

WITNESSES: DR. JOYCE SPARKS;  
STEVE HIGGINS, FORMER ATF DIRECTOR;  
JOHN SIMPSON, FORMER ACTING ASSISTANT TREASURY SECRETARY;  
CHRISTOPHER CUYLER, ATF LIAISON FOR THE ASSISTANT SECRETARY;  
ROGER C. ALTMAN, FORMER DEPUTY TREASURY SECRETARY;  
MICHAEL LANGAN, FORMER ACTING DEPUTY ASSISTANT TREASURY SECRETARY;  
LLOYD M. BENTSEN, FORMER TREASURY SECRETARY  
9:30 A. M. EDT FRIDAY, JULY 21, 1995

REP. ZELIFF: Good morning. The joint hearings of the Oversight Subcommittee on National Security, International Affairs and Criminal Justice, and the Judiciary Subcommittee on Crime will now come to order. (Strikes gavel. )

REP. TOM LANTOS (D-CA): Mr. Chairman, I have a parliamentary inquiry.

REP. ZELIFF: Please state your -- nature of your inquiry.

REP. LANTOS: Mr. Chairman, for the last three days some of us who are concerned about the integrity of these hearings and about the cloud that still hangs over the involvement of the National Rifle Association have requested that NRA individuals who were surreptitiously --

REP. ZELIFF: Would the gentleman state his parliamentary inquiry?

REP. LANTOS: I am attempting to, and I hope the chairman will not attempt to muzzle me. I would like to state an inquiry, and I would like to do so uninterrupted. For the last three days we have requested that NRA individuals who were surreptitiously involved in the preparation of these hearings -- and there is a New York Times story which, I think, you would wish to address, because it goes directly to your involvement --

REP. ZELIFF: The gentleman is not stating his parliamentary inquiry.

REP. LANTOS: I am stating my parliamentary inquiry.

We were told by the chairman yesterday, and by you, that you will consult with your leadership before you respond to our request that NRA officials involved in the preparation of this hearing be invited and testify under oath. My inquiry, Mr. Chairman, is: At what point will this happen?

REP. ZELIFF: We will -- we discussed with the leadership the decision that we made relative to that request, and they have concurred with our judgment. We are not going to have subpoenas of either NRA or other outside groups. We're really here to get at the bottom of what happened at Waco, and that's what we're going to do.

REP. LANTOS: Mr. Chairman, I have not used this term until now, but now I'm afraid we are confronting a cover-up, the cover-up of the involvement of the National Rifle Association in the preparation of this hearing, which I think is most regrettable, and I hope you will reconsider your decision.

REP. ZELIFF: Thank you. I don't believe you're stating a parliamentary inquiry, but I think we need to move on.

REP. JOHN MICA (R-FL): Mr. Chairman, I have a parliamentary inquiry. Mr. Chairman, I--

REP. ZELIFF: Gentleman, state your parliamentary inquiry.

REP. MICA: I presented to you, Chairman Zeliff, and Chairman McCollum a request this week,

and I too am concerned about the impact of outside influence on the integrity of these hearings. Specifically, I have expressed grave concern about the potential, irreparable contamination of the hearings, and by what I consider very serious and questionable actions of the Clinton administration --

REP. ZELIFF: I have to say that --

REP. MICA: Staff members and the Democratic minority --

REP. ZELIFF: Mr. Mica? Please state your parliamentary inquiry.

REP. MICA: Well I have presented to you a request for subpoenas for Mr. Podesta who is counsel to the president and for other administration officials who I believe are involved in a cover-up. And if the minority insists on subpoenaing and expanding the content of this hearing I insist that action be taken on my request and that's my parliamentary inquiry -- is when will there be action to see that the outside influences and the concerted effort by the administration and their officials to cover up what's going on their --

REP. ZELIFF: Mr. Mica?

REP. MICA: On their side of the aisle and what the administration is doing. When is that going to be addressed, sir?

REP. ZELIFF: Mr. Mica the same thing applies. We are not going to get involved with subpoenas of outside interest of any kind at this point --

REP. MICA: I'll give you another copy of my request, sir, and I've also --.

REP. ZELIFF: What we'd like to do is move on. Thank you.

REP. SCHUMER: Can we make a trade, a one-for-one trade, with a player to be named later? (Laughter.) You'll bring yours and we'll bring ours?

REP. ZELIFF: I think that little bit of humor is very welcome, Mr. Schumer. Thank you very much for setting the stage for cooperation.

REP. SCHUMER: I'd be glad to do that.

REP. ZELIFF: What I'd like to do -- I'd like to finish opening if we can. There will be some very important witnesses that we'd like to get to at this point, that certainly have come from pretty far away. We respect their time. I'd like to welcome the public, my friends on the Oversight and Judiciary Subcommittees, our full committee chairs and ranking members.

Also, I'd like to welcome, our co-chairman during these hearings, Chairman Bill McCollum of Florida. I know he's enjoying these marathon hearings -- 12, 13 hours -- didn't move out of that chair last night. But we are making some good progress.

For all those present today's the third day of Congressional Oversight hearings into the executive branch conduct during the 1993 confrontation with the Branch Davidians near Waco, Texas. These hearing will host almost 100 witnesses. These are a result of an extraordinary effort on the part of all participating members, and are intended to address basic government agency accountability, in addition to helping all of us understand better what happened at Waco and why. Particularly on or near February 28th and April 19th.

These hearings are, as we have stated on both sides of the aisle unswervingly devoted to one task, finding the truth and fairly presenting it to the American people.

Since we had some difficulty getting concurrence in an agreement previously reached by the majority and minority leadership, we will proceed according to the five-minute rule today, as we did yesterday. I should also explain that I'm in the chair today as a result of an agreement between Chairman McCollum and myself. Over the eight days of hearings, we are swapping the duties of the chair on a daily basis. By separate agreement, we are today in the Judiciary's room and will be in the Government Oversight room on Monday.

We now move to opening statements. I'll also mention that by agreement of all, we will forego a break in terms of lunch. We'll work right through. We're hopeful that we can get our business done with both panels by 3: 00.

We are going to be hearing opening statements from the majority subcommittee chairs, then minority ranking members, and then after that's completed, we'll introduce the first panel. I will start with the first opening statement.

Our purpose as men and women of conscience and goodwill, as members of Congress who are assigned the difficult task of true and thorough oversight of our government agencies, is to seek the truth without hesitating, recognize it and make sure it is understood. That is the goal of good oversight. We have spent too much time already professing what these hearings are not about. Their innate fairness, despite the difficult and emotional subject matter, should be apparent now to all Americans.

We have heard from those who knew David Koresh, from those who conducted the initial ATF investigation, from the prosecutors who charged the surviving Davidians, those who escaped the fire, and from ATF line agents, commanders, and a deputy director during the ill- fated February 28, 1993 assault.

We have heard from legal experts, investigative journalists, representatives of the elite anti-drug Special Forces from which ATF requested special training, and from a host of other relevant sources of information. I do not personally think we could be conducting these hearings more fairly or methodically or inclusively. While we opened with regrettable friction, there has been vigorous questioning of witnesses. In addition to the facts that got shaken out the first day, we learned yesterday that an agent in charge of the raid says he never thought he had lost the element of surprise, which is why he ordered the raid to go ahead. The direct conflict between his testimony and other credible testimony sets up additional concerns and questions.

We are listening and trying to make sense of it all, and that, I hope, is what I hope all interested Americans are doing as well as the schedule of the very best witnesses come before us today and the days ahead. If this were a baseball game, we'd be two innings into it out of nine in total. We'd be much less than halfway to our seventh inning stretch. We are just getting underway. Moreover, there is little joy in this process. The events and the questions themselves are very sad.

In the events at Waco, in the botched raid and its fallout, we lost more than 80 American lives, four young ATF agents who fell in the line of duty, a duty to serve us faithfully and to keep us secure.

These hearings aim to keep faith with those agents and their families and their loved ones. We cannot bring them back, but we can look long and hard at what caused them to fall. And when all the rhetoric is over I really think that's why so many of us are drawn to these hearings; we want to know how did it all happen.

And we want to know why also 51 days later, not 50, not 52, someone lost patience and launched large volumes of CS gas in a residence with 22 children inside, a residence that soon caught fire and in 15 minutes burned up all 22 children and their 60 or more accompanied adults. That, too, is an unmitigated tragedy. It scalds the soul and makes a decent person's heart heavy. Somehow you sit and feel overcome with regret that we couldn't have prevented all of this. Do we really stop child abuse by ending the child's life prematurely? Isn't there a better way? Shouldn't we have been more careful? What would it have cost to wait it out? Did good judgment get clouded by other concerns? We have to ask these difficult questions. The conscience of America calls out to us for answers.

Coming back to details, we have come up with some important answers. There were some important new facts on day one, but yesterday we also learned that ATF apparently misled the Department of Defense, essentially lied to establish the defense -- the necessary drug connection entitling them to get special forces training by the nation's crack drug interdiction unit, JTF-6. In addition, the money for the Waco military training and equipment came, and it is conceded the administration's assistant secretary of defense Ambassador Holmes, out of money spotted for fighting the nation's drug war.

On top of this, further and increasingly fatal flaws were revealed in the so-called Treasury Review Report. Treasury documents strongly suggest, and at other points witnesses testified that there are apparent cases of obstruction of justice littered throughout the review process. The ATF also got training that was for, quote, "indiscriminate firing or -- (inaudible) -- the more discriminate close quarters training. "DOD trainers were not convinced that the ATF believed in their own methamphetamine lab. That's all in one day, and all new facts.

There are other new facts and documents in testimony, but these are a start at really understanding the truth, and in my view, the American people expect tough and thoughtful oversight, and that is why we are here. We will find the facts, we will seek the truth.

And I just would like to just mention one of the things that in seeing this morning's paper and this quote from the Washington Post in its reference to the president, and he said: "People in elected office," who portrayed federal law enforcers as "some sort of armed bureaucracy acting on private grudges and hidden agendas ought to be ashamed of themselves. "

I, for this member of Congress -- I'll let everybody else speak for themselves, am totally committed to the process of finding out the truth. I make no apologies for finding out the truth, and I hope everybody else is committed along with the rest of us.

And I thank you very much, and I'll yield to the gentleman from Florida, Mr. Bill McCollum, co-chair of this -- these subcommittees.

REP. MCCOLLUM: Well, thank you very much, Mr. Zeliff, for yielding to me this morning.

I think that if we're looking at this from the perspective of where we've gone and where we're going to go, we need to have a little overview this morning. We've been through a couple of days of hearings now. Most of the testimony we've had in these two days have been to give us a prelude to the raid that occurred on February 28th, 1993, during which time four ATF officers were killed and six of those who were in the compound, six other Americans, were.

We will begin next week, in the middle of the week, a question about the final assault that was a question mark as well, dealing with the FBI and the Justice Department involvement.

What we've learned at this point in time -- at least it seems to me -- is that we had a very confused set of circumstances. We did not have a written plan for the raid that occurred on February 28th. The two primary -- or three primary planners who testified last night stated a number of points that were interesting and had some serious disputes with the Treasury report with regard to about, I think, 10, 15, or 20 percent of that accuracy of that report, they said.

During the process of this, we've learned that the principals involved at the ATF, who did the raid and directed it, were dismissed. But two of them here last night have been reinstated, reinstated as a part of their effort to try to go back -- get their jobs back again. So while the Treasury report says they lied about certain key elements, one has to wonder why were they reinstated under those circumstances. And they say they did not. So we've begun to listen to some very interesting facts. They say the report's not accurate; the Treasury says this -- so on and so forth.

We're going to get to hear today from those who were at Treasury at the time that this raid was planned and executed, to find out just what role the Treasury Department had and what oversight it had in the process of the preplanning and the execution of the raid.

We heard some experts yesterday say that they didn't believe that the question of dynamic entry was such a good idea. A couple said

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maybe it was, but we heard very much evidence from one who had been the original crisis management program person at the FBI, who was 23 years with that agency, say that he thought that David Koresh, the head of this particular religious group in Waco, should have been captured outside and that patience should have been had. We had he (sic) and a former head of the law enforcement part of -- the enforcement part of ATF years gone by tell us that they thought that the

siege was a better idea.

It looks to me as though Mr. Buford, who was involved in the planning of this raid, had relied heavily on his bad experience at an earlier raid in Arkansas to discount the idea of an extended or protracted siege.

There were apparent opportunities for Koresh to be captured outside. They did not wait around. They wanted to go ahead and pursue and get their search warrant executed. And so there was a lot of haste involved.

I think we're seeing evidence that the actual planning of this, having never been committed to writing, was done as a dynamic entry without all of the intelligence that should have been there. We know that that wasn't all gathered. We had testimony last night to the effect that photographs taken at the outlook house, where they were trying to see what was going on in the compound, went undeveloped, and that one of those photographs actually would have displayed and shown that we had a very -- a woman standing up there on guard with apparently a semiautomatic or automatic rifle.

There were videos -- and that should have alerted them to a little more danger maybe than they were expecting -- there were videos that were taken there that apparently were never reviewed by the planning officers before they made the raid. We are going to hear down the road on Monday, I guess, about what the intelligence fellow who went inside had to say, but the bottom line of all of this is that we have a situation where some folks died on this date of February 28; and we have some evidence that's come out in the last couple of days that shows there was no particularly danger to the community by waiting around and trying to capture Koresh instead. We have some real dispute over the judgment that was used in this. But in the bottom line, we're moving progressively through the way this happened and why it happened and ultimately trying to assess who was responsible for the mistakes that were made, and indeed we've heard mistakes that were made, even mistakes that the officers said yesterday that they made and wished they could have corrected.

But I resent the suggestion by anybody that this side of the aisle has played politics or is playing politics with this, that we do not care about law enforcement or the ATF officers. We do. We care about them, their families, the loss of life that are involved. We are not playing politics. We're trying to answer the basic questions of who, what, where, why, when and how, and get some accountability into this process. It does take thorough examination. Not every fact brought out of here is going to be new. It doesn't have to be new, because the American public's only gotten snippets off of one television program or another about this, and have never -- I would suggest most people never picked up and read reports like the Treasury report and certainly haven't had it challenged as it's being challenged in part in these hearing process.

We need to go through this and efforts to distract us or direct our attention elsewhere or inflammatory statements notwithstanding, our job is to get through the process. We're going to go through that. We're looking forward today to talking to Treasury and others about their involvement, and we're looking forward as we move into the next stage of finding out what actually happened on the day of the raid and then the wrap-up preview of it.

Thank you very much, Mr. Chairman.

REP. ZELIFF: Thank you, Mr. -- thank you Mr. McCollum. The chair now recognizes the ranking minority member of the Oversight Committee's National Security and Criminal Justice Subcommittee, our good friend, Karen Thurman from Florida.

REP. KAREN THURMAN (D-FLA): Thank you, and good morning. First, Chairman Zeliff, let me first thank you for clarifying a misstatement made during yesterday's hearings about missing Treasury personnel records. The Department of Treasury did provide those documents, Mr. Mica, just so you'll know. I think you had left the hearing prior to that coming back, but you in fact do have those. And I appreciate the fact that you made a point of inserting those and clarifying those--

REP. MICA: Will the gentlelady yield?

REP. THURMAN: No, not at this moment. Let me finish my opening statement. Last night we also heard about the preparation for the raid and the raid itself from some of those most responsible for its planning. I listened with great sadness as William Buford recalled being wounded repeatedly and watching his friends and fellow officers dying around him from gunshot wounds. Despite wearing helmets and bullet-proof vests, the firepower these agents faced was fierce and unrelenting. This morning's testimony will get to the heart of what went wrong with the ATF raid on February 28th, 1993. This is the tragic day when four law-enforcement officers and six Branch Davidians lost their lives before a ceasefire could be negotiated. I hope that today's proceedings will shed more light on that disastrous day. I repeat my earlier statements that my mission in these hearings is to find the answers that will ensure that another Waco will never happen again.

Another important witness we will hear from today is Dr. Joyce Sparks of the Texas Department of Protective and Regulatory Services. Dr. Sparks interviewed Keri Jewell six days before the ATF raid in 1993 and concluded that Keri was quite credible, as everyone I believe on this panel now knows. Dr. Sparks will provide compelling testimony about child abuse taking place inside the compound, as did Dr. Bruce Perry testify in our first day.

I must say that I disagree with some members who now contend that the issue of child abuse is irrelevant to this hearing process. The issue has been repeatedly raised by the majority, specifically in criticizing the ATF search warrant and by decision to subpoena two authors whose conclusion was generally that David Koresh was a preacher with some unusual beliefs but no threat to anyone. I believe we have proven beyond any doubt that David Koresh was molesting young girls and talked about mass suicide. The fact is that we must look at every aspect of what happened at Waco. Keri Jewell's brave testimony, however disturbing to all of us, both as parents and members of Congress, adds to our understanding of these events. This tragedy, after all, is about the loss of human life. We should never forget that.

And at this time I'd like to give the balance of my time to Cardiss Collins, the ranking member.

REP. CARDISS COLLINS (D-IL): I thank the chairwoman.

I'd like to welcome our witnesses today. It may be Friday for most people, but in this room we have

a lot of Monday-morning quarterbacks.

This is a continuation of yesterday's hearing on the decisions leading up to the Waco raid with four agents losing their lives and many wounded. It's not surprising that the raid has been severely criticized by many of my colleagues. It has also been criticized by the agency itself. What I find interesting are some of the alternatives proposed by my Republican colleagues. Several colleagues suggested that special agent Aguilera should have accepted David Koresh's invitation to come on over and inspect the weapons. Now, I wonder how many of these Monday-morning quarterbacks would have done that.

William Buford, who was shot numerous times during the Waco raid, including several -- including suffering several wound inflicted after he had been disabled, said there was no way he would have allowed the agents to go to the compound with David Koresh's known arsenal of weapons. If Agent Aguilera had been ambushed I could just imagine the congressional hearings looking into how a supervisor could send his agent into Mount Carmel without an armed force, knowing about all of David Koresh's machine guns.

The Monday morning quarterbacks also choose to ignore Congressional action. Yesterday, much attention was paid as to whether ATF made up a drug allegation in order to get military assistance and whether the rules of posse comitatus were broken. Unfortunately, no attention was paid to the numerous congressional mandates that the military should get involved in domestic law enforcement, particularly in the war on drugs.

Now, I have consistently opposed the use of the military in law enforcement. In 1986 I opposed an amendment to require the military to give assistance in enforcing the drug laws. The amendment passed 359 to 52 with two Republican dissenters. There was a third republican dissenter that day, President Reagan, but he was ignored by his party.

All along, as we write loopholes, agencies will find a way to use them. The Monday morning quarterbacks also ignore the taint of these committees caused by the committee's relationship with the National Rifle Association. Despite repeated calls to investigate the role of the NRA in these hearings, particularly in light of their calls to a witness alleging that they were putting together the hearings, Republicans refused to investigate.

Republicans want to review every phone call and every scribble that involved President Clinton and his counsel, despite the absence of a shred of evidence that his involvement extended to anything but keeping fully informed. Yet, when we ask questions about the committee's relationship with the NRA, we are told that all communications are privileged, they're sensitive, they're attorney-client privileges.

So, welcome to day three of eight days of Mondays, with a roomful of Monday morning quarterbacks. Thank you for yielding.

REP. ZELIFF: Thank you very much. I now recognize Mr. Schumer from New York.

REP. SCHUMER: I thank the gentleman for yielding. I guess the theme of my opening statement is

nothing new, nothing new, nothing new. To quote today's New York Times, quote, "No significant new evidence was cited. "Now, these hearings, I think, have been billed as a new way to look at the Waco tragedy. I think if they were billed as they are now being by some, well, no new facts will come out but for the first time the American people will see on C-Span what happened at Waco, even though it's all been include in books and other things -- then we'd be doing hearings on everything under the sun and that's the only thing we would do.

I also think it was significant yesterday that the case was made conclusively, again to quote the New York Times, that the majority side quote "Offered no proof that the posse comitatus law was violated and in fact everybody on the witness table said that there was no doubt the posse comitatus law was not violated, despite all the talk before the hearings that there might be serious breaches or this that or the other thing.

It seems to me, Mr. Chairman, that evidence that's purporting to be new, coming from -- and I'm not saying members of this committee, but coming from this cottage industry of those on the extreme right has been repeatedly discredited and would not pass the laugh test in a real court of law.

The majority case would raise serious questions of competence of counsel in a genuine trial.

Let me give you some examples. Witnesses like Robert Sanders, a former ATF official who had nothing -- had no evidence -- no first- hand evidence of what happened at Waco, he was called here, and he makes his living by feeding on cases referred to by the NRA and who admitted yesterday he meets regularly with NRA leader Tanya Metaska. Why was he here? Why?

How about evidence like the Larry Sparks memorandum? I wasn't just mentioned, it was repeatedly ragged on by members of the other side. Well Larry Sparks was fired for sexual harassment, and he bragged that he would do anything -- that's his quote -- do anything to get the ATF in revenge. If this were simply an even-handed hearing to get the facts, maybe the Sparks memorandum would have been mentioned, but it hardly would have been a major subject of discussion when 61 people on the other -- are on the other side saying what Sparks said is all wet.

And finally, redundant repetitious questioning of witnesses, like the Special Forces soldiers who were here yesterday -- fine, brave men -- who were forced to repeat over and over and over again their statements that they had stayed strictly within the law, even though the majority side had no, no proof of any wrongdoing.

Now, today's first panel again, seems to me, underscores the nature of this show trial. Decent men and women, like Secretary Bentsen and his staff, are being dragged up here to go over matters already thoroughly investigated and documented. No one has alleged -- there's not even a scintilla of evidence that Secretary Bentsen even knew what was going on here. He was busy on other matters. And yet here he is, coming up here to be asked again the same thing that he was asked time and time and time again that is written and that is documented.

And let's recall witness Buford, the brave ATF man who led the raid, lost three in the ambush, and here's what he said yesterday very poignantly, something everyone on this panel should be aware of. He said he felt like he did when he was -- his coming here, he felt like he did when he came home

from Vietnam: vilified for doing his duty.

So that's what I think we have. To me, what sums up this proceeding -- maybe better than anything else -- was the testimony, as I mentioned, of Robert Sanders, the disgruntled ATF employee who had no direct knowledge of events at Waco, but did have direct contact with the National Rifle Association.

Today we'll hear from Joyce Sparks, who was misled by the NRA into believing they worked for the committee. Once again, we see the long arm of the NRA in this hearing.

In conclusion, Mr. Chairman, the administration has given the majority every document they've asked for, no matter how trivial and irrelevant they may be to Waco, yet our one request -- that we get to the bottom of the role of the NRA in this hearing -- has been denied again and again. If the other side has nothing to hide, they have nothing to fear.

Thank the gentleman.

REP. ZELIFF: Thank you, Mr. Schumer. I just would like to make a point that no one was dragged here this morning. Everybody appears voluntarily. No one is subpoenaed to appear, and we thank you all for coming up.

If the first panel would join us at the witness table --

REP. JOHN CONYERS (D-MI): Mr. Chairman?

REP. ZELIFF: Yes, sir?

REP. CONYERS: Could I make a few comments to begin this off?

REP. ZELIFF: I would be delighted to have you make a few comments.

REP. CONYERS: I thought you would. (Laughter. )

REP. ZELIFF: My good friend from Michigan.

REP. CONYERS: Thank you very much. I once again commend you for your excellent job as chairman.

REP. ZELIFF: (Thank you ? ).

REP. CONYERS: It's interesting, ladies and gentlemen, that the -- (to the panel) -- just please be seated for just a moment. You can stand later to take the oath.

It's interesting that there are claims on the other side -- my friends, the Republicans -- that there are many, many new facts coming forward. And I was particularly interested in the claim that they wanted to remake about their concern for law enforcement. It's very important they do that --

REP. ZELIFF: Mr. Conyers, could we just ask-- I thought you'd just say a minute or so. Could you just kind of do a minute? Otherwise, the fellows on the other side are going to want their equal time, and I really would like to move forward.

REP. CONYERS: Oh, you -- they were waiving their time on the basis that I waive mine?

REP. ZELIFF: We were just going to do two -- we were going to do unanimous consent -- just the four of us --

REP. CONYERS: I see. Well --

REP. ZELIFF: But I want to give you time.

REP. CONYERS: No, you're still a good chairman --

REP. ZELIFF: Thank you.

REP. CONYERS: -- so good that I'm going to relinquish my time. I can put my statement in the record.

REP. ZELIFF: You are an absolute great American. (Laughter. ) Thank you very much.

REP. CONYERS: Thank you very much.

REP. ZELIFF: (Chuckling. ) You are wonderful. Thank you.

As a point of personal privilege, I would like to yield the chair to Jackson Lee, from Houston, Texas, for purposes of introduction of Secretary Bentsen.

REP. SHEILA JACKSON LEE (D-TX): Mr. Chairman, I thank you. And that adds again to your excellence as a chair presiding today.

It takes a special privilege to be able to introduce both a great Texan as well as a great American. And this does not in any way taint my commitment to finding out the truth of these proceedings. But I think we'd be less than honest if we did not acknowledge former Secretary Lloyd Bentsen for the years of service as secretary, but more importantly, as a senior senator -- more than two decades in the great state of Texas -- and his great leadership in the United States Senate, chairing the Senate Finance Committee, but personally, knowing his great commitment to civil rights and civil justice.

And I am for one very proud of the service that he has given to this nation, particularly the service that he has given to the state of Texas. And Senator Bentsen, let me add as a Texan from Houston, Texas, which I can proudly say that you so ably and warmly claim as your home along with many of your family members, that we are proud of the service that you have given, we appreciate your presence here, and we're more than delighted to have you contribute to the process in which American people have come to believe in this nation: that is, truth and facts and justice. And so I

applaud you for your service. And Mr. Chairman, I thank you for allowing me this privilege. Again, Senator Bentsen, Secretary Bentsen, welcome.

REP. ZELIFF: Thank you very much. I would like to also say that that echoes the comments that I made to you personally when I first came into the room this morning, so thank you for being here.

I'd like to introduce all the witnesses. Mr. Steve Higgins -- it's to my left, your right -- former director of the ATF; John Simpson, former acting assistant secretary of Treasury; Christopher Cuyler -- did I pronounce that right? -- ATF liaison for assistant secretary; Michael Langan, former acting deputy assistant secretary of Treasury; and Lloyd Bentsen, former secretary of the Treasury.

If you would, it's the customary practice of these subcommittees to --

REP. LANTOS: Mr. Chairman, a point of parliamentary procedure.

REP. ZELIFF: Please state your parliamentary inquiry.

REP. LANTOS: Mr. Chairman, when I chaired a previous subcommittee of this committee, when Secretary Kemp appeared before us as a witness, although I swore in every other witness, as a matter of collegial courtesy I did not ask Secretary Kemp to be sworn in. I do not believe it is appropriate to ask Secretary Bentsen to be sworn in.

REP. ZELIFF: Well, my -- forgive me, I don't believe he has any concerns with it. I'll let him state --

REP. LANTOS: I am sure he has no concerns, but I think it's inappropriate.

REP. ZELIFF: But he is a member of the private sector now and I don't know whether we should treat him any differently. Secretary Bentsen, do you have any problems with being sworn in?

MR. BENTSEN: I have no problem at all.

REP. ZELIFF: Thank you. If you will all please stand.

MR. BENTSEN: I appreciate the congressman, and I appreciate the congresswoman in her comments.

(Witnesses sworn.)

REP. ZELIFF: Thank you. Please be seated. Let the record show that the answer was in the affirmative. The chair recognizes Mr. Mica for five minutes.

REP. MICA: Mr. Chairman, I'm going to yield to you in just a second. But before I yield, I do want to say that I think you and Mr. McCollum have accurately focused the purpose of these hearings and the purpose of the hearings is to see why four ATF agents died in a botched raid headed by a federal agency and at very least why at least 50 women and children were incinerated by the actions of the federal government, and that's the reason that we're here.

And furthermore, Mr. Chairman, I intend to pursue my request to also subpoena individuals who are now advising the White House including Mr. Podesta, who has formerly represented handgun control and is now advising this administration on how to try to make a circus of these proceedings.

But with that, Mr. Chairman, I appreciate your yielding to me, and I'll yield the balance of my time to you. I thank you for yielding.

REP. ZELIFF: I'd like the clerk to hand out the Roger Altman letter. (Pause. )

Mr. Bentsen, this letter, is addressed to you, Mr. Secretary, and I'm sorry that Mr. Altman could not be here today. He made himself available to the subcommittees yesterday but we were a little off schedule because of the change to the five-minute rule and he's offered to make himself available next week. It seems that Mr. Altman was very wise in his perspective, and I would like you to comment on whether you saw the letter and did you take any action based on Mr. Altman's perspective.

What I'd like to do, I think probably the easiest way to do this, is let me read this letter.

REP. SCHUMER: Mr. Chairman?

REP. ZELIFF: Yes?

REP. SCHUMER: Do you have copies of that letter? None of us have seen that.

REP. ZELIFF: All right. We'll be happy to pass out copies.

REP. SCHUMER: You know, we have a standing agreement that we're going to make all of these documents available, both -- one side each to the other. So maybe you could hold up and we could get a copy of this letter. (Aside.) There was an agreement among counsel just -- thank you. Can we make some copies for our side, please? Thank you. Okay, I appreciate that.

REP. ZELIFF: We all set? Okay, I'm going -- we're going to adjust the timer on this? This letter is from Roger Altman, a memorandum for Secretary Bentsen, the subject is Waco. "Ron Noble informed me that the attorney general is weighing a request from the FBI to use an advanced form of tear gas on the compound in Waco. "

And I will also say this is dated April 15th, 1993. "Among other things, this gas doesn't dissipate. The FBI apparently has concluded that the outlook for a negotiated end to the standoff is poor. They don't believe it is worth waiting. If the attorney general approves the request, the gas would be used, and hopefully the Davidians would be forced to leave the compound. The gas would not be followed by an assault. This is the attorney general's decision. You said on Meet the Press that nothing like this would occur without your knowledge. As I understand it, you will be formally notified if Janet Reno okays it. My rough guess is that she won't. The risks of a tragedy are there, and if the FBI waits indefinitely, Mr. Koresh eventually will concede. "

Now, this is to you, Mr. Bentsen. It's from Roger Altman. Its subject is Waco and the date is April 15th, 1993. And I guess the question is that did you receive this letter?

MR. BENTSEN: Yes, Mr. Chairman, I think I -- yes, I received the letter. The decision of course was the attorney general's decision.

REP. ZELIFF: But being a person in that very responsible position, how in God's name, could you not have just called it off? Why wouldn't you have --

MR. BENTSEN: The decision belonged to the attorney general, not to me.

REP. ZELIFF: Wouldn't this be something that you would call the president and isn't this a crisis before it happened that you could have influence the result?

MR. BENTSEN: I'm sure all of these things were weighed by the attorney general. That is their jurisdiction.

REP. ZELIFF: So no matter what the attorney general was going to do, who basically reported to you, it was okay?

MR. BENTSEN: I get right back to the question of who has authority, who has jurisdiction, and the jurisdiction belonged to the attorney general. The decision was to be made there with the investigation of all the facts.

REP. ZELIFF: Did you tell the president? Did you give this letter to the president?

REP. ZELIFF: I don't recall that.

REP. ZELIFF: Did you weigh in? Did you call the president.

REP. COLLINS: Mr. Chairman, -- (off mike) --Secretary Bentsen to speak a little louder please.

REP. ZELIFF: Could you pull you mike a little bit up forward?

MR. BENTSEN: Once again, I had my responsibilities and my duties, and those I was complying with. This, at this point, had become the responsibility of the attorney general. I would like to say, Mr. Chairman, at some point here -- I've been called back, I have been in charge of my own time and my own responsibilities up until the last two days.

I would like to have at some point the opportunity to tell what we did at Treasury and what I set about in seeking the truth that you're talking about with this commission that did an exhaustive study, that was commended time and time again by the media for the detail of that report as we sought the truth and then what we --

REP. ZELIFF: What we'd like to do is we'll give you --

MR. BENTSEN: -- set about to correct those matters.

REP. ZELIFF: We will give you that opportunity and over the next 2-1/2 hours to 3 hours you'll have that opportunity. The question I have is, did you do anything as a result of this, or did it just go in the wastebasket? I mean, did you call the president? Did you alert anybody? Did you talk to Hubbell? Did you talk to anybody at all?

MR. BENTSEN: Let me say I took care of my responsibilities and my jurisdiction, and this was the jurisdiction at this point of the attorney general, and I am sure that she had fully studied it before making her decision.

REP. ZELIFF: Isn't this an alarm that's crying out for some responsible action? If you see this -- I mean, didn't Roger Altman sound the alarm, and was anybody listening?

MR. BENTSEN: Let me state that I am sure that this went -- was gone into extensively and intensively in the attorney general's office.

REP. ZELIFF: Did you personally do anything as a result of getting this alarm, cry for help?

MR. BENTSEN: Let me say I did an extensive study as to what had happened --

REP. ZELIFF: After the fact.

MR. BENTSEN: -- and corrections that had to be taken.

REP. ZELIFF: But what about the time that you received this on the 15th of April, four days before the process? My time's run out. But --

MR. BENTSEN: Your time --

REP. ZELIFF: Can you just -- our policy here allowing you to answer the question --

MR. BENTSEN: I have answered your question insofar as the responsibilities I had to take care of, and I did just that. And the jurisdiction at this point had been transferred to the attorney general.

REP. ZELIFF: Okay, so nothing was done.

My time has expired.

Mrs. Thurman?

REP. KAREN THURMAN (D-FL): At this time I would yield my time to the gentleman from Mississippi, Mr. Taylor.

REP. GENE TAYLOR (D-MS): Thank you, Mrs. Thurman. Thank you, Mr. Chairman. I want to begin by complimenting our chairmen in their zest for all of the facts. They've both said in the

media, on television, they want to know all the facts.

What troubles me is that as the members of this committee start looking into what happened, we find more and more important that we need to know what happened in the events leading up to the raid. Why was there a raid? And yet when you look at the witness list it is notoriously slim on those events leading up to the raid.

Last night, sitting in that chair was an ex-Green Beret, ATF agent who got shot up. And I asked him -- and I'm not -- I'm going to paraphrase my words: In fairness to the agents who died, don't you think we ought to subpoena the people who wrote this article called "The Sinful Messiah," and published an editorial on the day before the raid calling for law enforcement to do something? Don't you think in fairness to those four dead people and the 20 agents who got shot up that we would at least have Mark England (sp) and Darlene McCormack (sp), who wrote the article and then left town for fear for their lives, who worked for a paper that changed the locks, took the identification off their vehicles, published the articles on a weekend because then they would have a chance to judge the reaction of the Davidians, a people they knew to be violent, before they went back and started bringing their employees in on Monday?

They were taking precautions themselves because they knew what type of people we were dealing with. Don't you think we ought to know about the lady who claims to have been held captive there for three months? And don't you think we ought to know about another lady who says Koresh compiled a hit list to murder ex-Davidians who were talking to the press and who were talking to law enforcement?

I've made a very simple request of our chairman. I'd like those four people to be given the same opportunity to testify as everyone else. They denied that. So, Mr. Chairman, I'm now going to take this opportunity to request that this committee subpoena those people because you cannot operate in a vacuum starting with the day of the raid. You have to know why there was a raid. And this will help this committee know why there was a raid. Just one little girl sitting there helped to make the citizens aware, but that one little girl isn't all. There was a heck of a lot of other wrong going on inside that camp -- that compound and there were a heck of a lot of dangerous people in that compound who turned around, and by the admission of an ex-Green Beret, outgunned his people like no ambush he had ever seen in Vietnam.

I therefore make the motion, Mr. Chairman, that we subpoena the four people listed in the letter that I very politely asked you and the other chairman to just request that they be.

I call for a vote, Mr. Chairman.

REP. ZELIFF: Okay. (Pause. )

Okay, you were not recognized for that purpose. You were given five minutes under the five-minute rule. Is there anything additional --

REP. TAYLOR: Mr. Chairman, is this a coverup? Don't you want the American people to know all of the facts?

REP. ZELIFF: We have 100 witnesses. We have --

REP. TAYLOR: Starting with the day of the raid.

REP. ZELIFF: -- ample opportunity for the minority --

REP. TAYLOR: Not the events leading up to it.

REP. ZELIFF: -- ample opportunity for the minority to supply their request for witnesses --

REP. TAYLOR: And we did.

REP. ZELIFF: And we've accommodated in every way we possibly can.

REP. TAYLOR: You received a letter from the minority asking that these people be subpoenaed. You denied it. You denied it and Mr. McCollum's denied it, and I think the members of this committee should make that decision. Are the members of this committee afraid to make that decision?

REP. : Mr. Chairman, regular order.

REP. SCHUMER: (He can ?) say what he wants. We are in regular order. He's under his five minutes. He has every right to say what he wants.

REP. TAYLOR: I'm under my five minutes. So are the members of this committee afraid to have those people testify? Are you afraid to let the world know that the ATF agents were outgunned, that there were dangerous people in there, that they had converted weapons to fully automatic -- which, incidentally, is against the law, that children were being molested, and that the reporters who brought this to the attention of the world feared for their lives? Are you afraid for the American public to know that?

REP. ZELIFF: I think we --

REP. TAYLOR: You said you wanted the truth. I'm asking that they be subpoenaed, and I'm asking for a vote on it, Mr. Chairman.

REP. ZELIFF: We put that material in the record the other day, I believe at your suggestion. We had no problems with that. We considered your request. We took it to the leadership, as you suggested. They supported our decision at this point to not have first the NRA people under subpoena and now these people under subpoena.

REP. TAYLOR: Mr. Chairman, the rules of the House of Representatives allow a committee by majority vote --

REP. : (Off mike) -- order and I call for --

REP. ZELIFF: The gentleman's request is not in order. The time is --

REP. TAYLOR: I disagree, Mr. Chairman.

REP. ZELIFF: -- expired.

REP. TAYLOR: The rules of the House of Representatives --

REP. LANTOS: I (challenge ? ) the ruling of the chair and I demand a vote on the ruling of the chair.

REP. TAYLOR: And I would remind you that the rules of the House of Representatives do allow the majority of a committee to subpoena a witness.

REP. ZELIFF: Okay. I'd be happy to have a vote.

REP. /MR. : So, make a ruling. So you've got to call the question.

REP. TAYLOR: I mean subpoena, yes, sir, because they're afraid for their life, Henry.

REP. ZELIFF: So would you state your motion at this point?

REP. TAYLOR: Yes, sir. Are you talking to me, sir?

REP. ZELIFF: Mr. Lantos?

REP. LANTOS: Yes.

REP. ZELIFF: You're appealing the ruling of the chair.

REP. LANTOS: That is correct.

REP. TAYLOR: No. Mr. Lantos?

REP. : (Off mike) -- appeal the ruling of the chair.

REP. TAYLOR: My motion is in order.

REP. SCHUMER: Mr. Chairman, parliamentary inquiry. Mr. Chairman, I have a parliamentary inquiry.

REP. ZELIFF: State the nature of your parliamentary inquiry.

REP. SCHUMER: My parliamentary inquiry is that, is it in order at this point in time for Mr. Taylor to make a request that certain individuals be subpoenaed?

REP. ZELIFF: He's not recognized for that purpose.

REP. TAYLOR: When will I be recognized for that purpose?

REP. ZELIFF: He was recognized for five minutes to talk to the witnesses.

REP. SCHUMER: Is that the ruling of the parliamentarian?

REP. TAYLOR: Parliamentary inquiry.

REP. ZELIFF: That's the ruling of the chair.

REP. SCHUMER: Wait. Can I continue my parliamentary inquiry? When is such a motion in order? Could we ask the parliamentarian, who has been a very fair, bipartisan -- in fact, he was our parliamentarian before we lost. (Laughter. )

REP. ZELIFF: Now you've really put him under pressure.

REP. SCHUMER: And he may be again!(Laughter. )

REP. ZELIFF: This sense of fairness is going to be a killer. (Laughter.) Okay. It was in order under regular committee business. We are now operating under the five-minute rule. That is your fair, impartial answer.

REP. TAYLOR: Parliamentary inquiry.

REP. SCHUMER: (Inaudible) -- my parliamentary inquiry, so that would mean at the start of business on Monday, such a motion would be in order; is that correct? And the chair -- that's what I assume the gentleman is saying, the chair is saying.

REP. ZELIFF: This is a hearing. This is not a committee meeting in order to transact committee business. This is a hearing.

REP. SCHUMER: So does that mean such a motion -- are you saying --(cross talk) -- can I please? Does that mean that such a motion is never in order during this hearing?

REP. ZELIFF: It says basically that is out of order.

REP. SCHUMER: During the whole hearing, we cannot make a request to subpoena anybody. Is that correct? Is that what you're saying. Okay then I think the gentleman has appealed the ruling of the chair. Or the gentleman from California has --

REP. LANTOS: I repeat my appeal of the ruling of the chair, and I demand a vote on my appeal.

REP. HYDE: Mr. Chairman, I move the gentleman's appeal lie on the table.

REP. ZELIFF: Question occurs on the motion. The clerk will call the roll.

REP. MCNULTY: Mr. Chairman, as instruction, do I call the subcommittee, Mr. Chairman. I'll be clerk.

(Cross talk. )

REP. ZELIFF: Mr. McNulty will call the roll for each subcommittee -- each subcommittee separately.

(Cross talk. )

REP. TAYLOR: Parliamentary inquiry, Mr. Chairman.

REP. ZELIFF: A parliamentary inquiry is not in order at this stage. The clerk will call the roll.

REP. LANTOS: I request a clarification, Mr. Chairman. Are we voting on my motion or on Mr. Hyde's motion?

REP. ZELIFF: Mr. Hyde's motion to table. Mr. McNulty, please call the roll.

REP. MCNULTY: Mr. McCollum.

REP. MCCOLLUM: Aye.

REP. MCNULTY: Mr Schiff.

REP. SCHIFF: Aye.

REP. MCNULTY: Ms. Ros-Lehtinen.

REP. ROS-LEHTINEN: Aye.

REP. MCNULTY: Mr. Coble.

REP. COBLE: Aye.

REP. MCNULTY: Mr. Buyer.

REP. BUYER: Aye.

REP. MCNULTY: Mr. Shadegg.

REP. SHADEGG: Aye.

REP. MCNULTY: Mr. Chabot.

REP. CHABOT: Aye.

REP. MCNULTY: Mr. Blute.

REP. BLUTE: Aye.

REP. MCNULTY: Mr. Mica.

REP. MICA: Aye.

REP. MCNULTY: Mr. Barr.

REP. BARR: Aye.

REP. MCNULTY: Mr. Heineman.

REP. HEINEMAN: Aye.

REP. MCNULTY: Mr. -- Mr. Ehrlich.

REP. EHRLICH: Aye.

REP. MCNULTY: Mr. Bryant.

REP. BRYANT: Aye.

REP. MCNULTY: Mr. Souder.

REP. SOUDER: Aye.

REP. MCNULTY: Ms. Thurman.

REP. THURMAN: No.

REP. MCNULTY: Mr. Schumer.

REP. SCHUMER: No.

REP. MCNULTY: Mr. Scott.

REP. SCOTT: No.

REP. MCNULTY: Ms. Lantos.

REP. LANTOS: No.

REP. MCNULTY: Mr. Lantos. Mr. Watt.

REP. WATT: No.

REP. MCNULTY: Mr. Wise.

REP. WISE: No.

REP. MCNULTY: Ms. Jackson-Lee.

REP. JACKSON-LEE: Nay.

REP. MCNULTY: Mr. Condit.

REP. CONDIT: No.

REP. MCNULTY: Ms. Lofgren.

REP. LOFGREN: No.

REP. MCNULTY: Ms. Slaughter.

REP. SLAUGHTER: No.

REP. MCNULTY: Mr. Taylor.

REP. TAYLOR: No.

REP. MCNULTY: Mr. Brewster.

REP. BREWSTER: No.

REP. MCNULTY: Mr. Zeliff.

REP. ZELIFF: Aye.

REP. COLLINS: Mr. Chairman. Mr. Chairman. Mr. Chairman.

REP. ZELIFF: Ms. Collins.

REP. COLLINS: How am I recorded?

REP. ZELIFF: How is Ms. Collins recorded?

MR. MCNULTY: Ms. Collins is not recorded.

REP. COLLINS: I vote no.

REP. SCHUMER: Mr. Chairman, just a point of inquiry --

REP. ZELIFF: What we're doing is, we're doing one subcommittee, and then--

MR. MCNULTY: Both polls?

REP. SCHUMER: She's an official member of that subcommittee.

REP. Oh. Okay.

REP. Actually, the rules are -- their committee.

MR. MCNULTY: Ex-officio will vote.

REP. ZELIFF: Yep. Go ahead.

REP. MCNULTY: Mr. Clinger.

MR. CLINGER: Aye.

REP. WATT: Mr. Chairman, parliamentary inquiry. Is this gentleman a member of this committee?

REP. ZELIFF: Ex-officio.

REP. Just as much as Mrs. Collins is. (Laughter. )I think we both --

REP. ZELIFF: I mean, you have a problem with that?

REP. WATT: I don't know who's on this other committee --

REP. ZELIFF: You have to come to more meetings. (Laughter. )

REP. I don't want to deprive the gentleman of a vote if he's entitled to one.

REP. Parliamentary inquiry, Mr. Speaker. You just said this wasn't a committee meeting, so how could it be a --

REP. ZELIFF: We're taking a vote.

REP. There are rules for the committees.

MR. MCNULTRY: Mr. Hyde.

REP. HYDE: I vote aye.

MR. MCNULTRY: Mr. Conyers?

REP. CONYERS: No.

MR. MCNULTRY: And Ms. Collins? You have voted no, Ms. Collins?

REP. ZELIFF: Ms. Collins, Is that a no?

REP. COLLINS: No, No.

REP. ZELIFF: A very strong no.

REP. Two noes.

(Cross talk. )

REP. I hardly think you're going to find precedent in this for -- Jefferson's manual there --

REP. ZELIFF: Clerk will report.

MR. MCNULTRY: Mr. Chairman, on that motion, the ayes are 17 the noes are 14.

MS. LEE: Parliamentary inquiry, Mr. Chairman --

REP. ZELIFF: A majority of both subcommittees have agreed to table.

REP. (Off mike. )

REP. Parliamentary inquiry, Mr. chairman.

REP. ZELIFF: Okay, the parliamentary inquiry will be heard

REP LEE: Mr. Chairman, on the record yesterday, I requested consideration of subpoenaing Larry Sparks. I would hope that by way of that being in the hearing record that the vote today does not impact previous requests on subpoenas. It was in the record, I made the request and the chairman presiding at that time indicated that I would receive consideration.

REP. ZELIFF: THE record speaks for itself, the committee will proceed.

REP. MICA: Mr. Chairman, paliramentary inquiry. Yesterday I requested subpoena of certain

advisors in the White House and the Clinton administration and also people within the administration, and no action has been taken on that. When would it be appropriate for me to --

REP. ZELIFF: That is not a parliamentary inquiry. The subcommittee will now proceed.

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

(Pause for brief off-mike discussion of procedure. )

REP. ZELIFF: The chair now yields to the honorable Mr. Clinger from Pennsylvania.

REP. WILLIAM CLINGER (R-PA): I'll yield to Mr. McCollum in a moment, but I just want to point out for the record that the individuals who the gentleman from Mississippi seeks to subpoena for these hearings are the defendants in a lawsuit brought by the widows of the ATF agents who died. That, I think, puts us into a very, very sensitive area, as we've learned in the past. Where witnesses have been called before congressional subcommittees, testimony has been used or has poisoned the well in terms of the civil suit or -- that was ongoing. So I think it would be, in addition to the fact that I think it's not a part of these hearings, I think the fact is that this would be very, very delicate and perhaps could jeopardize the lawsuits ongoing.

And to this point I would yield now to the gentleman from Florida, Mr. McCollum.

REP. : Parliamentary inquiry, Mr. Chairman?

REP. MCCOLLUM: I believe, Mr. Chairman, I have the time.

REP. ZELIFF: Yes, you do.

REP. MCCOLLUM: Thank you very much.

REP. : Parliamentary inquiry?

(Pause. )

REP. MCCOLLUM: Mr. --

REP. ZELIFF: (In answer to request on parliamentary inquiry. ) Will you hold that until after he's finished with his time?

REP. MCCOLLUM: Secretary -- Mr. Secretary Bentsen, I'd like to follow up with a question of clarification. I didn't anticipate particularly the line of questioning that you received at the beginning of this, but we've gotten off the track, and I think we need to clarify this.

After you received this letter that was handed to you, dated April 15th, 1993, from Roger Altman -- or memorandum, I think, is better how's it's described -- about the potential use of gas at the compound at Waco and advising you that he expected you will be formally notified if Janet Reno

okays it, at any time between the time you learned of its use and the time that this memorandum was sent, did you have a conversation about the gas with Attorney General Reno?

MR. BENTSEN: Congressman, I don't recall that.

REP. MCCOLLUM: You don't recall having such a conversation?

MR. BENTSEN: I will tell you, at that point, of course, that this was all under the jurisdiction -- and the raid, of course -- under the FBI, and under the attorney general.

REP. MCCOLLUM: No, I understand what you're saying. I understand that.

MR. BENTSEN: Yeah.

REP. MCCOLLUM: You do not recall a conversation with Attorney General Reno?

MR. BENTSEN: No, I do not.

REP. MCCOLLUM: Do you recall that at any time you discussed with the president the use of the use of the gas before it was used?

MR. BENTSEN: No, I do not.

REP. MCCOLLUM: Mr. Secretary, at what time -- and let's go back, away from the gas question. Let's go back over to the question of the raid, which is on February 28th, which was under ATF supervision, which was under your jurisdiction -- at least at Treasury -- at that time.

MR. BENTSEN: That's correct.

REP. MCCOLLUM: When did you first learn of the raid or any plan for that raid?

MR. BENTSEN: The first -- I was in London at my first meeting with the G-7, with the ministers of finance, and was very much involved in that one. I came back, the best I can recall, sometime early Sunday morning on a night flight from London. And in turn, I did not find out about the raid, to the best of my memory, until early Sunday evening. And that's the first knowledge I had of it at all.

REP. MCCOLLUM: In other words, there was no discussion with you, no information passed to you prior to the time of the raid, that it was anticipated or that it might exist or any nature (of it at all ?)?

MR. BENTSEN: That's correct.

REP. MCCOLLUM: You had no inkling it was going to occur whatsoever?

MR. BENTSEN: None.

REP. MCCOLLUM: Isn't it a little bit surprising that the largest or one of the largest raids in the

BATF's history was taking place and the secretary of the Treasury, the chief of all of the law enforcement of the ATF, was not notified?

MR. BENTSEN: Well, I can well understand when I was abroad attending an international meeting and involved in the questions of monetary exchange rates and some very serious subjects at that point that others within the department were handling the situation.

REP. MCCOLLUM: But didn't you keep in contact with your office during the time you were over there? Weren't there regular telephone calls, communications, et cetera?

MR. BENTSEN: Well of course, of course we had contact with the office.

REP. MCCOLLUM: But nobody from the law enforcement division thought that you ought to be disturbed about this particular incident, I guess, and asked about it. I understand.

Let me move on very briefly and ask a question to Mr. Cuyler, if I could, in this case. There is an indication that at one point you prepared a memorandum that was sent to Mr. Langan, I believe, describing the anticipated raid. What -- am I correct in that in what precipitated the preparation of that memorandum, and did you deliver it? And to your knowledge, what happened after you did that, if you did?

MR. CUYLER: Yes, sir, I prepared that memorandum and delivered it to Mr. Langan. This was ATF's advisory to Treasury that we were going to conduct a raid. After it was given to Mr. Langan we spoke to several other officials at Treasury and provided them with a copy of it to advise them what we were going to do on Sunday.

REP. MCCOLLUM: Did you advise there was the potential for casualties at that raid on Sunday? Let me ask this question first. What was the date that that was delivered? What was the date of that memorandum?

MR. CUYLER: On February 26th.

REP. MCCOLLUM: Two days before.

MR. CUYLER: Correct.

REP. MCCOLLUM: Had there, to your knowledge, been any information passed to the Treasury officials overseeing ATF about the potential for this raid prior to that date?

MR. CUYLER: Not to my knowledge.

REP. MCCOLLUM: Thank you. I think my time has expired and I will -- I know there was a lot of discussion at the beginning of it and that may be disputable, but I see a red light, so I will yield.

REP. ZOE LOFGREN (D-CA): Can I ask a point of inquiry?

REP. ZELIFF: Please state your parliamentary inquiry.

REP. LOFGREN: Just before Mr. McCollum spoke Mr. Clinger indicated that the reporters that the gentleman from Mississippi wished to call couldn't be called because they were defendants in a lawsuit.

Now, I recall yesterday the agents who were called testified that they were also defendants in a lawsuit, including Mr. Buford, who was shot in the event. And the inquiry is, is it this committee's policy that those witnesses who have been sued will be excused from testifying?

REP. SCHUMER: Will the gentelady yield? Will the gentelady yield? I think she makes an excellent point. If there's anyone who's enmeshed in lawsuits it's Mr. Chojnacki and Mr. Sarabyn, who were called yesterday and are going to be called next week. I yield back.

REP. ZELIFF: I don't think you can yield on -- go ahead.

REP. SCHUMER: No, no, no, no -- I asked her to yield to augment her parliamentary inquiry.

REP. ZELIFF: She couldn't have yielded to you in the first place, but go ahead.

REP. SCHUMER: I retract my --

REP. LOFGREN: The inquiry is, based on Mr. Klinger's statement that those who are defendants in lawsuits shouldn't be called, will we excuse other witnesses who are defendants in lawsuits stemming from the events in Waco, since we are apparently excusing the reporters on that basis.

REP. LOFGREN: The gentelady did not state a parliamentary inquiry. It may be a thought to consider and a possible controlling factor, but we -- at this point we're going to go to regular order.

Recognize Mrs. Thurman from Florida for five minutes.

REP. SCHUMER: No, she had her five and gave it to -- (inaudible) -- with me.

REP. ZELIFF: Okay. Mr. Schumer.

REP. SCHUMER: Thank you, Mr. Chairman. And first, again, I want to thank the former secretary of the treasury from being brought up here. I thought the first line of questioning by my colleague from New Hampshire was way out of line, although I think Mr. McCollum's questions were on the money in terms of legitimate questions to ask. I don't think it showed anything. Because let's just clarify. When -- the memo that Roger Altman wrote was after ATF was out of the picture and Treasury was out of the picture completely. In fact, isn't it true that there was special effort, because of the ATF problems in the first raid, that Treasury and ATF were totally insulated and removed from any planning and anything that had to do with the second raid, is that correct, sir?

MR. BENTSEN: That's correct, Congressman. It was totally --

REP. SCHUMER: So there was an effort not to inform --

MR. BENTSEN: -- totally under the control at that point of the FBI and the Department of Justice.

REP. SCHUMER: Correct. There were two raids, as everyone knows. The first was ATF. Mr. McCollum asked the secretary why didn't he know about it. I think that's a legitimate question.

He was away, and obviously the secretary doesn't know about all the things, but the second one he had no knowledge.

And let me ask you this. Did Roger Altman have any role or any expertise in making any kind of judgment about this? Was he involved -- the second raid.

MR. BENTSEN: Oh, no.

REP. SCHUMER: Was he involved in any of the planning?

MR. BENTSEN: Not to my knowledge at all. He was totally excluded from that.

REP. SCHUMER: I would guess not. I think they wanted him miles away. So his comments here would be the comments of any layman.

MR. BENTSEN: Yes.

REP. SCHUMER: In other words, someone with no special knowledge at all.

MR. BENTSEN: That's correct.

REP. SCHUMER: And he is not here, but if he were here, and I think -- I must say, I think, to you, Mr. Secretary, it's terribly unfair to confront you with a memo written by Mr. Altman, your underling, and not have him here to ask him what went into the memo, et cetera. Now, I know there's a plan to bring him back, but they should have had both of you here together. And I want to just say I think it borderlines on disgraceful the way you've been treated with this memo and with everything else, which is no reflection on your high integrity and your standards. And I hope Mr. Altman will come back and we'll be able to ask him if he had any --

REP. : (Off mike. )

REP. SCHUMER: I'll yield to the gentleman on his time only.

REP. ZELIFF: Mr. Altman let us know at 11:00 last night that he wouldn't be able to be here, so I think that needs to be brought out.

REP. SCHUMER: But I think it is highly unfair to ask Secretary Bentsen about an Altman memo that has two lines in it, that has many ways of interpretation, without Altman being here with the secretary to --

REP. ZELIFF: Well, we hope to have Mr. Altman be back, but the bottom line is that Mr. Secretary is -- was the secretary of Treasury at the time.

REP. SCHUMER: I presume that's not on my time.

REP. ZELIFF: We'll give you an extra minute.

REP. SCHUMER: Thank you, Mr. Bentsen. And let me -- Mr. Secretary. And let me say that if Mr. Altman were here today, I would ask him if he had any special expertise on Koresh, on raids and on these things, and I would bet the record would show, as it will next week, that he would say no. So he was just giving his own little guess as -- he's assistant -- or deputy secretary -- on what would happen. We don't even know what kind of tragedy he envisions here at all.

Let me ask you -- go back to the first round. You were in charge of -- now of course, after the first raid occurred, where four agents, four brave agents died, you, of course, did know and were involved. Let me ask you this, because your reputation for integrity is unquestioned in this town, sir. Two questions. The first is, do you have any doubt that the report that was done under the Treasury Department's supervision but with outside observers, first, was an honest and complete endeavor to get to the bottom of the tragedy? And second, do you have any doubts that there was no effort to slant the truth, change the truth, cover up the truth in any way?

MR. BENTSEN: No doubt whatsoever. And let me tell you how far I went, because I was seeking the truth at that point, too, and wanting to see what changes had to be made insofar as the format of Treasury. What you saw in that situation was a group of dedicated, sincere people who had some errors in judgment, and there's no question about that. And that is cited in the report. And I went so far as to get some outside people to be on that review board, who I thought their integrity would be unquestioned. They were Mr. Williams, who was chief of police at the Los Angeles Police Department; Mr. Henry Ruth, who was prosecutor at the Watergate hearings; and Mr. Gutman (sp), who is a Pulitzer Prize-scribe. Now, here is a letter from them and what they have said, and this is dated May the 25th of this year to Speaker Gingrich:

"One of the many falsehoods being circulated is that ATF's actions at Waco never were investigated fully. Quite the contrary, the Treasury's critique was thorough, inspiring and honest. More than 30 attorneys, investigators, support staff, joined 10 experts in firearms, explosives and tactical operations, in a five-month probe to learn the truth. The experts were not paid, nor were we. We oversaw the investigation, participated in writing the report, which the Wall Street Journal characterized as extensively detailed and the Los Angeles Times said was courageous, candid evaluation."

In addition to that, you've had four separate congressional committees that have investigated this to seek the truth. We have all worked at that. And I think that's been accomplished.

REP. SCHUMER: Yeah, just one final yes-or-no question to you, Mr. Secretary.

MR. MCNULTY: Regular order.

REP. SCHUMER: You've heard --

MR. MCNULTY: Regular order.

REP. SCHUMER: We've extended --

MR. MCNULTY: Regular order. Regular order.

REP. SCHUMER: Are we going to regular order? Now are we changing the rules, Mr. Chairman. You've been lenient with an extra 10 seconds or 30 seconds.

REP. ZELIFF: Now, wait a minute. Now, wait a minute. Are you questioning what I'm about to do?

REP. SCHUMER: No, not yet. (Laughter. )

REP. ZELIFF: Are you going to let me do it? (Laughter. )

REP. SCHUMER: Please.

REP. ZELIFF: I know that you're a showman from New York. I said I would give you --

REP. SCHUMER: I'm trying to get at the truth.

REP. ZELIFF: -- I will give you this last question in terms of fairness, I said I'd give you an extra minute. There may be questions on my side, whether I'm being too generous, but please make it short.

REP. SCHUMER: Thank you. And I appreciate your fairness, because I like you am trying to get at the truth. And what I would say -- (aside) -- right, something you never do, Mr. Buyer, no politician ever does that.

REP. ZELIFF: You're taking all of your time.

REP. SCHUMER: I would ask you, Mr. Secretary, you listened to the two days of hearings that have occurred so far. To your knowledge, has any material fact, any new material fact that you were unaware of before, come out in these hearings?

MR. BENTSEN: What I've heard at this point, no new material fact.

REP. SCHUMER: Thank you.

REP. ZELIFF: Thank you very much. Your time has expired. And I'm glad we have an open mind for looking for the truth from new material that may or may not come out or already has come out. Mr. Hyde from Illinois, please.

REP. HENRY HYDE (R-IL): Thank you, Mr. Chairman. Mr. Simpson, do you know of anybody at Treasury who had knowledge of this raid before February 26th?

MR. SIMPSON: No, sir, I do not.

REP. HYDE: Mr. Higgins, do you know of anybody at the Treasury Department who had knowledge of this raid before February 26th?

MR. HIGGINS: I don't know of anybody in the current administration. I believe a briefing paper went over with respect to opening the investigation sometime in June of '92. But I don't know of anybody in the current administration who did, but that doesn't mean they didn't.

REP. HYDE: Well you just don't know, then. Is that your answer?

MR. HIGGINS: I hope that's what I said.

REP. HYDE: Okay. Mr. Cuyler, do you know of anybody at Treasury that knew of this raid that happened on the 28th, before the 26th -- knew it was going to happen before the 26th?

MR. CUYLER: No, sir.

REP. HYDE: Mr. Langan, do you know of anybody at Treasury who knew of this raid before February 26th?

MR. LANGAN: No, sir.

REP. HYDE: And Secretary Bentsen, do you know of anybody at Treasury who knew of this raid before February 26th?

MR. BENTSEN: Mr. Chairman, no I do not know of anyone. And that's the sort of thing that had to be corrected, and that's what I set about to do, to see that it didn't happen in the future. And at some point, I'd like to have the opportunity of saying what we've done to correct it.

REP. HYDE: Well I'm sure you will be given that, and I hope you are, Mr. Secretary. I well remember that the newspapers and Democrats had a fiesta over the fact that they let President Reagan sleep one night when some very controversial event happened overseas and they didn't wake him up. But here you are in London tending to monetary affairs, and I know -- God knows they're important. And here is a massive raid, an unprecedented raid on a religious group out in the plains of Texas and they didn't bother to tell you about it. That is something that deserves looking into.

I read an article by a man named Dean Kelley, who is an official of the National Council of Churches, not exactly a bastion of conservatism, and he described the march on Waco: "Two unged.

MR. BENTSEN: Yes. Well, they were put on administrative leave, and then it was left, as I recall, to the administrator to take such action as was necessary. Then, as I recall, they appealed to the Merit Protection Board and a compromise was worked out, but they were denied supervision of line officers, they lost their badges, they could not carry a gun. They were in effect demoted.