from his followers to execute those things simultaneously perhaps, but to get them apart, the prophecy could have never been fulfilled, because the prophecy was that he had to die with the saints. So they wouldn't have acted on that. He had been arrested before.

REP. SLAUGHTER: But you think that the people back in the compound then would have -- given the fact that they'd been so indoctrinated, is it your belief that they would not have gone on with what he wanted to do? Was there not a junior prophet or a second prophet, or whatever was coming up?

MS. SPARKS: No, David was the only (lamb?), and they would not have acted, because they had to die with him. That was the prophecy.
REP. SLAUGHTER: Knowing what we know now, had he given himself up for arrest, he would certainly have been charged with rape, child abuse, perhaps incest, as I understand it, no other men in the compound had sex, so the small babies you saw must have been his own. Would you surmise that?

MS. SPARKS: Yes.

REP. SLAUGHTER: How many children do you think he fathered in that compound?

MS. SPARKS: Two years ago, I could have told you. I haven't looked at those records in a long time. There were a lot of young children that belonged to him.

REP. SLAUGHTER: Knowing this kind of cultist belief, and that people are able to suspend their own thoughts and follow slavishly someone into death, and that even allow their wives to be taken away from them, first you think that he would have ever submitted himself outside? Was it possible one of the reasons he was so rarely seen was (that arrested ? ), having been charged with crimes that I have mentioned, that he would have faced the rest of his life in prison?

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MS. SPARKS: Well, remember, he thought he was the lamb. And so he always assumed he could talk his way out of anything.

REP. SLAUGHTER: Mmm-hmm. And you believe that his followers, once he was gone, would have suddenly wakened like Sleeping Beauty with the kiss of the prince or something, and said Lo, we've been under this wicked spell, and now we're going to let the ATF people come in peacefully?

MS. SPARKS: I think that they wouldn't have -- they would have just waited for word from David about what to do.

REP. SLAUGHTER: And what word do you think David would have sent them?

MS. SPARKS: I have no idea.

REP. SLAUGHTER: Wouldn't it be pretty likely that he would want them to go on and fulfill his prophecy?

MS. SPARKS: I don't --

REP. SLAUGHTER: You see, the reason I'm asking you that, it would seem to me that the fewer people that were to testify against David Koresh, and what had been happening in that compound, and the fewer little girls, Kiri, who could come out and tell us what their life was like, the better off he would have been facing court charges that he would have faced. So, do you think that he would have ever given himself up?
MS. SPARKS: He had been arrested in the past. And I believe that he ever --

REP. SLAUGHTER: That was in 1989, is that what you're referring to?

MS. SPARKS: Yes.

REP. SLAUGHTER: When he had the shoot out with Mr. Roden.

MS. SPARKS: Right.

REP. SLAUGHTER: He couldn't have pronounced himself the lamb and the prophet at that point, because the lamb and the prophet at that point was Mr. Roden, correct?

MS. SPARKS: Not to David Koresh.

REP. SLAUGHTER: But the fact that he wanted to become the lamb and the prophet --

MS. SPARKS: But in his mind, he already was the lamb.

REP. SLAUGHTER: Well, I see that my time is up. But it would seem to me that he would do anything in this world, and everybody else in there with him, to keep from being arrested or taken, including setting fire to that compound and burning those people to death.

REP. ZELIFF: You are absolutely correct. Your time is up. The chair now recognizes Mr Schiff from New Mexico. Five minutes.

REP. SCHIFF: Thank you, Mr. Chairman. I think before I begin questions, I think it's appropriate to emphasize what ought to be the focal point shown thus far today. First, it was argued that this hearing has been tainted by staff contacts with the National Rifle Association. I have to say that if any cabinet member called up a member of this committee and tried to influence questions, if that occurred, that would be a far greater taint that anything that could be done on the staff level. There's been a lot of discussion of misrepresentation, and if a consultant called Ms. Sparks and misrepresented who she was and who she was with, that's not defensible. But that consultant doesn't work for the U.S. Congress. The Bureau of Alcohol Tobacco and Firearms does. And the Bureau of Alcohol Tobacco and Firearms misrepresented to the United States military the nature of this raid. Although they knew it was a firearms raid, they called it a drug raid to take down a methyl amphetamine lab, because that was the only way that they could get the training they wanted from the particular Army unit that they contacted, because that Army unit had only a drug -- anti-drug mission.

And finally, we've heard a great deal about concern for children, and certainly Mr. Koresh acted despicably towards the children who lived with him in that compound. But I wonder how much concern for children our government showed when, for example, when the number two person at the Department of Treasury, Roger Altman, for whom the Bureau of Alcohol Tobacco and Firearms worked, advises his boss, Secretary Bentsen, on April 15th, 1993 that he believed the FBI is going to take more drastic action to end the siege, and he states, Mr. Altman, the risks of a tragedy are
there. And Secretary Bentsen's response was basically that's not our department's problem anymore. That was the governmental version of saying that's not my table.

Now, it is true that the Department of Justice and Attorney General Reno were in charge at that time, but that didn't prevent Secretary Bentsen from forwarding this memo from Mr. Altman to the Justice Department so that the Attorney General had the benefit of these views. And that brings me to the questions I'd like to ask. Ms. Sparks, let me say, I was a criminal prosecutor before I got to Congress, and I've prosecuted child abuse cases, and I know the difficulty of putting together evidence in the cases you worked on. But I'd like to ask your view of this situation. You said that the raid -- and these are your words -- the raid on the Branch Davidian compound was a fatal mistake. And you went on to explain that you knew that there would be armed resistance, and you didn't think the ATF command really believed that would be the case. I'd like to take it a step further though, and I'm addressing -- you worked with law enforcement frequently in your position, is that right?

MS. SPARKS: Yes.

REP. SCHIFF: So I'm going to ask you as another law enforcement professional, the ATF did have an arrest warrant for Mr. Koresh and a search warrant. Or, suppose that you had been able to get enough evidence to charge Mr. Koresh with child abuse, which I understand was difficult to do, but suppose that the Texas authorities had been able to get an arrest warrant for Mr. Koresh or a search warrant. How would have been the best way to enforce those warrants? Because certainly, the law enforcement agencies do have an obligation to take action if they have a valid warrant. In other words, what would you have done?

MS. SPARKS: Well, we were already involved, which was one of the points I was trying to make when our case was closed. We had an opportunity to get to know the children better. I think that relationship would have been helpful. We often have law enforcement assist when we're interviewing perpetrators. And they are brought in, or we meet with them --

REP. SCHIFF: Excuse me, I'm sorry to interrupt, but my time is about to run out here. In this particular situation, with the arrest warrant that ATF had, let's leave it that way, what would you have done to enforce the arrest and search warrant? How would you have gone about the situation different from the raid you call a fatal mistake?

MS. SPARKS: I don't have all the information they had. But for me, I would have served the arrest warrant on David outside the group, and then maybe simultaneously, did the search warrant. I'm not knowledgeable in those things, but this was just predictable.

REP. SCHIFF: Mr. Chairman, I think my time has expired. Thank you.

REP. ZELIFF: It has, thank you, thank you. Mr. Taylor from Mississippi for five minutes.

REP. TAYLOR: Thank you, Mr. Chairman. And I do want to thank the panel for sticking around. I'll begin with you, Ms. Sparks. Ms. Sparks, in retrospect, especially after what the young lady, Kiri Jewel said the other day, did the protective -- Child Protective Agency do their job? Did they
protect those children from David Koresh?

MS. SPARKS: My agency and I were in controversy about that.

REP. TAYLOR: Isn't it safe to say that they failed? Whether their intentions were good or not, they failed to --

MS. SPARKS: Mistakes were definitely made.

REP. TAYLOR: So the law really didn't give you everything you needed to do your job, did it?

MS. SPARKS: That was the most frustrating part.

REP. TAYLOR: So contrary to all these people talking about a government out of control, you didn't even have the vehicle through the law to do your job to protect those kids, did you?

MS. SPARKS: That's right.

REP. TAYLOR: And I want that for the record. Because people keep talking about a government out of control, and here's a woman who suspected something was wrong, and yet the laws of this country protect the criminal --

REP. : -- (Inaudible) --

REP. TAYLOR: -- protected the criminal more than those little kids, and didn't let you do your job. I also want to go on, I have asked Treasury for some information. This is the testimony that they have supplied, and it says that Ms. Sparks stated during her conversations with Koresh that he described himself to her as the messenger from God, and that when he reveals himself, the Los Angeles, California riots will pale in comparison to what was going to happen in Waco, Texas. Ms. Sparks stated that when she asked him to elaborate, all he would say was that the world was coming to and end. And when it happens, it will be a military-style operation, and that all non believers would have to suffer. Is it safe to say the non believers were the people who weren't a member of that cult?

MS. SPARKS: Everybody who's a non believer, he considered Babylon. And those --

REP. TAYLOR: Okay, so everyone other than his cult was going to suffer.

MS. SPARKS: That's right.

REP. TAYLOR: Did you consider him a dangerous person -- in your heart?

MS. SPARKS: Yes.

REP. TAYLOR: Were you ever afraid when you were around him -- in your heart?
MS. SPARKS: I never put myself in a position that I felt I was in real danger, but he was threatening, yes.

REP. TAYLOR: He was a threatening person?

MS. SPARKS: Yes.

REP. TAYLOR: Okay. Mr. Evans, I have a question for you now. I missed all of your testimony, but I take it you were a criminal defense attorney. That's how you make your living?

MR. EVANS: Yes, sir, and proud of it.

REP. TAYLOR: Are you good at it?

MR. EVANS: I'm good at it, and I'm proud of it.

REP. TAYLOR: Have most of the people you've defended gotten off?

MR. EVANS: Of course not. Because most of the people are -- about 90 percent of the people that go to trial are convicted.

REP. TAYLOR: I see. I'm talking about in your instances.

MR. EVANS: I'm no exception.

REP. TAYLOR: So some of the people you defended got convicted of breaking the law.

MR. EVANS: Absolutely.

REP. TAYLOR: Okay.

MR. EVANS: And they should have been.

REP. TAYLOR: And with that in mind, sir. If you ever went into a trial, and only the prosecution could subpoena witnesses, how would you feel and what would you do?

MR. EVANS: Well, I suffer from that imbalance all the time, Mr. Congressman.

REP. TAYLOR: Is it legal?

MR. EVANS: I'll put it like this. The prosecution has much, much more subpoena power than we ever do, even though we have the right to subpoena, but we don't have the resources to do that, so --

REP. TAYLOR: Would you challenge that trial if you were prohibited by the courts from subpoenaing people who could speak on behalf of your clients?
MR. EVANS: Well, I wouldn't -- it depends.

REP. TAYLOR: Well, and I'm asking --

MR. EVANS: If I was absolutely prohibited, then of course I would challenge it, and then the question would go, well, was the subpoena you wanted material or not? I can't just subpoena anybody or anything --

REP. TAYLOR: Okay, well let's just take it a step further. You have a client. He's got people that can prove his case overwhelmingly. He's got people who can say, my God, this never should have happened, I shouldn't even be going to trial. And you are prohibited by the Court from letting those people speak before the Court, what would you do?

MR. EVANS: I would have to prove that first. But if I could show some judge that that person was, in fact, material and did have the kind of evidence you described, I can't imagine a judge not issuing a subpoena, and I believe it would be unconstitutional not to.

REP. TAYLOR: So you're obviously a decent person; a good man. As a decent person, a good man and someone who makes his living defending people, don't you think it would be fair to those four dead ATF agents and the 20 who were wounded that the people who want to speak on behalf of them and the testimony that we'd like to have on behalf of them be submitted to the people of America in this room?

(Cross talk.)

REP. TAYLOR: -- you just said that you expect fairness, I think those people deserve fairness.

MR. EVANS: I think all the people that died in this outrage should have the benefit of complete, full and fair hearings on the material issues of this case, but not all these rabbit trails and side issues that I've seen bantered by both sides -- by both sides.

REP. TAYLOR: Okay, but is someone who claims to have been held by Koresh for three months a rabbit trail or side issue? Is someone who claims he had a hit list of people he was going to have eliminated a side trail? Are the two reporters who published his theories and then left town for fear of their lives a side trail? I'm going --

MR. EVANS: They may not be. Hey, I might agree with you. I just don't know.

REP. TAYLOR: Okay, I'm running out of time, but I did make a promise to everybody, and I'm going to keep it, that every single panel, whether favorable or unfavorable, was going to be asked the same question. If anything that any of you have seen or read or heard justifies the murder of those four ATF agents and the wounding of 20 more David Koresh and his followers on the morning of February the 28th, please, we'll start with you, Ms. Sparks. Ladies first.

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MS. SPARKS: Nothing can justify that.

REP. TAYLOR: Thank you, Ms. Sparks. Mr. Morrison.

MR. MORRISON: Previously asked and answered, sir.

REP. TAYLOR: -- (Inaudible) --

MR. MORRISON: I answered the question yesterday, sir. Same question.

REP. TAYLOR: And you answered?

MR. MORRISON: There was no justification.

REP. TAYLOR: Thank you, sir. Mr. Evans?

MR. EVANS: There can be a legal justification. Judge Smith, in the trial, gave it to the jury, and I'll read it for you as follows. Now, bare in mind that the jury has to decide if these are the facts or not --

REP. TAYLOR: I'm asking your opinion, not the judge's.

MR. EVANS: Alright, my opinion is that there could be a legal definition and a legal defense. If a defendant is not an aggressor and has reasonable grounds to believe that he is in eminent danger of death or serious bodily harm, for which he could save himself only by using deadly force against his assailant, he has the right to employ deadly force in order to defend himself. In my mind, given these situations, I wouldn't feel that way. I wouldn't feel that I would have the right to do that. But I can't get inside the minds of these people who don't --

REP. TAYLOR: But I'm asking you, from what you've seen --

REP. ZELIFF: The gentleman's time has expired.

REP. TAYLOR: No, sir, these two people are still asked a question. That is the procedure we've had all day.

REP. ZELIFF: Well, he, I thought he was finished.

REP. TAYLOR: These two gentlemen.

MR. : Absolutely not, and thank you for giving me an opportunity to finally say something.

REP. TAYLOR: Thank you, sir.

(Laughter. )
REP. TAYLOR: I wish I had more time, sir.

MR. : Sir, on behalf of the 10,000 members, federal agents that I represent, it's reprehensible for anyone to even think that those people had any right or any defense, sir, to kill those agents. Thank you.

REP. TAYLOR: Thank you. Thank you, Mr. Chairman.

REP. ZELIFF: The chair recognizes Mr. Souder.

REP. SOUDER: I'd just like to note for the record that the witnesses that Mr. Taylor has been calling, or talked about calling, I understood yesterday that the agents who were in charge are suing them because they believe that their premature release of an article led to the death of their fellow agents. So while I understand the need for some background information, they did not exactly uphold what we needed to be done at that time either to protect the lives of the children in particular, who were clearly kind of forgotten in this whole incident. I felt as I've heard a number of things here, one is, is that I was very touched the other day when Kiri Jewell was talking, and she'd clearly been through this a number of times before, but when she heard a number of other people talk about the fire and the deaths, tears came to her eyes as she heard about the other children dying. And it brought back memories of those children and those deaths.

And Ms. Sparks, you said that you felt that the agents didn't think they needed to listen; that they thought they were above it. I don't think anybody's questioning the dangers anymore to a lot of the law enforcement officials. I have many, many friends in these different agencies from having lived in Northern Virginia in a neighborhood where many were people in law enforcement. But there's a feeling and a concern that it's getting a little bit, how should I say, the show time question, a little bit over-aggressive and not sensitive enough, particularly when there were children involved in this incident. I wanted to ask a question regarding, to Mr. Evans, and regarding a comment that Mr. Oboyski (sp) made, which I believe he did not mean to go as wide, but it was a scary comment. He said the day is over when two people in a suit can issue a warrant. What's your reaction to that statement, Mr. Evans, I wanted to ask first.

MR. EVANS: Well, I hope he really didn't mean that, because it's frightening if taken literally that every time any peace officer in this country executes any warrant -- and I wrote it down, he said execute a warrant of any kind -- without this kind of military (garb ? ), that's -- we will be a military government, rather than a civilian government if we let that continue.

REP. SOUDER: Because there is really no question, I don't believe, in any of our minds that when there are signs of eminent danger, whether it be a drug case or an arms, that's a little bit different. But we're worried about the mentality that seems to be moving through this country, and as we have a breakdown of some of our standards of morality, we need the law enforcement to realize they're agents to try to keep calm in these situations. One concern I have, and if Mr. Evans could exhibit, we had earlier distributed a copy of a picture of -- we don't know whether it's an FBI or an ATF agent -- on top of a tank with an American flag and two guns, after -- it was clearly after the first and before the second event. There are a number of pictures that have been shown in the news, and they're also available, and I would ask that they be inserted in the record and distributed, where
agents were standing in front of the building burning in the back and others.

But this type of picture doesn't mean that there was any malicious intent by any agents; that there was any desire to do that. But when people are -- particularly little children are dying in the background, or that you're trying to prepare for something that could lead to the death of children, this comes very close to showboating. And I am very disappointed, because I understand that people were trying to do the best they could to uphold the laws, and I'm concerned about a mentality in this country, not that it's pervasive and not that it's there, but we need our law enforcement officials to help calm down the situation, just like we need all these madmen with their guns who are threatening their communities around them, to disarm and not be so aggressive any time somebody does come to the door, or we will wind up in a situation where we have tanks and armored vehicles coming in. And I just wanted to put that into the record and express my concern that all law enforcement officials, if nothing else coming out of this hearing, saying, be careful, don't repeat some of the errors that were made in this, and yet not take our side of questioning as condemning all law enforcement officials who everyday, lives are on the line, risking it, trying to uphold our laws. I thank the chairman and yield back the balance, whatever there is.

REP. ZELIFF: The gentleman's time has expired. The chair now yields to Mr. Shadegg. Five minutes.

REP. SHADEGG: Thank you, Mr. Chairman, I appreciate it. Mr. Evans, I'd like to start with you and focus on one issue that's now become somewhat central. There's a memo that you have a copy of from Ronald K. Noble -- from a Sarah (sp) Jones to Ronald K. Noble, dated September 17, 1993, I believe you had a blow-up made of it. It goes into this issue of the Department of Justice ordering the ATF to stop its shooting review. Are you familiar with the memo I'm referring to?

MR. EVANS: Yes, I am.

REP. SHADEGG: Okay. We have just had interjected into this hearing by Mr. Schumer a press release put out by the Department of Justice which purports to state the Department of Justice's policy on this issue. Do you have a copy of that?

MR. EVANS: Yes, I do.

REP. SHADEGG: Have you had a chance to read that press release?

MR. EVANS: Yes, I have.

REP. SHADEGG: Okay, it says in the first paragraph that it is not at all unusual for the Department of Justice to request an agency to temporarily hold off from interviewing potential witnesses in the Justice Department's criminal investigation, that it would be normal to do that. And then in the second paragraph, it talks about the reason for that. I want to go back and ask you, is there anything in the September 17 memo which suggests that when they advised Hartnett to stop the ATF shooting review that that was a temporary -- they were making a request that they temporarily halt it.
MR. EVANS: Absolutely not. And to the contrary, it says that that's not the reason that they're suspending the interviews. It has nothing to do with temporarily holding off so that the criminal investigation can proceed, and they don't want too many cooks in the kitchen or fingers in the pie. The stated reason for not interviewing anybody else and reducing their comments to writing in this document is, immediately -- that the review team immediately determined that these stories did not add up, and that Johnston advised Hartnett to stop the shooting review, not for some Prosecution 101 reason, but because the ATF was creating Brady material. You have to understand that Brady means -- indicates innocence.

REP. SHADEGG: I understand exactly what you're saying. I want the listening audience to understand what's going on here. First of all, you were reading from the memo. In this memo it says they determined that the stories didn't add up. They had two conflicting agents -- they interviewed two agents. One said that one agent had shot; the other said they'd taken that agent's gun, and there had been no shots fired from it. What they had was interviews that were producing evidence which was flat contradictory. And they go on to say, stop the ATF shooting review, because it is creating Brady material. Brady material is material which tends to go to prove the innocence of the defendant, isn't that right?

MR. EVANS: Yes, and David Koresh wasn't on trial. We had 11 other souls on trial.

REP. SHADEGG: Now this Department of Justice press release that Mr. Schumer put into evidence or wanted to put into evidence specifically says that it's their normal policy to ask people to temporarily hold off. This was not a temporary hold off, was it?

MR. EVANS: No.

REP. SHADEGG: It was permanent.

MR. EVANS: In that sense, it was permanent. Well, the shooting review -- it's my understanding that later on, months later, the shooting review team did come back through, and that the Texas Rangers did come and interview those people, but it's apples and oranges.

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REP. SHADEGG: Well, if in fact -- the second paragraph of this press release says, it's common to ask that simultaneous interviews not go forward so that you won't have confusion. But this wasn't -- the issue of simultaneous interviews wasn't what was going on here, was it?

MR. EVANS: Not at all.

REP. SHADEGG: The memo itself details what was going wrong, and that was they had two different agents describing the same event and saying different things about it.

MR. EVANS: That's true, and that is reiterated. It's not just an accidental mistake; that's reiterated throughout those documents. The word exculpatory is used twice. This asking questions to which would require us to create new documents -- exculpatory -- it's clear what they were doing.
REP. SHADEGG: Let me make one more point -- let me make one more point. If this memo were to say we can't ever conduct a shooting review while there's an ongoing criminal investigation which is where the shooting occurred by the agent, they would never conduct a shooting review, because there's always the ongoing underlying case, and indeed there's the case which leads to trial, and then to appeal, and then appeal, and then to appeal, and then to appeal. And so if you could never do a shooting case while the underlying criminal -- a shooting review -- while the underlying criminal investigation was going on or the criminal prosecution was going on, you could never do a shooting review, could you?

MR. EVANS: You know what I think that the Department's spin on this now is? It's like a lot of prosecutors have said about my clients in closing arguments when they have incriminating documents like this, and my client's given some explanation, they get up and say, what he's trying to do to you is say to you, are you going to believe me or your lying eyes? And I'm telling you, who are you going to believe, some press release or the words that were written back then, contemporaneously in 1993, before anybody had a chance to think about ever having these kind of hearings?

REP. SHADEGG: Well, I would suggest that whoever wrote this press release either hadn't listened to the testimony at this hearing or read the document that you were testifying about, or they were intentionally trying to draw the attention off of what this document shows. And it looks to me like an attempt to confuse or an attempt to continue a cover up.

MR. EVANS: I don't know. I hope not.

REP. SHADEGG: My time has expired.

REP. ZELIFF: Okay, the chair recognizes Mr. McCollum for seven and a half minutes.

REP. MCCOLLUM: Thank you very much, Mr. Chairman. Mr. Morrison, I want to ask you one quick question here. This is a book that you probably know Mr. Reavis, who testified earlier, wrote. In the book he tells a story about, or at least tells about, a fellow named Lynch who was a deputy sheriff, I believe, at the time, who went the morning of the raid to a command post for communications, as I recall. And it was at that post that he received during the early part of this raid a frantic 911 call from Wayne Martin, who was the Davidian attorney inside that compound, did a lot of the talking that day that led to the ultimate cease fire and so forth that morning. But he also tells the fact that Lynch could not, after he got Martin on the phone, for minutes, several minutes, 20 minutes or something, find any way to communicate with any of the raid party or anybody involved with the raid, because they didn't have any telephones, any portable phones or any way he had -- he didn't have anything with him, I presume, a radio or anything to communicate with them. Are you familiar with that? And to what extent does that fit into what you've been telling us about the lack of communications or communication plan?

MR. MORRISON: That's a several-part question. First of all, I'm not familiar with the book or the text that's in that book, and I'm not familiar with the incident as related, sir. I did refer to my concern of the lack of appropriate communications with all the principles involved in this raid party,
particularly the prompt relaying of information to the actual tactical team that was making the approach. And so that's about all I can say --

REP. MCCOLLUM: Would you say that in light of what you know about the lack of communications, that would not be surprising if it were true?

MR. MORRISON: I believe that the lack of communications was an issue; it was well developed within the investigation and if the information that is in that book is accurate, it would probably be consistent with the concerns about the lack of communications previously established.

REP. MCCOLLUM: Thank you. Mr. Evans, in part of your testimony today, you gave us a lot of written testimony. We haven't had much chance to go over some of that. One of the titles you've got here is called -- a subparagraph -- show time. And you say trial testimony revealed that the code word to launch the raid was show time. Can you tell us what that meant, and what that was all about?

MR. EVANS: Well, that's absolutely true. The agent swore under oath and testified that that was the code word to kick this raid off, was okay, it's show time. And the next thing they said was, goggles down, weapons out, fingers off the trigger. Of course there's some evidence we won't have time to go into that maybe one of those guns went off and shot that second pick-up truck. But that was their instruction.

REP. MCCOLLUM: And then after that, you say in your testimony two separate public relations agents, Sharon Wheeler from Dallas, who's going to be one of our witnesses, and Francesca Breau (sp) of Houston were assigned to the operation. Pre-raid video from the command headquarters shows a prepared public relations center with fax machines, telephones and computers, is that your testimony?

MR. EVANS: That's my testimony. I've got the video tape with me.

REP. MCCOLLUM: Well, it just seems interesting to me that if what Mr. Reavis had in mind when he wrote in his book, and that if it true, and it appears that it is, he was here testifying the other day, that they didn't even have telephones or communications to get that 911 communication back and forth that Wayne Martin had from inside the compound for 20 minutes, trying to stop the shooting. But at the same time, they had fax machines, telephones and computers, and were ready for whatever PR they had; that that was a mighty strange operation to say the least, and certainly a fatal flaw, not to pun a word. Let me ask you about something else that Mr. Bryant asked earlier of you, and you didn't quite get a chance to finish up, no-knock warrant.

MR. EVANS: Yes, sir.

REP. MCCOLLUM: When you have a no-knock warrant, shouldn't that have been served by going to the door? If you had a -- I mean, if you didn't have a no-knock warrant, in this case you did not have a no-knock warrant, right?

MR. EVANS: They did not have a no-knock warrant.
REP. MCCOLLM: Let's let you explain the difference, because that's been a long time since we've been over that. What's the difference between a no-knock warrant and some other kind of warrant?

MR. EVANS: Well, theoretically, it's supposed to mean that the officers, if they don't have specific authority to just kick the door down without announcing themselves, that they're supposed to knock on the door and announce themselves as police officers and go on in. I will tell you, I've been doing this a long time, and for five or six years, I rode with the police. I have never seen a police agency that didn't scream police on the way to the porch and kick the door before the words echoed off the front door. You know, they don't knock and announce. It just doesn't happen. Now there's a lot of exceptions to that where the police can say well, even though we didn't have a no-knock warrant, this and that happened, and so therefore we had to go ahead and crash in, and the status of the law now is that there are so many exceptions and all the -- not all -- many, many restraints have been taken off the police officers. And quite frankly, we're frustrated, and that's why I'm here, because there's little we can do about it.

REP. MCCOLLM: Well, isn't it true that at least theoretically under the law, if you have a warrant that wasn't a no-knock warrant like the one in this case, and this was not a no-knock warrant, this was a regular old warrant, that the officer who had that in his possession should have been up there at least kicking the door in, or helping kick it in at the very least, not back in the truck or vehicle where, under the testimony we had yesterday, he testified, Mr. Sarabyn, that it was shot full of holes he presumed and destroyed on the seat of a vehicle. He never quite got it out of the vehicle before that happened.

MR. EVANS: By the way, Agent Ballesteros admitted under oath at the trial that they had never even practiced a no-knock peaceable entry down at Ft. Hood. And the team that went up the rooftop that we see on the television, where tragically those people were killed, they said they couldn't have known what was happening at the front door, they were under orders to go through that window regardless.

REP. MCCOLLM: Well, I think that's an obvious thing from looking at the films. Let me ask you this question. I'm going to jump you ahead of where we are, because you're not going to be back with us. The fire, the ultimate end of this whole tragedy in April, you have given us testimony talking about the question of -- not of which where the fire started -- but the knowledge of those who were involved earlier in the morning of the fire about the likelihood that the Davidians would start a fire, and that comes from the tapes and the transcripts and the studies that you've done of all this as part of the work you've done at trial, and the observations you've made. Could you describe that for us? I think you said that they should have known this, basically, and instead of backing off, they pushed ahead. They should have known that morning that a fire was going to happen. Could you tell us about why you analyzed it; what you felt --

MR. EVANS: Mr. Chairman, it's not that they should have know; they knew. And let me tell you how I can make such a definitive statement. Those tapes show that at 6: 05 in the morning, six hours before this fire ever broke out --
REP. MCCOLLUM: The audio tapes.

MR. EVANS: The audio tapes, I'm sorry, the audio tapes of the electronic bugging, that the FBI's monitoring with earphones to see what's going on in there say that -- words like, let's spread the fuel, give more fuel, spread it around here. That went on for about 20 minutes, and then sporadically throughout the morning as the tanks pounded the place, more mention was of fire and spreading fuel. It's throughout that. Now, I know what the FBI says about it, because I saw Special Agent Jeffrey Jamar on a national TV show two weeks ago say, well, we had to enhance those tapes in order to hear them, because -- and we really didn't know that morning.

REP. : -- (Inaudible) --

REP. MCCOLLUM: No, let him please finish, then we can clarify.

MR. EVANS: Okay. I was in this room when Ray Jahn testified under oath to you folks two days ago, and he was trying to show you that the Davidians started the fire. And he tried to show the jury in San Antonio that the Davidians started the fire the same way. And he testified very truthfully that he could hear those tapes, unenhanced with his ears the first time he listened to them. Your record will show he told you that. And it's true, because I was in the court room in San Antonio when the tapes were played unenhanced, and the record shows that. And I've got the transcripts from the record with me if somebody wants to look at it, that you could hear that conversation unenhanced. Now, true it was garbled; true, you had to listen carefully, and yes, you could -- every now and then, you couldn't distinguish words, and you could argue about it. But if you take the sum total of it, the whole morning for six hours, and listen to all of it, you had to have known that somebody in there was going to start that fire.

So we've missed the issue. We run down a rabbit trail if we try to decide who started the fire or who didn't start the fire. Let's just say the Davidians did start the fire. Our government's held to a higher standard than those people in that compound, and they knew for six hours that continuing to pound that place and tear down the whole backside of it was going to cause something like this. But folks, they'd been down there too long. It was going to be over. Listen to their PA announcements. David, it's over. Come out. And it was going to be over, come hell, high water or holocaust. And what we got was a holocaust.

REP. MCCOLLUM: Thank you, Mr. Evans.

REP. ZELIFF: Point of clarification?

REP. : Mr. Evans did not make it clear -- he said he knew for certain that someone was saying -- was spreading fuel. Who? The Davidians, the FBI, the Army?

MR. EVANS: The Davidians.

REP. : Oh, the Davidians were spreading fuel amongst themselves, is that accurate?

MR. EVANS: Yes, sir.
REP. : Okay, I just want this clear for the record, Mr. Evans.

MR. EVANS: Yes, sir.

REP. ZELIFF: Thank you very much.

REP. : I ask unanimous consent that the documents Mr. Evans is referring to be introduced into the record along with his testimony.

REP. ZELIFF: Without objection, so ordered.

MR. EVANS: My written --

REP. : Mr. Chairman, that's the quickest -- reserving the right to object --

REP. ZELIFF: What's your objection?

REP. : I'm just asking what the documents are. I may not object to them.

REP. ZELIFF: Okay, if Mr. Evans could identify them again, you were just referring, I think, to some transcripts?

MR. EVANS: I've prepared a written statement, and it has exhibits attached to it. I would like for that to be introduced since I don't have much time. But the thing that you're referring to is the trial transcripts about the testimony concerning those tapes?

REP. ZELIFF: Right.

MR. EVANS: I'll get them. I have them in my brief case down here.

REP. ZELIFF: All statements from the witnesses -- any of you have any material that you want to supply, we'll be happy to admit in the record.

REP. : And additionally, Mr. Chairman, if I could ask unanimous consent, I don't think I've done this yet, the documents that I introduced two days ago certainly will be -- and the ones that are blown up here, I would ask for those to be entered into the record, as well as the two merit system protection board settlement agreements we've referred to. I don't think I moved specifically to have those placed in the record too.

REP. : The gentleman -- reserving the right to object.

REP. ZELIFF: State your objection.

REP. : The gentleman made some copies of the posters, not the posters themselves.
REP. : Well, it would be a mighty big book, I suppose.

REP. : And actually, Mr. Chairman, I had a reservation too, I don't suppose the gentleman to ask Mr. Evans to put in the rest of his file on this case, would you?

REP. MCCOLLUM: -- (Inaudible) --

REP. ZELIFF: May I ask a question of clarification too on your reservation. Would you yield on your reservation?

REP. : (Yes ?).

REP. ZELIFF: Am I correct that what Mr. Evans and Mr. Barr wanted put into the record beyond Mr. Evans' statement were copies of the transcript of the trial proceedings he was involved with that are relevant, that he referred to in his testimony. Now he has those in his brief case. Is that not what you were referring to, Mr.

MR. EVANS: I'm referring to excerpts from the trial transcript that I'm sure you have somewhere. It would just be easier for me to put it in and point it out to you.

REP. ZELIFF: I think that's what he wanted introduced, and that's what they're referring to.

REP. : I'm just wondering at this point whether we just ought to get a copy of the trial transcript and introduce the whole thing, not just the salient parts Mr. Evans has with him.

REP. ZELIFF: Well, I think we probably already have it. But without objection, so ordered.

REP. : Then I remove my reservation.

REP. ZELIFF: You withdraw your objection.

REP. : Certainly.

REP. ZELIFF: Without objection, so ordered.

REP. : Also, Mr. Chairman, could I clarify, when Mr. Schumer moved to have the Department of Justice news release entered in that it was entered in at that time, is that correct?

REP. ZELIFF: That's correct.

REP. : Okay, thank you.

REP. ZELIFF: Okay.

REP. : (Inaudible) -- clarification, Mr. Chairman. We didn't put the whole trial transcripts in from the trial, is that going to be in our records?
REP. ZELIFF: The excerpts is what I heard.

REP.: Mr. Evans, so far it's the excerpts.

REP.: And how big a brief case do you have?

REP. ZELIFF: Okay, I just wanted to clarify what happened in that exchange. Yeah, there was just some notes there. Okay, I've got seven and a half minutes, and Mr. Evans, can you -- I think we've reviewed these documents over here to your left. Having reviewed them, how would you characterize the actions of the Justice Department?

MR. EVANS: If you look at the face of these documents and the words that are written on there, to me it points squarely to an obstruction of justice.

REP. ZELIFF: It does. Okay, thank you very much. Let me ask you this, do you feel -- you've been here just for a few hours; we've been here it seems like for many, many days, but this is our third day. There are some who have said that nothing new has come out of these hearings. Have you heard anything new today?

MR. EVANS: Absolutely, I've heard something new today. I heard it first two days ago when Congressman Barr brought it forward. But there's more than that.

REP. ZELIFF: Well, at the end of three days, how would you just -- quickly in a minute -- characterize some of the things that you've considered to be important that have come out of these hearings?

MR. EVANS: The main lesson is that we've got to learn that there -- even though the vast majority of law enforcement is honest and dedicated, they take their ranks from the same pool of humanity the rest of us are from, and there's going to be a percentage in there that will be willing to lie and distort the truth, either to get what they want, like helicopters, or to cover their backside when they're criticized like others. And this case is permeated through and through with --

REP. ZELIFF: Have you read the Treasury Department report?

MR. EVANS: A year ago.

REP. ZELIFF: Either yes or no.

MR. EVANS: Well, yes.

REP. ZELIFF: You have. And do you feel that that -- I mean, we've heard 70 percent agreements and 72 percent. Where would you weigh in? Do you think that that pretty much, as it's written, tells the story in a very correct way?
MR. EVANS: Here's the problem with it, and I don't know about the good faith of the folks who said that it's reliable and thorough, and all of that. But the problem with it is this: That house is built on a foundation of shifting sand, because to believe that Treasury report, you have to believe the reports of the agents who were giving you the information. And from Day One, their stories didn't add up, and then, --

REP. ZELIFF: Are you saying that there were agents of either the FBI or ATF that either changed, forged or re-wrote documents, or misled their --

MR. EVANS: You see, I don't know --

REP. ZELIFF: I'm trying to figure out what you're saying.

MR. EVANS: I don't know what this refers to. I'm just saying that there's a track record. There's a history throughout this case of different agents and different agencies -- even the FBI -- who would make misrepresentations for their own personal benefit. And there's got to be a way to safeguard against that. The methyl lab is one; this false affidavit in the second shooting, in order to get Norman Allison (sp) in jail for a year. I could go on, because I made a list.

REP. ZELIFF: Well, let me ask you. What do you know about the gas, the CS gas, and the decision that was made to use it?

MR. EVANS: Nothing. I'm not the person to ask about that.

REP. ZELIFF: You're not the person to ask that.

MR. EVANS: No, sir.

REP. ZELIFF: Do you feel that -- and I'll go to Mrs. Sparks in a second -- do you feel that this whole investigation has been covered up in any way? Or do you think all the information is (done ?).

MR. EVANS: I'm not sure that there's been some evil person lurking back there, covering this up, but through the process of the things that I've described, this propensity to change stories, lie to cover your backside, that yes, the end result was that the true actual facts in this case have not yet been developed.

REP. ZELIFF: Do you think we've made some progress, but we've got more to go.

MR. EVANS: Some progress. I beg you to narrow the issues, and ask these witnesses questions and get it out right here. The one thing I would like to ask for though, it just came to my mind, I wonder if the ATF prepared a press release for what would happen if this raid didn't blow up in everybody's face. You know they had that PR table there. I'll bet you they had a prepared press release, but the judge in Waco wouldn't let us ask for it, because he thought it was immaterial. But it's not
immaterial to you folks. Maybe it doesn't exist.

REP. ZELIFF: Maybe we'll pursue that. Mrs. Sparks, tell us about the coordination that you had with the FBI, or was it ATF, concerning CS gas, or was it both?

MS. SPARKS: It was an ATF agent that I spoke with from the command post.

REP. ZELIFF: An ATF agent, tell us about that.

MS. SPARKS: He called; we talked about the plan. I asked him what kind of protective clothing my staff would wear; what kind of effect it was going to have on the children and my staff. We discussed it at some length. There was going to be medical personnel and on sight showers.

REP. ZELIFF: How far in advance was this before the --

MS. SPARKS: I couldn't find my handwritten notes, but what I remember is like the end of March.

REP. ZELIFF: End of March. So that was pretty well decided way in advance then, or was it?

MS. SPARKS: Well, what we were told was, he called me back at 5:30 and said, forget it. Don't even think about it. And what we assumed was that they had decided it was too dangerous.

REP. ZELIFF: On all the -- you seem to have had a fairly good rapport with David, at least you could talk to him. He understood you; you understood him. You were able to get in to some limited degree to see the children. Did you see cases of sanitation abuse, bad sanitary conditions, just describe what you saw.

MS. SPARKS: Yes, there was no running water and no indoor plumbing. And so they had big buckets that they were using the bathroom in, and then they said they buried it after that. But there were concerns. There had been some Hepatitis B infection, and there were just real concerns -- no running water, and no bathroom facilities.

REP. ZELIFF: We thank you. In closing this day of oversight hearings, I guess this is actually the third day, in the events of Waco, I must say that we've learned a lot. We've seen documents that show Secretary Bentsen had a memo in his possession that stated on April 15th, four days before the fire that killed 80 Americans and 22 children that night, and I quote, "the risks of a tragedy are there, and if the FBI waits indefinitely, Mr. Koresh will eventually concede."

Second, we have seen a brand new Justice Department's that now show clearly, that indicate several incidents of what have now been described in testimony as obstruction of justice relating to the Waco shooting review and the Brady evidence. Third, the FBI canceled the

CS gas follow up, precautions of children regarding Mrs. Sparks only days before the CS was used with deadly results. Fourth, Mr. Higgins was aware of the new fact which we now have in a document that we -- that's involving a startling quote, "embarrassment to Secretary Bentsen was the real reason Treasury considered calling off the raid." Finally, Mr. Morrison said, and I quote, "the
element of surprise was critical, yet the raid went forward without it."

In closing, we're three days into our eight days, and I for one, am now better educated a little bit on Waco, but also deeply troubled. There is an awful lot left to come out; there's a lot that has been thrown -- tried to throw us off; a lot of coordinated damage control going on. The truth is still our goal; the truth is still our aim. And I make no apologies; we're going to be totally committed to get to the bottom of this. I thank you all, and I would like to give Mr. Kolman, who is the minority witness, who is one person who hasn't had a chance at all to say -- I don't think the minority would disagree, but since he's come this distance, if you have a minute or so, any comment that you would like to make?

MR. KOLMAN: Yes, thank you, Mr. Chairman. I appreciate that greatly. I've been here in Washington for seven days waiting to testify, and I hoped that I might be able to shed some light -- perhaps allay some of your concerns and fears based upon my experience in law enforcement tactical operations and my independent review of what transpired outside of Waco, Texas on February 28th, 1993. Let me just say that I retired in 1987 after 26 years of law enforcement experience, nine of which were spent with a tactical unit as both a SWAT Team leader and later as a SWAT commander in overall charge of all eight of the department SWAT teams at that time. I had occasion over the years to work with the Bureau of Alcohol Tobacco and Firearms many, many times. I have always found them to be a highly dedicated professional group of men and women who, in my opinion, do an extremely difficult job very well.

I don't see this, based upon my review of the countless documents and video tape and other documents that were provided to the panelists to review, as any kind of a conspiracy to fail. These are professional men and women. Were there deficiencies in the operation? Absolutely. But to their credit, ATF has done everything within their power, in my opinion, to accept the recommendations of the review and the panelists, and have taken very positive steps to change for the better. I think what they need from this committee and the American people are their support. I think there has been a lot of misinformation in these hearings. I just wish that I would have had an opportunity to help you clarify them, but whether I was on the wrong panel, or people just didn't like me and didn't want to ask questions, I don't know.

REP. ZELIFF: Well, I certainly like you, because that's why I gave you the opportunity to respond.

MR. KOLMAN: That was very kind of you.

REP. ZELIFF: I'll tell you, frankly, it's a very difficult task that we have before us. I don't think there's anybody on either side of the aisle here that doesn't have anything but the absolute top respect for our law enforcement folks that deal with us and our safety day in and day out. And what we're dealing with here is were mistakes made, and could be at the highest levels. It could be at the management -- there's many, many loyal people just doing what they are told to do, and their willingness to serve and give us their commitment. And in four cases, four ATFs died in their commitment to service. And so out of respect for them; out of respect for our country and the balance of power, and the role of oversight, and the fact that no one's above the law, I think what these hearings are trying to do, very desperately, is to get at the bottom of what really happened. Somehow if mistakes were made, I think the American people are very forgiving, they'll forgive
those mistakes. Let's fix the problem if there is a problem. Let's go on a close the book. Let's then have the credibility back in place for our law enforcement; that's what we need; that's our goal as well. These hearings now conclude at the end of the third -- go ahead.

REP.: Mr. Chairman, Mr. Kolman has indicated both to me and to you that he obviously has something he wants to get off his chest. I realize people want to catch planes. I would ask, in fairness, that he be given unanimous consent to put his statement, whatever that statement is, in the record, since we are in a hurry to go catch planes and get back to our homes.

REP. ZELIFF: Without objection, so ordered. I assume that all of them heard this, and you may have been out of the room, everybody's statements are included in the record, and any material that anybody would like to include. So without objection, so ordered. Hearing is adjourned. We will reconvene Monday morning at 9:30. Sorry, that's 10:00.

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