SUBJECT: REVIEW OF SIEGE OF BRANCH DAVIDIANS' COMPOUND IN WACO, TEXAS
CHAIRER BY: REPRESENTATIVE BILL MCCOLLUM (R-FL) AND REPRESENTATIVE BILL ZELIFF (R-NH)
WITNESSES: FLOYD CLARK, DEPUTY DIRECTOR, FBI
EDWARD DENNIS, FORMER ASSISTANT ATTORNEY GENERAL
R. J. CRAIG, SPECIAL AGENT, FBI
JAMES MCGEE, SPECIAL AGENT, FBI
JOHN MORRISON, SPECIAL AGENT, FBI
DICK ROGERS, HOSTAGE RESCUE TEAM, FBI
BYRON SAGE, FBI, AUSTIN, TEXAS JEFFREY JAMAR, FBI, SAN ANTONIO, TEXAS
2154 RAYBURN HOUSE OFFICE BUILDING WASHINGTON, DC
10:17 A.M. MORNING SESSION MONDAY, JULY 31, 1995
REP. ZELIFF: The joint hearings of the Oversight Subcommittee on National Security and the Judiciary Subcommittee on Crime will now come to order. (Sounds gavel.) We have some good news to report. The ranking minority on our committee -- her husband John had major surgery yesterday at 1:00 p.m. He had a kidney transplant at Shantz (sp) Teaching Hospital, University of Florida in Gainesville. And all signs are very positive for a very successful outcome. She certainly made the right decision; she's with her husband and will be there today and tomorrow, and all our prayers and best wishes go to Karen Thurman and -- and her husband John.

As we move into day nine of oversight hearings in the conduct of the executive branch at Waco, it seems to me that our bipartisan overall purpose -- shedding light on those events, putting the record straight, and preventing future Wacos -- is being achieved in spades. We are not done -- far from it. But we have covered a lot of ground.

What we have learned in the past eight days is significant. We have educated ourselves and the nation. We have turned up facts that were not in either one of the administrative -- administration reports, not in the Treasury report, and not in the FBI report. I will touch on those in a moment. We will also hopefully put to rest conspiracy theories that were not grounded in fact. Over the next two days more bright lights will be turned on a few people at the FBI and also the military involvement, and tomorrow we will hear from the Attorney General of the United States.

These hearings are first and foremost about finding the truth and making it stick. That is invariably the aim of constitutional oversight, and it can be no different here. Without accountability the oversight process is empty. That is why officials high and low at Treasury, Justice, and Defense are being asked to participate and answer questions.

For too long questions have been asked about Waco: about who thought these plans were a good idea, the ATF raid and the FBI gas and tank assault, and why. Answers have been few, and in some cases unsatisfying. Responsibility has shifted and shifted again. Responsible agents have been fired, but then rehired and even promoted.

Political appointees responsible for key decisions have been neatly absolved of blame by their own internal fact-finding reports. Some political appointees have even urged in strong language that America forego an in depth look at the genesis of the tragedy.

Even the president, who finally acknowledged last week that the hearings are appropriate, has been quick to dismiss further questioning. Frankly, the impression that leaves, rightly or wrongly, is that the president is distancing himself from the original March through April 1993 decision-making process, and I don't believe that he feels that further review is necessary and we should be spending our time on this kind of oversight. Most recently the White House has mounted a well coordinated damage-control campaign, including an outside consultant and a Cabinet-level telephone call to discourage embarrassing questions.

Speaking frankly, this approach bothers me deeply. I don't know what the answers are and I don't pretend to know. I'm only now learning what all the facts are. But I don't like resistance to this inquiry and I think more air and more light can only be helpful. In my view, ensuring accountability is the only way to reach closure on this tragedy and to prevent any future similar tragedies from
occuring. I think that properly identifying the many things that went wrong at Waco and ensuring accountability is ultimately good for law enforcement and good for America. Mr. Magaw, Mr. Noble, FBI witnesses, the Texas Rangers, and a number of others have said the same. It will give us renewed faith, as it should, in our great system. It will confirm to each of us that the constitutional oversight process works and that we can and we should believe in the devotion to duty shown by most law enforcement officers.

At Waco, poor decision-making characterized the process from the start. There was a cascade of misjudgments and mistakes, and as I see it, there has been a continual passing of the buck. Decision-making by some was careless. I reserve judgment on whether some decisions were even reckless. The point is, is we have seen evidence of flawed planning, flawed interagency coordination and interagency communications, and flawed plan execution. The ending, as some have said, was almost foreseeable; the risks of a tragedy were there.

What I've learned so far is worth reviewing. At ATF, raid planners overlooked viable alternatives. They let pass an opportunity to see Koresh's guns before the raid. They let pass opportunities to arrest Koresh outside the compound. Sarabyn and Chojnacki did not listen to the undercover agent Rodriguez. Like many here, I found Rodriguez's testimony very persuasive. Koresh knew that they were coming, and yet the raid continued. And back in Washington, I'm not convinced that the element of surprise was ever stated to those in the field as a condition without which they must abort. So some responsibility lies there as well. We have seen documents, and Mr. Noble admitted that these are missing from the Treasury report, which indicate that dynamic entry was chosen over a non-violent siege because ATF lacked qualified expert negotiators. In my view again, that is a tail wagging the dog.

Mistakes also include, in my view, ATF's attention to media coverage before the raid in calling it show time. For whatever reason, that was bad judgment as well. Over at the Justice Department, I do not believe the result was forgone.

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Again, better planning and decision-making could have favorably affected the outcome. Why was a successful negotiator removed? Why did negotiators and tactical personnel operate at cross purposes? Why were religious experts not more fully used? Why didn't Mr. Jamar tell the attorney general or anyone else in Washington that he felt there was a 99 percent certainty that use of CS gas in the tanks would accelerate? Why didn't anyone bring the April 14th surrender offer to the attorney general? If they did, what happened to it?

Then there are the many uncertainties: the risk to small children; how the Davidians would respond; the effects inside the compound of deconstructing the rear of the compound. It is not the conclusiveness of these hearings that supported waiting, but the very uncertainties that they raised.

All in all, I believe that these agents lower in the chain of command were acting with extraordinary endurance, discipline and bravery. I do think someone up the chain of command, however, needs to be held accountable. We'll learn more about the decision-making process today and tomorrow. Always before us should be the question, How do we ensure accountability and responsibility?
And I thank you. The chair now recognizes Mr. McCollum from Florida.

REP. BILL MCCOLLUM (R-FLA): Well I thank the chairman for recognizing me this morning, and we welcome all of our panelists again today. Several of you have been with us before; others here for the first time. As we move into the final two days of these hearings on the tragic matters at Waco, both on the 28th of February and then on the 19th of April, where 90 Americans lost their lives -- four ATF agents and the rest other Americans, 22 of them children. Some say that these were avoidable, and I certainly think that the early hearings we've held with regard to the ATF role in this would indicate there were any number of stages where things could have been done differently to avoid the tragedy of the 28 of February, and there's plenty of blame to go around for the occurrences on that particular date.

What we've been addressing for the past two or three days, and we'll continue and tomorrow, though is not what happened on the 28th of February, but what happened on the 19th of April, and what led up to that, the decision-making process, and the accountability question that has also been raised by Mr. Zeliff. There are questions remaining today as to the actual goings on on the actual day of the 19th assault with CS gas, and perhaps I'm wrong in even characterizing it as an assault. Some would dispute that fact. But we're going to hear about that today. We're going to hear later on from a military witness to discuss with us the role of the military in advise and in support of the activities on the 19th. And then tomorrow, we have Attorney General Reno here to discuss her decision-making process with her and conclude these hearings.

A couple of retrospective thoughts on the last few days: Number one, I think Friday we had testimony that was very compelling.

It should close the books once and for all on who started the fire. It seems very apparent to me the fire was started inside that compound by Davidians. Now why they started it, exactly who, in terms of what person or persons did it, I don't know. And I don't think any of us will ever know. But I think that the evidence that was presented, the expert testimony and the film footage that we saw on Friday afternoon in these hearing rooms prove conclusively that the fires were not started by the FBI or anybody who was connected with law enforcement, but rather had to have been started inside that compound.

Now secondly, I would suggest that there are a couple of things that still bother me. Friday's testimony did not clarify at all, as far as I'm concerned -- and still raised the questions of why Mr. Jamar's concerns that -- and certainty, as he put it last week with us, of 99 percent -- that these CEVs and tanks that were going to approach to put this gas into the compound that day would be fired upon -- why those concerns were either a, not expressed, or b, not passed on. And had they been, would that have made any difference in the ultimate decision-making of the attorney general and those up the chain of command?

The reason I say that is because it's quite apparent that what actually happened -- and we're going to hear more about it today -- but what appears to have actually happened, happened on the day of the final gas insertion, is that they vehicles were fired upon, that the plan called for accelerating the input of this gas, and indeed, that happened. And then, in a period of about six hours, a heck of a lot
more gas was put into the compound than originally desired by Mr. Clark and by others who were involved in making the recommendations on the gas insertion.

I also would suspect that the fact that people didn't respond according to what you thought they would is a big part of this more rapid insertion plan, and there was apprehension going into this by some who thought that if indeed there was too rapid an insertion, too much, if you will, of an assault appearance, that the Davidians would react in a very negative way, rather than coming out, as had been hoped for in the plan. So to me, that's very disturbing, and I hope you can clarify some of that in this first panel today for us.

I'm also still concerned with the amount of force that was ultimately used. The film footage we saw on Friday afternoon of the tearing down of one portion of the structure -- that appears to have been a prelude to tearing down much more, that seems to have been a tag-on to the accelerated plan for the gas insertion -- also is disturbing.

And last but not least in all of this, while we've had a lot of discussion about it, I personally am still not satisfied with respect to the questions of the handling of the so-called plan of surrender, if you will, which really wasn't that at all, but rather the attorney for David Koresh's thoughts and sincere beliefs, apparently, that he had something going on the 14th of April, that Koresh was indeed going to transcribe his interpretation of the seven seals and come on out.

But obviously that was not taken seriously, and there are reasons why, and several of you have expressed those reasons already. But it's still disturbing in some respects in retrospect that this was not passed on or that the feelings were not interpreted differently with respect to the actions on that date.

At any rate, I'm sure we'll explore these and a number of other matters today as we begin the process of concluding these hearings, and I thank you, Mr. Chairman, for the opportunity to make a couple of opening remarks.

REP. ZELIFF: Thank you, Mr. McCollum. The chair now recognizes Mr. Schumer from New York and will be certainly willing to give you additional time beyond this five minutes if you'd like to take it.

REP. CHARLES SCHUMER (D-NY): I thank you, Mr. Chairman, and for the courtesy extended. I'd like to make a couple of points this morning. The first relates to some of the news that we saw in the papers this morning based on the television show that Mr. Zeliff and I appeared on yesterday. And the lead headlines all said that the chairman of our committee would this week implicate the president in the decision-making process, the implication being that the president interfered or made the decision. Unfortunately, this has been a pattern in these hearings -- allegation based not on evidence but on innuendo. It's a serious allegation that the president interfered with, changed, moved up the decision, and we can't just bandy these things around unless we have some real evidence. It doesn't have to be in a court of law, you know, beyond a reasonable doubt, but some evidence, a little bit.

Now all four of -- us, myself, Ms. Thurman, Mr. McCollum and Mr. Zeliff -- all examined the
presidential documents. There was not a shred of evidence there that the president did anything other than hear what the plan was and approve it. In fact, the chain of command worked exactly as it should. Janet Reno reported to the president her plan, he asked some questions, and then he said, "Based on your expertise and what you've been advised, go ahead." In short, the president was informed but did not interfere with the decisions of law enforcement experts, and that's how it ought to work.

And so, if we're going to make serious allegations, and they're going to be reported in the newspapers the next morning, we ought to then see if there is evidence. Not innuendo based on either a member of this committee or someone else's perambulations in the brain as to what they might think have happened, but evidence. And so I await, in all sincerity and with all earnestness, some hard, concrete evidence that the president intruded on the decision-making process in a way that he shouldn't have.

I put that -- I'd like to compliment my colleague, Mr. McCollum. Once again, I think Mr. McCollum, he heard the evidence Friday, and today had the courage to say while there were a lot of mistakes make, and he's asked a lot more probing questions, and he's a strong defender of these hearings he said he put to rest allegations that the fire was started by anybody other than David Koresh and the people in the compound.

For those of you who were late into Friday, that became quite clear. And yet, we heard on Sunday that, quote, "The government killed the 80 people." Now, maybe the government -- the FBI, the ATF, -- did some wrong things, but they didn't light the fire. They didn't start the fire. That is not one of these questions that is very debatable. There's tons of evidence on the side that it was started in the compound. There's no real evidence -- just hearsay, innuendo, conspiracy theory -- that it wasn't, that it came from the ATF or the FBI.

So, lets -- if this hearing is going to do what people profess it to do, put some of these do conspiracy theories to rest, then when the facts come out that criticize FBI and ATF, let's criticize. But when they come out that they bolster their side of the story, let's admit it. Let's just do it and come down the middle. And I hope that will happen.

I'd like to read a letter that was faxed to me by someone named Nelda Neil (sp). I don't know her, but I sure agree with a lot of this letter, except for one part, which you'll hear about in a minute.

She said, "Dear sir. "It was actually a letter addressed to Chairman Zeliff, but it was faxed to other members of the committee, myself included. "Dear sir. As an active Republican who has watched many hours of the hearings this week, I am appalled at the aggressive attacks by some of my fellow Republicans upon the law enforcement arm of our government. I know a family who lost two daughters and a grandchild at Waco. Much of what has been demonstrated must have the cults and the militants rejoicing. It makes our side of the committee look like pawns. Of course we want Clinton out of office, but not at the expense of confidence in our American system."
Guess which part I don't agree with? (Laughter.) It was a joke, it's early in the morning. I don't want Clinton out of office. (Laughter.)

Okay. Let me just make two other points. Today we will hear again about the raid. In my judgement, the use of CS tear gas has been shown quite conclusively to have been necessary. And I think that when there are again allegations that this gas was used purposely -- or even recklessly -- to harm children, that's a bad allegation, doesn't measure up.

On the other hand, there's a serious question about how this raid was conducted that I haven't heard adequately answered, and I hope we will. Pulling in these huge, tank-like CEV vehicles, not just to insert to the gas, but to bang at the building, and in the pictures you can see the whole compound shaking, it seems to me is going to frighten those inside, not get them to come out, and B, maybe make an Armageddon-like philosophy, which was already bubbling in Koresh's head, God knows, even more pointed.

So I'd like to know why that was decided. To me that is the most questionable part of the decision-making process in the plan that was done.

The final thing I'd like to do is, again, admonish all of my colleagues and those who watch out there about Monday morning quarterbacking. The $64,000 question is: if you were the attorney general on the day before the raid, on the day before the tear gas was inserted, what would you have done, and how could you have made the decision better?

In hindsight, we know that it didn't work well. It was a horrible result with people dying. But the day before, what would you have done? Koresh had lied and lied and lied and lied about coming out. Most of those who knew him or what he was like felt there was a real chance that he would take the lives of many of his followers and himself if the siege went on much longer. What would you have done?

I sort of feel at times these hearings would be -- we'd almost -- you know, if we did hearings on D-day like we're doing hearings today, we'd probably end up court martiailling General Eisenhower because he didn't have the foresight to know that the waves on Omaha beach would blow the troops a mile or two further over than they should have been, resulting in a huge loss of life. Again, hindsight's easy.

But if you're on the side of fairness, if you're not out simply to get ATF or FBI for another agenda, as the NRA is -- and I stand by my assertion that the NRA has unduly influenced both the genesis and the performance in these hearings, the set-up of these hearings, then you don't -- you don't -- just attack law enforcement for attack's sake. You attack them when they're wrong, bolster them then when they're right, and hope that the outcome will make a stronger ATF, a stronger FBI so that the terrible events that happened at Waco won't be repeated. Thank you, Mr. Chairman.

REP. ZELIFF: Thank you, Mr. Schumer. I would just quickly comment on one quick reaction, that it's our hope that by getting to the bottom and getting to the truth of this matter that credibility will be there for law enforcement. I think the American people deserve those kind of answers, and I think that these hearings will do what we intend to have them do. And again, if we sent tanks and
troops to Bosnia, I would certainly hope that the president would be involved and that we don't leave it to the military experts.

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But our discussion will see how it unfolds in the next couple of days.

I would like to welcome the panel this morning. In the way of introduction: Jeffrey Jamar -- my left, your right -- was a special agent in charge of San Antonio FBI office and on-scene commander at Waco. Dick Rogers was an assistant special agent in charge and the leader of the FBI hostage rescue team at Waco. Edward S. G. Dennis, Jr. served as former United States attorney in Pennsylvania and was the former assistant attorney general for the Criminal Division at the Department of Justice during Waco. R. J. Craig was a member of the FBI's hostage rescue team who prevented Ruth Riddle from returning to the burning compound. James McGee was an FBI special agent who drove one of the tanks during the surge -- during the siege, excuse me. John Morrison was a member of the FBI's hostage rescue team, who will testify to his observations regarding the start of the fire at 10: 12 p.m. on April 19th 1993. And Byron Sage was a supervisory senior resident agent of Austin FBI office and the chief hostage negotiator at Waco.

Welcome, gentlemen, and thank you for returning today. If you would please all stand, raise your right hand.

(Witnesses are sworn-in. )

Thank you. Please be seated. Let the record show the answers in the affirmative.

Mr. Schiff from New Mexico will be our lead questioner. You have five minutes.

REP. STEVEN SCHIFF (R-NM): Thank you very much, Mr. Chairman, Mr. Chairman, I just want to begin by saying that obviously these hearings have gone on for a number of days, but I think that they have been very useful in what is still a very controversial issue among the American public: what happened at Waco and why.

And I want to say that I agree with Mr. Schumer that we should judge each action separately. And my own view is that in the hearings we've had so far, some information has come out which is favorable to government agencies and should be stated, and some information has come out that is not favorable to government agencies and should also be stated. And I'm going to give just one example of each. There are many examples. I think there'll be more before we're through here.

I think initially evidence has been demonstrated that there was information available that somebody among the Branch Davidians, whether it was David Koresh or not, was possibly illegally changing firearms from semi-automatic to fully automatic fire. There was enough information that the Bureau of Alcohol, Tobacco and Firearms, in my opinion, had a legitimate interest in the subject.

At the same time, it's clear to me, at least, that the Bureau of Alcohol, Tobacco and Firearms decided that they were going to pursue the matter of their search warrant through a military kind of
raid and they weren't going to be dissuaded by that by anybody, and no matter what risks it had for their own courageous agents they sent forward, no matter what risks it had for children inside, that's how they were going to proceed and nothing was going to stop them. And I think that that was a horrible mistake. And I hope we will continue identifying those acts which we can say the government was justified or the government wasn't justified.

Coming now to this panel, gentlemen, I want to say that first, as you've heard, there's been a controversy over whether the president of the United States was involved in the decision for the final attempt to end the siege, and if so, whether that was appropriate or inappropriate. I'd like to ask if anyone on the panel, and would recognize anyone who might offer on this, is in a position to state from their experience if they know how much involvement the president had in the decision to approve the final attempt to end the siege.

Anyone care to -- (pausing to wait for response) -- I don't see anyone on this panel volunteering to -- Mr. Jamar, if you wish?

MR. JAMAR: Well, Mr. Schiff, none of us in Waco were in a position to know what the discussions between the attorney general were and anyone else.

REP. SCHIFF: I understand. Of course, as you know, the attorney general will testify personally tomorrow.

MR. JAMAR: Yes, sir.

REP. SCHIFF: We can ask directly. But I thought I would ask that first. Let me ask about the plan to end the siege. It's my understanding that there was a plan A and a plan B, perhaps not by that name, but there was an initial plan to gradually insert CS gas into the compound, apparently in the hope that it would at least gradually influence the people in there to leave the compound and surrender, and there was a contingency plan that if the vehicle that first went forward to insert the gas failed, that then there would be an attempt to move forward quickly to insert gas from all different sides.

Mr. Jamar, let me turn to you but would recognize anyone on the panel. Have I correctly summed up what the idea was?

MR. JAMAR: Yes, sir.

REP. SCHIFF: I've also heard it stated that there was a general belief on the FBI side that it was expected that somebody -- again, there were a lot of people inside that compound -- somebody inside the compound could be expected to fire at the vehicle when it first went forward in plan A. Again I'll go to you, Mr. Jamar. Is that correct?

MR. JAMAR: When the -- we sent the plan in first, the proposal from our headquarters was to do the incremental gas insertion. And the concern we had was that of the safety of the agents as they approached the compound over and over again, that the Davidians could prepare. They knew what the vehicles looked like. They had the weapons to do great damage to the vehicles to include both
REP. SCHIFF: Just because time is short, I wonder if I could direct you -- there was a belief that it was likely that somebody, among all the people in the compound, might shoot at the vehicle that went forward.

MR. JAMAR: Well, I think you need to know the history, Mr. Schiff, to -- (audio break).

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(In progress) -- us to come to Waco when we began those discussions.

And what is led to was that we were all satisfied that the safety issue regarding the incremental delivery of the gas was addressed. And everyone -- I think Mr. Clark said he was satisfied they weren't going to fire. Mr. Potts testified he was satisfied. I think Mr. Rogers testified he was. I can't speak for the other SACs. And I think that's why the issue of about my being so concerned that they would fire -- I didn't make a greater issue of it because the safety issue that this -- what was on my mind so much was satisfied by the plan we came up with: keeping the Bradleys outside the wire, approaching the compound only with one CEV at a time, which was our best protection of the agents.

Now the agents were still extremely vulnerable to Molotov cocktails and to the 50-caliber semiautomatic they had in there. The danger was still there, sir, but the problem is, in my mind, it was relieved, and so I didn't press. And I think when Mr. Potts and Mr. Clark testified that I did not press upon them my concern, because it went away, because the issue was their safety, and that's why we ended up with the incremental plan. It wasn't Plan A, Plan B, except there was the possibility to address the safety of the agents by having -- if the agents are fired upon, there was an option in order to suppress that fire, and that's what would be the B in your description of A and B.

REP. SCHIFF: Let me ask you just one quick follow-up question then.

MR. JAMAR: Yes, sir.

REP. SCHIFF: How long did it take before you went from Plan A to Plan B, shall we say?

MR. JAMAR: I'll let Mr. Rogers describe the sequence for you.

MR. ROGERS: Sir, almost immediately when the first CEV approached the compound, I got radio traffic indicating that the vehicle was taking fire.

REP. SCHIFF: Almost immediately?

MR. ROGERS: As soon as it's penetrating the compound. That's correct. As soon as the boom was touching it.

Because of my concern from what I'm hearing, I didn't immediately call a compromise and tell the
other units to start putting ferret rounds in. I went back on the radio and asked to confirm that that was in fact happening. From the time I heard it until I gave the order to go into, as you've described it, Plan B -- but really, it was just an acceleration of putting gas in -- there was a four-minute time lapse while I was verifying that was happening was in fact taking place.

REP. SCHIFF: I know I'm out of time, Mr. Chairman. I just want to conclude briefly by saying it seems to me that it was very predictable what was going to happen here by even only a few people from within the compound, so I wonder if we weren't really talking about Plan B in a full scale, moving forward all the time, really.

MR. ROGERS: Well, I was not, and I have never said that I thought they were going to fire.

REP. ZELIFF: Your time has expired.

REP. SCHIFF: Mr. Chairman, thank you for the additional time.

REP. ZELIFF: Mr. Scott, from Virginia, you have five minutes.

REP. ROBERT SCOTT (D-VA): Thank you, Mr. Chairman.

Looking at the witnesses and looking at the title for the panel, "Insertion of the CS Gas and the Fire," I don't think we can possibly hold this hearing without repeating a lot of what's been said. A lot of the -- we have a lot of the same witnesses who have been up -- been with us at least once or twice, so if we get the same questions and get the same answers, that's the best we can do with the panel.

First, let me ask a question about the gas. We've had testimony that CS gas is used worldwide over many years, and in the history of its use, there's only one citation of an infant who developed a problem, but was completely cured after 30 -- within 30 days. Although it is traumatic and very irritating when you're under its effect, do any of the members of the panel have any knowledge of a citation of an actual person developing medical problems or death as a result of CS gas? (Pause. )No one has any citation of a person having a medical problem as a result of CS gas.

Mr. Dennis, did you do a report after the -- after this was over?

MR. DENNIS: Yes, I -- yes, I did. I was not the Assistant Attorney General for the Criminal Division at the time. I had been out of the department about three years in the summer of 1993 when Philip Heymann, the deputy attorney general --

REP. SCOTT: Well, let me -- let me get to a question, then.

MR. DENNIS: Sure.

REP. SCOTT: Is there any question in your mind, having done a report after the fact -- Chairman McCollum has indicated that it's been pretty much put to rest -- any question that the fire was set from inside?
MR. DENNIS: No question in my mind.

REP. SCOTT: And is that based on video evidence as well as audio evidence from inside?

MR. DENNIS: It's based on video evidence, audio evidence, witnesses from inside the compound, it's based upon the arson experts' evaluation of the ruins.

REP. SCOTT: Are -- are you familiar with what happened in the trial after the fact?

MR. DENNIS: No, I'm not familiar with the -- with the -- what happened at the trial. That would --

REP. SCOTT: Okay. Let me get -- let me get to another --

MR. DENNIS: -- took place after my report.

REP. SCOTT: Let me get to another question. Questions have been asked about whether or not we had firefighters right on the scene. If there had been firefighters right on the scene to have done their job, they would have been shot at. But even if you could have gotten past that, is there any evidence based on the gas cans and other accelerants inside, is there any question that whether or not the -- having firefighters right there on -- on site would have made any difference?

MR. DENNIS: The arson report -- the arson experts found that it would not have made a difference because of the use of accelerants and the wind was carrying the fire too quickly for firefighters to have any effect --

REP. SCOTT: Now, let's make clear; what do you mean by "accelerants"?

MR. DENNIS: There were flammable liquids that had been spread around the compound by the Davidians and the fire was set in three separate places. That along with the wind that was driving the fire apparently made it much too -- move much too quickly for firefighters to have an impact.

REP. SCOTT: And what kind of accelerants were they?

MR. DENNIS: I'm not sure which chemicals were being used.

REP. SCOTT: It's obvious that -- it's obviously difficult to figure out what to do when you have Koresh, who's going to burn the place down, and people inside will accept it as biblical prophecy. Do we have any -- did we get any help from behaviorists who are familiar with cult activities to help us predict what the children and people inside might have done? Mr. Jamar?

MR. JAMAR: Might have done at what point, sir?

REP. SCOTT: Well, to predict what they -- how they might have reacted to the gas and the tanks coming in.
MR. JAMAR: Well, I think the -- the logical conclusion of a human being, that the gas was designed to force them for the space they were -- force them from the space they were in.

And our original plan was to put the gas at one end of the -- and demonstrate the power of the gas, and hopefully start negotiations. But we were hoping too that mothers --

REP. SCOTT: Did we get any experts from the people expert in cults?

MR. JAMAR: No, more behaviorists, not so much geared absolutely to cults. People who were expert in human behavior, not necessarily cults.

REP. SCOTT: Could I get one more quick question?

REP. ZELIFF: Real quick. I think we let the other side --

REP. SCOTT: It would not be a quick question it would be unfair. Thank you.

REP. ZELIFF: Thank you for your restraint, Mr. Scott. I now yield to Mr. Buyer of Indiana.

REP. STEVE BUYER (R-IND): Thank you, Mr. Chairman. One thing I wanted to, Mr. Jamar, let you know -- I think it was you that recommended that we listen to some of the negotiation tapes?

MR. JAMAR: Yes.

REP. BUYER: I did that. When I flew back to the Indiana I drove out to Washington DC with my family, and I don't think my 10 year old appreciated the hours of tapes -- I think we had it out in the Appalachian mountains. But it was pretty interesting, and I want you to know that I've done that. And it gave me a very good perspective of not only what you and Mr. Sage what you guys were under. I mentioned to you the other day that I listened to a little bit of them, and now I've listened to a lot more hours of those tapes. And we talked about -- the other day -- about the perishable asset of patience and how long that had been wearing on you.

I did get a very strong sense in listening to those tapes the difference in -- almost -- we had Doctors Arnold and Tabor testify the other day about the changes in mood -- and once they were writing the seals -- and I could see that. I could hear that in some of the voices -- and Mr. Schneider talking about the writing of the seals. And I guess my sense here is that that was really discounted by the FBI. So help me just for a moment -- I'm moving to some other questions.

Did you really believe that that was just a ruse and there was nothing but a delay or stalling tactic? And that was why it was discounted, because Washington had this plan to go with the raid on the 19th and you were going to do it - so we'll just go ahead and play this game with them to go ahead and write the seals, but in fact you really did have your D-Day set on the 19th?
MR. JAMAR: Not at all. I think -- to think that Washington had this plan -- we submitted the plan, and it was discussed with Mr. Clark and Mr. Potts, and it was an FBI plan that was submitted from Waco. When I suggested that you listen to the tapes I think if you picked up that mood I hope you also picked up in a discussion that you picked up all day Sunday on the 18th, the negotiators pressed and pressed and pressed for something regarding the manuscripts. I hope you detected that as well. And the last thing that Steve Schneider had an opportunity to say, one of the last things he said on the 18th was, I haven't seen the first page to edit. And I'm paraphrasing. I've got the exact quote, I'll be happy to read it if you like.

But we didn't discount anything. I think that's the part that I really hope that we communicate here, that we were grasping for anything we could do to hope to resolve that. The last thing the FBI want's to do is put an operation like this -- to put so many people in danger. We don't like to do that when we can avoid it.

REP. BUYER: Didn't on -- there was a negotiator Dwayne?

MR. JAMAR: Yes.

REP. BUYER: In the afternoon, I think he was the was who was informed that one of the seals had been written and they're well into the second, and he helped negotiate this deal as to how we're going to get the first seal sent out, and that type of thing. It just wanted to let you know that I was that I was left with the strong impression that you were negotiating in good faith with them to do that and with DeGuerian in there.

MR. JAMAR: We were.

REP. BUYER: I wanted to share that with you.

MR. JAMAR: We were.

REP. BUYER: Pardon?

MR. JAMAR: We were. Can I read the 4/18?

REP. BUYER: Yes. Yes, please.

MR. JAMAR: Discussion -- this is 4/18; this is the conversation between one of the negotiators and Steve Schneider.

The negotiator: "You know, reading through the logs" --

REP. : (Off mike. )

MR. JAMAR: I'm sorry. This is a summary we gave you that I think was a tape that Mr. Buyer had the other day, and it's some of the highlights of some of the quotes. I think -- I hope you all have one.
(Pause. )

This is our format. I think you have these quotes. The tape that Mr. Buyer held up the other day are these quotes in this little thing here, okay. Are we-- shall I proceed?

Negotiator: "You know, reading through the logs of some of your other conversations last night I thought I saw one that said you had begun editing the First Seal."

Steve: "No, not at all. I don't--"

Negotiator: "It's incorrect, okay?"

Steve: "Man, if I said that, I must have been on something."

Negotiator: "Well I'm not saying you said -- you said, I'm just saying it was written there, and sometimes you know that's--"

Steve: "Yeah, I know. I heard someone in the press, I think it was Rick, say something like that, and I about fell over 'cause I've never said anything--"

"Yeah, yeah," says the negotiator.

Steve: "-- like that, you know."

Negotiator: "The way I understand it, from our last conversation" -- of course this has been almost 24 hours now -- "is that David had finished writing the First Seal and yesterday afternoon he was nearing the end of the second."

Steve: "Yes, he did say that once."

Dwayne: "But you have not been given anything--"

Steve: "Exactly."

Dwayne: "-- for editing?"

Steve: "Exactly."

Dwayne: "Is that still the situation?"

Steve: "Right."

Dwayne: "Okay. And Judy said that she was going -- was typing some of the Biblical passages she felt he would be using or referring to."
Steve: "Right."

Negotiator: "But she had received nothing yet?"

Steve: "Exactly."

Dwayne: "Okay, is that -- is that still --"

Steve: "That -- that's -- you said it correctly."

Okay, what I got from this conversation was late on the 18th, after whatever else they had said, is don't expect anything soon. That's what I got from that conversation.

REP. ZELIFF: Mr. Buyer, you can take one more question, if you'd like.

REP. BUYER: Well, the only thing I'd just add, I wanted to make sure that -- you know, when I listened to that, it wasn't he was denying that the First Seal was being worked on, the fact that Steve Schneider had not received it to edit it.

MR. JAMAR: I'm not arguing that with you at all, Mr. Buyer.

REP. BUYER: Okay.

MR. JAMAR: My point to you is that they tell us all sorts of things, so we say, okay, how about a product? Give us something we can hang our hat on. Had Steve said that we'll give you --

REP. BUYER: Okay, I'm onto somebody else's time. And I think what I'll do is I'll bring this up with you again, because I think it's an important point for us to make a follow-up on. Thank you, Mr. Jamar.


REP. JACKSON-LEE: Mr. Chairman, thank you, and I'm going to thank you in advance for your indulgence. I do want to -- (laughter.)

REP. ZELIFF: What is coming up?

REP. JACKSON-LEE: (Laughs.) I do want to say that I had the opportunity, as many of us do, to be home in the district, and you here, one, the concerns of your constituents, their hurt, they know that lives were lost, the ATF and certainly the children and others that were in the compound. They also want to know are we headed toward the right direction in ensuring that we reaffirm the Constitution and the Bill of Rights. And I guess I also share with them that government is not perfect; I share with them and I paraphrase Winston Churchill, who says Democracy is not the best, but it's better than the rest. And I may have taken his words a little bit out of context.

But there have been a lot of discussion over the weekend, and I just move to be able to make one
statement very clear, and you gentlemen cannot respond to it, and I have some questions for you. But on April 20th, 1993, these words were said. "I was informed of the plan to end the siege; I discussed it with Attorney General Reno; I asked the questions I thought it was appropriate for me to ask. I then told her to do what she thought was right, and I take full responsibility for the implementation of the decision. "Was that the chairman's words? No. It was the words of President Bill Clinton on April 20th, 1993. So I'm a little confused as to why we would have such righteous discussion about whether or not there have been any taking of responsibility. But I know when we hold the highest office, I would imagine that there was sadness is the Reagan administration when 265 young men and women lost their lives in Lebanon when he was the commander in chief.

I hope that these hearings will bring about an opportunity for us to make change and to have a positive response to what has tragically occurred. Mr. Jamar, tell me, just a yes or no answer, when had the negotiations come to a standstill? How many dates beyond or earlier than April 19th were there seemingly limited opportunity for negotiations?

MR. JAMAR: I would say March 20th on. Maybe -- let's say March 24th on.

REP. JACKSON-LEE: So almost a month before.

MR. JAMAR: Yes, ma'am.

REP. JACKSON-LEE: And the issue had been certainly wanting to continue those negotiations, and the April 19th date did not signal, or the actions on the 19th, let me correct that, the actions on the 19th was not the confirmation to end negotiations.

That was not D-day, this is it, we don't want negotiations. Was the intent to encourage negotiations?

MR. JAMAR: The intent was to hopefully get their attention to where they would engage in serious negotiations. In fact, Mr. Sage said it over and over again during that morning, that six-hour period: we want to talk to you more, we want to -- send us out a manuscript. He said, send us -- if you got something done, send it out to us. He continuously broadcasted our desire to --

REP. LEE: Negotiations were to go on.

MR. JAMAR: -- to engage in negotiations. Yes, ma'am. Yes, ma'am.

REP. LEE: Mr. McGee, there's been many points of discussion about this whole idea of religions and other aspects of the criteria, or the definition of the group that might have been in the compound. I don't know if we're here to be able to resolve that. But I do understand that you risked your life or you attempted and did save or did assist I believe Ruth Riddle, and she is alive today. Is that my understanding?

MR. MCGEE: Yes, ma'am, she is.
REP. LEE: And as I ask you a question, Mr. Dennis, I'm going to be asking you a question and I want the light to be on as I ask it so that the chairman will indulge me and I can get an answer from you dealing with your report, which will include how long you were away from the Justice Department, how many years, whether or not you felt you had to make your bosses or former bosses look good, and whether there was a cover-up.

Mr. McGee, my question is what as you were saving or bringing out or helping to assist Ruth Riddle -- and I applaud you for that and others who participated in saving the lives. There was some discussion or maybe some comment about what the messiah told them to do, but more particularly can you tell us about Ruth Riddle's reaction when you saved her from the fire?

MR. MCGEE: Yes, ma'am, if I can expound a little bit. It might take a few minutes. But first of all before I begin I'd like to pay tribute on behalf of the hostage rescue team to those four ATF agents who sacrificed their life for this country. And I'd also like to offer my condolences to their families and also those agents, those 17-plus who were wounded by hostile fire at the Branch Davidian compound on that day.

REP. LEE: Thank you.

MR. MCGEE: Okay. In our initial introduction, Mr. Zeliff, Mr. Craig was the driver of the CEV and I wasn't. That was a reverse --

REP. ZELIFF: I -- I apologize for the information that I've read.

MR. MCGEE: On the -- that day in question and in reference to Ms. Riddle, we witnessed -- and I can get -- I can articulate basically a narrative here of how that went and how that happened, but she was witnessed on a second-story window --

REP. LEE: Why don't you tell us who Ms. Riddle was? She was inside the compound.

MR. MCGEE: Ms. Riddle was one of the Davidians that was inside the compound, one of the Branch Davidian followers of David Koresh.

She was being advised by the loudspeaker system to jump to save herself. The fire was imminent. It was engulfing the second story. And she did jump, and then she immediately stood up and went back into the structure. I was located in a Bradley track vehicle located on the red-white corner, if that means anything to you, basically the front right. We moved over to that location.

And just to make one thing clear, at that time I knew that Ms. Riddle had been in there on the day of the shoot-out with ATF, and I suspected she'd been involved in killing federal agents. I also knew that she'd been in there all that morning firing on us for six hours with automatic weapon fire and everything else that they had access to. And number three, I suspected that she, along with the others who were able to come out, were involved in setting the fires that killed the rest of the Davidians.

But nevertheless, we pulled up in front of the compound because the hostage rescue team does not
differentiate between who it saves. We save whoever. Nevertheless, Ms. Riddle had gone back into
the room and laid down with her feet inboard, and we pulled up within 25, I'd say, 25 feet of the
structure. I'd estimate the temperatures were about 200 degrees Fahrenheit. I was a fireman before I
became an FBI agent, so I've been in fire situations before.

I exited the back of the vehicle, went in and confronted Ms. Riddle, who was, I'd say, in a level of
unconsciousness, nearly unconscious. Obviously, she had decided to commit suicide like the rest
inside. That was her mind set. When I aroused her, she asked, "Who are you?" And I said, "I'm with
the FBI." And I asked her, "Where are the children?" And she, just like Clive Doyle did earlier, she
would not tell me where the children were. She failed to respond. She sat there basically motionless
and stared at me. Myself and the other agents present there, if she had said where the children were,
we would have gone in further to get the children. That's why we were there, to save them.

At that point I explained to her, "We have to get out of here, this place is going to burn up and we're
going to burn up with it if we don't get out soon." She resisted. She resisted verbally and also
physically. I had to pick her up physically and carry her out over the perimeter of the building that
was on fire.

By the way, while I was inside the structure, I noticed no presence of gas, and that whole area had
been -- there had been gas insertion in that area. But the ventilation was so great, with 40- plus mile
an hour winds, that the gas I don't think was having any impact. But nevertheless, we pulled her out
and brought her back to safety in the back of the track vehicle. And then Special Agent Bob Hunt
and Special Agent Chuck Pierce then conducted a primary medical survey and we transported her
back to the medical rally point.

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REP. ZELIFF: Your time has expired.

REP. LEE: Mr. Chairman, may Mr. Dennis answer that brief question that I gave him regarding his
report?

MR. DENNIS: I was out of the department three years when I was asked to conduct this review. I
was not at all in the department during any facet of the Waco investigation. I was given complete
access to the files and to interview witnesses in connection with this event and was given a free
hand with regard to my evaluation and my thoughts on how the decisions were made, how the
negotiations were conducted, and whether or not reasonable steps were taken to try to save the lives
of those involved.

My findings were based upon my best judgment, trying to be as objective as I could, realizing that
I'd been in the Department of Justice for 15 years as an assistant U. S. attorney, United States
attorney, assistant attorney general for the Criminal Division, even acting deputy attorney general,
and then I'd worked with the FBI extensively during that period of time, and certainly had a great
deal of admiration, and still do, for their courage and the way that they conduct -- the level of
professionalism that they conduct themselves with. I found that same level of professionalism in the
handling of this case. Certainly the results were not those that were sought to be achieved, but I did
find that the FBI had acted with great discipline and professionalism.

REP. LEE: Thank you for your indulgence, Mr. Chairman.

REP. ZELIFF: Thank you. The chair now recognizes Chief Heineman from North Carolina.

REP. FREDERICK HEINEMAN (R-NC): Thank you, Mr. Chairman. We've been questioning various panels since this thing started, and we're getting little bits and pieces that when this is over we'll have to patch together, and I'd like to kind of bring together the thought processes of some of these panelists that have been answering questions from day one. But I have a question before I do that.

And in my mind we've listened to Mr. DeGuerian say something about an April 14th date and then that's been corrected by people on the panel relative to, no, it was sooner than that, relative to the letter and that statement by Koresh that he was going to finish the seals and come out. Did anything happen, Mr. Jamar, on April the 14th, or is that just a mistake by Mr. DeGuerian?

MR. JAMAR: His conversation was with Koresh April the 14th, and where he -- he had previously talked to Steve Schneider the day before and Koresh wasn't available.

And he talked to him on the 14th, where presumably Mr. DeGuerian persuaded Koresh to adopt that point of view that the seals that Mr. Tabor and Mr. Arnold I think that testified about here. And the apparently he caused Mr. -- Mr. DeGuerian cause Koresh to send that letter out that was dated the 14th about the -- it was an open-ended thing that we had analyzed that I described last week. That was the events of the 14th. But then the subsequent conversations were that with us after that conversation between us and Mr. DeGuerian where he said the he would write the seals, take two or three days each, and it progressed, and hopefully things will be done in 10 days or two weeks. And that's where we left it.

REP. HEINEMAN: Thank you. Mr. Jamar, you've been -- you've spent more time answering questions than most of the folks. Is there a story you want to tell from February 28th up until April 19th that we haven't asked you?

MR. JAMAR: Well, I think that one thing that hasn't' come across here is the danger level that all the agents and all the people that were experiencing during that period. And I think -- I would ask Mr. Rogers to describe it for you, since he was facing them and maybe some of the -- Mr. Morrison, Mr Craig and Mr. McGee -- describe the level of danger that existed during that entire period that was of so -- a great concern to me that I tried to communicate that last two times I was before this committee last week that it was pressing us so much, that the level of danger was increasing every day. And that's what drove -- that was the driving force. I'd like to ask Mr. Rogers, if you don't mind.

REP. HEINEMAN: Thank you. Permit me to ask Mr. Rogers. (Laughs.) Mr. Rogers.

MR. ROGERS: Sir, I think that when we look at the whole situation, you have to take the 28th of
February and the events that took place to get a perspective of what the danger was. When we have the number of killed and wounded that took place with ATF that first day and the fact that they barely penetrated that compound while sustaining those casualties, I think that sets the stage for what the potential was and what took place.

I don't know if this panel is aware of the fact that other than being shot, there were ATF agents that sustained grenade fragments from hand grenades that were thrown at them. A number of those agents took multiple wounds. In order to protect our agents and because of this level of danger, that's why we brought in the armored vehicles. Here's a 50-caliber round. That's what they had inside that compound. Here's a 9-millimeter round. When you compare the two, it becomes very graphic as to what the difference was. This round right here was designed in World War II or a little earlier, and it was the primary round that aircraft, the P-51 and other aircraft, fired. It was also an anti-aircraft round. This is what they had that could shoot out of scoped rifles. We know that this round is effective out to about 2,500 meters.

This round here is designed to where it will not continue to penetrate wall board or go through a human and hit someone else. These are the differences in what we faced there, and because of this, that's why we brought in armor, not to scare anyone, not to make this look like a military operation or a military campaign, but to prevent additional deaths. That's the only reason.

And there was concern that this round right here would penetrate the Bradleys. We were told by a number of military experts, yes, this will penetrate those Bradleys that you have. We went back to the Pentagon and said, can you clarify this; we're told by some people that the Bradleys will protect our people, and other people say no, it will go right through them. So this was the concern and this is why we brought in the heavy armor.

REP. HEINEMAN: Thank you, sir. Just two quick things, Mr. Chairman.

REP. ZELIFF: Very quick.

REP. HEINEMAN: I'm just wondering how Mr. Schumer (?) missed that 50-caliber round. And number two -- (laughter) --

REP. : Is there a little jealousy that Mr. Rogers got the --

REP. HEINEMAN: I do want to congratulate Mr. McGee for his heroics. There are many unsung heroes in both of these raids. One had been sitting here time and time -- day after day, that had 43 entry wounds, a man from ATF. And I don't see him here that I could acknowledge him. But being in the business myself, I know exactly what was running through your body and in your mind, and you are a hero, as those other ATF people are. And certainly if this -- if I see that gentleman from ATF here, I'll ask him to be acknowledged. But thank you for the extra time, Mr. Chairman.

REP. ZELIFF: Thank you, Mr. Heineman, chief. Mrs. Lofgren, California.

REP. ZOE LOFGREN (D-CA): Thank you, Mr. Chairman. You know, Mr. McGee, I was amazed in a way by your story of trying to save a Branch Davidian who tried to reenter the flames and what
was obviously some belief that that's what she should do. I mean, that's not standard behavior for your average person. And coming on the testimony Friday from the fire experts about the material found on Mr. Doyle's -- the lighter fluid that was found on his clothing, and I haven't heard any explanation for how you could have lighter fluid on your -- on your cuffs, absent spreading it around. I mean, I can't think of an innocent explanation for that. The picture emerges to me that at least some of the Davidians intend to burn the place up, and at least the lady you tried to save intended to be burned within it.

And I'm wondering, Mr. Morrison, you were inside. Did you see anything that would either refute that conclusion or support it?

MR. MORRISON: Yes, ma'am. Shortly after 12:00 on April 19th, I observed an individual in the front door area, behind a piano. My attention was drawn there because radio traffic indicated that there was a man with a long gun in that doorway -- that being either rifle or shotgun -- I did not know. So I looked. I saw him. He had the gun, but he wasn't pointing it at anyone. He then knelt down. I -- before he knelt down, he was back behind the piano -- he was making a motion like he was sweeping or, I think, spreading something. He then knelt down behind the piano. I couldn't see his hands. He was making a motion with his hands, at which point a fire erupted from where his hands were. He then stood up. Fire got a little bigger. He moved off out of my sight. And I announced on the radio, "They just started a fire here. Did anyone else see that?" At the same time I saw smoke lip around the corner of the building from my right side.

Moments later I see -- or sometime later -- I see a man on the roof who is -- I didn't see how he got there, but he was on the roof, kind of above to the left of where I saw the person start the fire. He emptied out his "camo" pants pockets, appeared to have large magazines. I thought they were explosive devices, so I called it out on the radio: "Watch out. I think this guy may have explosive devices. "I think they were 50-cal magazines. He dropped them over the side. He laid on the roof. Smoke's coming.

One of our tracked vehicles drove up, tried to pick him up, unbuttoned, said, "Come with me. "He waved them off, continued to lay on the roof. And after a while the smoke got so heavy, to me it appeared he'd had enough, jumped off the roof, kept his hands down, and walked over.

As I panned over, I saw him walking. I then saw some other people, far away from me, exiting the compound.

Before Jim rescued his woman, I saw another woman who had already jumped -- I don't know her name -- from the second story. She was laying face down, facing me, with just a small smoke trail coming up from her back. She was laying on her stomach, with her hands like this -- (demonstrates) -- messing with her hair, while she's -- I called out, "She's on fire. We need a tracked vehicle there. "

As the trackeds are coming to pick her up, the smoke just starts -- now it's getting more intense on her back. Here's the woman on fire, doing nothing.

REP. LOFGREN: So these might have been people who were sorting through whether they -- maybe their belief system, how much they --
MR. MORRISON: Oh, my gosh, of course. And then our tracked -- long story short -- our tracked arrives on the scene. I hear gunfire at this time. One of our agents jumps out with a fire extinguisher, because she'd on fire now. He hoses her down with the fire extinguisher. A couple more agents jump out and grab her, throw her in the track. They all, of course, ask her where the kids are, throw her in the tracked, and drive her down for the medical survey, go down to where our medical personnel were. And I was told that if they had been maybe 10 minutes late, then she would have died. They literally saved her life.

REP. LOFGREN: She was lying there, catching on fire.

MR. MORRISON: Correct.

REP. LOFGREN: Mr. Craig, there's been some at least confusion over whether or not the efforts of agents prevented people from leaving or not. And you were -- had, I guess, breached the first interior wall. Can you tell us about the trap door and the underground bus? Did you do anything that either made it harder for people to leave or that made it easier for them to leave, and did you -- what was the result? Could you tell us that, briefly, since my time's almost up -- is up?

MR. CRAIG: Ma'am, do you mean the -- when the gas was inserted and all the question about why it [was] put in that corner of the building? Well, tactically it was a sound decision for two reasons.

First, the exits -- most of the exits on that -- of that building were in the back side center or on the right side, right side front and the right side. So logically, to move people in the direction of the doors initially was to put a bottle of the gas -- the first bottle of gas inserted right in that corner, the red-green corner. It happened that that's where the trap door allegedly was to the bus.

The second part of that decision, to put it over where the trap door was, was sound in that if these folks are already in an entrenched mind and body, they're in this building, this compound -- fortified compound, they want to stay there. If we allow them to get into that bus, which is even more -- it's underground -- a bunker, then it would be even harder to get them out. They're going to be entrenched even more physically and mentally in that bus. So if we pushed them away from that trap door initially, that was our goal.

Later on, when the building caught on fire and I had been out of the area, and when I heard radio traffic that the building was on fire and I turned around and saw it, I then turned the vehicle around, took about another minute and a half to get up there. The fire was just about encroaching that red -- or the, excuse me, the green-white corner. I saw no people outside, and I couldn't believe the people had not fled that scene. So it was my thought -- and I did pull up to Mr. Rogers and talked to him, have they come out anywhere, he said no. I immediately started to push the burning debris away from that bus area, because if that caught on fire and they were inside it would have consumed them completely.

REP. LOFGREN: So you cleared it away.

MR. CRAIG: Cleared all the burning building debris away from that corner, yes.
REP. LOFGREN: Thank you, Mr. Chairman.

REP. ZELIFF: Thank you.

Mr. Mica from Florida.

REP. JOHN L. MICA (R-FL): Thank you, Mr. Chairman and members of the committee. I want to take just a minute and reflect that some of the other members of the panel have today about where we are and why these hearings took place and a couple of observations.

One of the things that has concerned me over the past weekend is reading about some of the -- the messages of hate and the messages of, oh, disdain for some of the members of this panel. And I -- you know, I think that that is totally unfair and totally uncalled for.

The purpose of these hearings wasn't to engender hatred or blame for anyone. The purpose of these hearings is to look at an incident in which four ATF agents were killed and others wounded and 80 individuals, many citizens, women and children also were killed by an action that involved the federal government. And I'm really saddened that some people use these proceedings to attack personally people who I in fact disagree with on the panel.

But that's -- I just want to reflect a minute what this is all about. This hearing is indeed about trying to find out what took place, if mistakes were made to assess responsibility and accountability, and then, in our system of government, to see how that can be corrected. And in fact we don't live in a monarchy, where we assign some high commissioner to do a review of this, or we don't live in a Third World country or in the former Soviet Union, where the Politburo ask the KGB to do a investigation.

I took some time just to look at what has taken place on Waco hearings, and everybody says there's already been hearings done, and if you look at the hearings, there were -- there was one in March of '93 during the siege, another one during the siege of April 2nd, and two shortly after the siege, April 22nd and 28th, one by the House Ways and Means Committee and House Judiciary Committee, on which I don't serve. I read over the weekend also some of the reports, even the autopsy reports, even some of the remains hadn't been removed or the evidence discovered when these took place. The House Appropriations Committee did a review on June 9th and 10th, and that was even before the Department of Justice had gotten involved, asking for a request from various experts or before any of the Treasury reports, which we've all referred to, had been completed. And actually, if we look at the facts, October 22nd, when the last inquiry -- cursory review of this incident was held, it was before any of the trials and before the firings of individuals and then the subsequent rehiring and the comments by Mr. Hartnett now to accuse the Treasury report of being filled with distortions of missions and things that certainly weren't untrue.

So our purpose here is not to enrage anyone or to stir up a pot of hatred, but to really look at what took place and see that we make sure that it doesn't happen again. And this isn't just another agency of government; this is our federal law enforcement agency, for which I've always had the greatest respect and other members of Congress are. So when something like this happens, it's incumbent
that we do review this thoroughly and properly, and that's our system of government.

One final thing is I'm not a member of the Judiciary Committee, and I'm not an attorney, and you've seen -- God forbid, I should ever serve on the Judiciary Committee, but I do serve on the House Government Reform and Oversight Committee, and that has an important responsibility that dates back to 1808 when we took -- when we started creating the bureaucracy of government in our country under the new Constitution.

And in fact, we did assign that responsibility to another panel, and that's what I serve on, and we've never looked into this issue, and certainly if any issue in government deserves our oversight, it's certainly this particular incident.

So with those comments, I'll get back to my questions at the next round. But I just felt personally that I needed to say that. Thank you.

REP. ZELIFF: Thank you, Mr. Mica.

Mr. Watt from North Carolina, you have five minutes.

REP. MELVIN WATT (D-NC): Thank you, Mr. Chairman.

Mr. Jamar, it seems that you've been here before. This is day eight of these hearings, I believe. How many times have you been here?

MR. JAMAR: This is my third.

REP. WATT: And, Mr. Rogers, I think you've been here before. How many times have you been here?

MR. ROGERS: This is my second day.

REP. WATT: And, Mr. Sage, how many times have you been here?

MR. SAGE: Three times, sir.

REP. WATT: Well, I think for the three of you I'd at least like to give you one minute of my time to tell me anything that you think might need to be covered that we haven't already asked you about. It's quite obvious now we're into speech-making rather than question-asking. So if you all have anything to add, the three of you gentlemen, I'll be happy to give you one minute of my time to address any issue that you have not already been asked about.

MR. ROGERS: Thank you, Mr. Watt. I think that the one thing I would like to get across is that, you know, perception sometimes clouds what reality is, and I think that it's come up in this hearing that the perception is among the American people that this was a quasi-military operation on the part of the FBI against American civilians. And while the images on TV are very powerful, the truth
of the matter is is that the FBI is a law enforcement agency. The hostage rescue team is not a military unit. We carry handcuffs, we read people their Miranda rights, and we're fully cognizant of the constitutional rights of all Americans. And --

REP. WATT: I take it you believe those rights are valuable, and if any lesson comes out of -- out of this, there's been a reinforcement of that notion among the American people that the exclusionary rule, the 4th Amendment is designed to protect the innocent, not shield the guilty, I take it.

MR. ROGERS: Sir, we're cognizant of all of the rights, and we ourselves are American citizens and we would not want to see anything diminished in that regard.

REP. WATT: I thank you very much.

Let me go on in keeping with what I have tried to be about in the context of these hearings and look prospectively at lessons that this incident may inform us about in the future and help us make better decisions about in the future.

I understand, Mr. Dennis, from the notes I've been provided that you did a retrospective review and have made certain recommendations about areas of operation, including evaluation of the roles of the hostage rescue team and negotiators, evaluating the adequacy of communication between the tactical and negotiating teams, and various other recommendations that you have made.

Let me first ask you whether any of those recommendations that you have made rise to the level of anything that we ought to be considering doing as members of Congress on a legislative basis as opposed to things that can be handled on an administrative basis.

MR. DENNIS: Mr. Watt, the recommendations you speak of were promulgated by the department based upon issues -- in part upon issues that I raised in my report. My report was a factual report as well as an analytical one to look at some of the areas of negotiation and decision-making.

REP. WATT: I want to come back and ask you about what you recommend, but that red light's going to come on. What I first want to know is, is there anything that you have recommended that would impel us to take any legislative action as opposed to an administrative response?

MR. DENNIS: I believe that a number of the recommendations do involve additional financial support. With regard to the hostage rescue team, for instance, there were issues with regard to having more than one because this is one unit and they were tied up in Waco for almost two months. There were questions about their availability if another crisis should emerge. And so I think that those recommendations should be looked at with regard to those types of legislative support.

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REP. WATT: Any other legislative responses that we need to be considering that you are aware of based on your report and review?

MR. DENNIS: Not that I'm aware of.
REP. WATT: Can you give me a quick thumbnail of your administrative recommendations so that we're clear on what those are?

MR. DENNIS: Well, the observations -- the recommendations -- I made no recommendations with regard to legislative action or administrative action, but I did make some findings with regard to the conduct of the standoff.

One finding that I made was that there were clearly communications problems between the negotiators and the tactical elements in the standoff, certain differences which were resolved by the commanders. I raised some issues with regard to how those were resolved, and certainly invited review of that as a matter of internal FBI and Department of Justice Review. It's my understanding in having spoken with a number of officials from the department about that, that that review has taken place and perhaps Mr. Rogers could give you some details on that.

But my basic findings were that the bureau had developed a reasonable response to the crisis. They did not achieve their objective, which was to resolve it without the loss of life, but I did not believe that that was for want of a reasonable plan given what they knew at the time.

REP. WATT: Thank you, Mr. Chairman.

REP. ZELIFF: Thank you. Mr. Blute, from Massachusetts.

REP. PETER BLUTE, (R-MA): Thank you very much, Mr. Chairman, and I want to thank the members of the panel for their testimony, and some of you I know have been here a number of times, and I know it takes a lot of effort, a lot of time to prepare for it and we appreciate your testimony today.

My question is to Mr. Rogers, relating to the overall strategy of the final raid there with the CS gas. I understand the idea that you want to punch holes in the walls, insert the gas, and the hopefully the idea was to force the Davidians outside the compound. But having watched the trial photography of the destruction of the gymnasium, I'm at a loss to understand what was behind that concept. The tank clearly is not just inserting a hole to insert CS gas, it's actually destroying the entire building -- indeed the building at one point falls down on top of the tank.

I wonder if you could clarify that for me?

MR. ROGERS: Yes, sir. I sure can. That portion of the compound, as you indicate, was the gymnasium. We knew from the intelligence that we'd been gathering over these number of weeks that no one lived in that area, we knew that that was a storage area where they mainly kept furniture and other kinds of items that they weren't using, and what that vehicle was doing was trying to make a path back into where another CEV with the gas -- and this one didn't have gas on it -- could then at a later time get back towards that bunker complex and insert gas if that in fact was what we chose to do.

You see it on television and I agree with you. The roof starts coming down -- a portion of it. And
then it's been said that, well, he climbed up on the roof with that vehicle.

Well the fact of the matter was, is that he had to flatten that if we were to get through that area. Graphically, it looks like we're trying to take down the structure. In reality, we were not. And we were also on an area that had no one living there. We knew they didn't have offices in there, and basically it was a benign portion of that structure.

REP. BLUTE: But at the same time, you were trying to send a signal in there that you weren't attacking with weapons, that you were -- you had microphones putting a message into the Davidians not to be concerned, that this was just an insertion of some type and not an armed attack. Yet if I was one of those inside and I happened to gaze out the window and saw a tank destroy a portion of the building, I think I would be concerned about an assault.

MR. ROGERS: And, of course, that was in hour 5-1/2 of the whole operation when we made the decision to have him try to get a path through that area. So by this time, we had taken a number of hours of automatic weapons fire from them. Mr. Sage had been on that loud speaker the entire time, and we figured at that --

REP. BLUTE: So it was an escalation?

MR. ROGERS: I'm sorry?

REP. BLUTE: It was an escalation at the time?

MR. ROGERS: No, it was not an escalation. I mean, how can we -- how can you term that an escalation of our plan?

REP. BLUTE: Well you were saying that you were receiving fire and Mr. Sage had been informing those inside that this was not an attack. But what was the point of the -- you said that there was more fire coming from the building. Did this cause you to change your strategy in the meantime?

MR. ROGERS: No, it didn't cause strategy to be changed during the meantime. As I've already testified, we changed the -- I gave the compromise order within about five minutes, about 6:05 when we started taking fire, as was the original plan.

REP. BLUTE: Let me move on because I just have a limited amount of time.

MR. ROGERS: Sure.

REP. BLUTE: Let me ask you one more question about the fire and the tapes of the conversation within the compound about the fire.

Mr. Jahn stated at the trial that he could recognize the fire discussions on unenhanced tapes the first time he'd heard them. The FBI couldn't -- did the FBI hear those tapes and they didn't get that message?
MR. ROGERS: I never received any information whatsoever that they had that information coming from the overhearers. I'm not -- I didn't hear Mr. Jahn. I'm not sure who he is or what his testimony was. But I feel certain if the people who were actually there with the headphones on had that information, it certainly would have been passed to Mr. Jamar and then to myself. I never got that information.

REP. BLUTE: Thank you, Mr. Chairman.

REP. ZELIFF: Thank you.

The chair now recognizes Mr. Conyers from Michigan for five minutes.

REP. JOHN CONYERS (D-MI): Thank you, Mr. Chairman. I've recovered sufficiently from your accusations against the president over the weekend and we're prepared to wind down these hearings.

As we come to an end, all of us are looking for anything that happened in these hearings after eight days and nights to indicate not that General Reno had something to do with this, but now the president. Well, after we've exhausted that bit, the only one left that I can think of is the butler.

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Maybe the butler did it. (Laughter.)

REP. ZELIFF: Maybe you ought to ask him.

REP. CONYERS: Yeah. I -- I am surprised you hadn't tried to subpoena the butler by now. Here these witnesses are up for several times. We keep going over and over this business, and I just want to ask Mr. Sage and Mr. Rogers -- and I thank you for your reappearances -- is there anything that all of us that weren't there can say to the American people to persuade them that you were reacting to the most voluminous weapons assault that has even been visited upon government agents? I mean, that's what this is all about. And we -- we've gotten rid of the conspiracy theory now against the religious groups and people that harbor weapons. We're -- we're now trying to determine whether the -- the government agents just decided to go in and take these guys out. We heard some very weepy testimony about people getting shot up from within.

The -- the point is that you were acting, as far as I can tell, in a defensive mode in which there had been something of an ambush. Tell me, finally -- I presume this is your last appearance -- tell me what we can say to everybody to make this question as definite as possible.

MR. SAGE: If I could start from the negotiations standpoint, from the immediate response standpoint, having arrived there on the morning of the 28th of February at approximately 11:00, what I saw for the entire 51-day siege, congressman, was a great deal of professionalism at every level with every component brought forth to try to resolve this matter. I had the privilege of working with some of the best law enforcement officers and agencies that I've ever had the opportunity to do in 25 years in law enforcement.
The caliber of professionalism that was brought was unsurpassed. Every possible effort, every possible option that could be identified was fully explored and fully pursued.

The biggest problem that I have -- just to cut my comments somewhat short -- is that there is such an emphasis placed on testimony before these combined subcommittees on the insights or -- and I feel genuine beliefs of -- to defense counsel that what the observed during the course of a total of five days, a total of 28 hours, has apparently totally and completely surpassed the insight of combined experts in the area of behavioral science, of negotiations, of tactical -- to the point that their 28 hours has eclipsed 215 hours and 51 days of steadfast, aggressive and honest efforts to resolve this matter without any further loss of life. That bothers me, but I appreciate the opportunity to have brought it forward to this committee.

REP. CONYERS: Thank you. Final comments, Mr. Rogers?

MR. ROGERS: Yes, sir. Very quickly, the reason we chose to use those CEV's, which has been heavily criticized, is that we would not have to fire ferret rounds initially and give the Davidians the impression that we're shooting at them. That's why we chose to insert that gas that way. I know of no other way to insert tear gas that's more benign than choosing that method. Ultimately, we had to resort to ferret rounds, but we didn't want to start that way because we did not want a gun fight. And I'll remind the American people one more time that during that entire time, those six hours and indeed those 51 days, the FBI never fired one shot at the Davidians.

REP. CONYERS: Thank you, Mr. Chairman.

REP. ZELIFF: Thank you, Mr. Conyers. The chair now recognizes the chairman of the full Committee on the Judiciary, the very distinguished Henry Hyde from Illinois.

REP. HENRY HYDE (R-ILL): Well, thank you, Mr. Chairman. I just have a comment to make. We have had a few laughs now about the butler did it. That's funny. But as I count up the deaths here, 86, and then if you want to make the leap that Oklahoma City has some connection because it was done on the anniversary of Waco, that's another 160, give or take. So you're talking 246 lives, and for this Congress to try to oversee what in the hell happened and how did it happen, it just seems, to be talking about the butler did it a little -- a little capricious, a little frivolous, and that's just my opinion. I yield my time to Mr. McCollum.

REP. MCCOLLUM: Thank you very much, Mr. Chairman, for yielding to me. I have documents number one and two I would like given to Mr. Sage, if you could please. And if you have other copies, Mr. Jamar can get a copy of it. Mr. Sage is who I want to say this. If you'll look, Mr. Sage, to document number one, it says it's negotiation team strategy proposal has a date of 3/22/93. I took this directly out of the briefing book that Attorney General Reno had during the final day of her decision-making that we had testified to last Friday. Could you identify that document? Is this one you prepared? There's no signature, there's no name on it. I know nothing about it, except it appeared in her briefing book.

MR. SAGE: This was a position paper that was presented to formalize briefings, continuous briefings. It had been provided from the negotiation cell or staff to the on-scene commander. It
documents a specific assessment, a consensus of the negotiation staff as to where we stand as of the 22nd of March.

MR. MCCOLLUM: This is provided to you?

MR. SAGE: No. We generated this.

MR. MCCOLLUM: You generated it?

MR. SAGE: Myself and Gary Nessner (sp) (supplied ?) --

MR. MCCOLLUM: And who would it go to? Who did it go to?

MR. SAGE: It went to the on-scene commander, as well as all the --

MR. MCCOLLUM: To Mr. Jamar, in this case, right?

MR. SAGE: Yes, sir.

MR. MCCOLLUM: And then who else?

MR. SAGE: To -- obviously, copies were shared with the rest of the negotiation team, and the dissemination beyond that point I'm not certain.

MR. MCCOLLUM: All right. In the third paragraph of this, it reads, as you look down it, "It should be noted that the negotiation team believes the long-term prospect for a peaceful resolution remains good. This belief is based on the low suicide potential of individuals within the compound, the lack of direct threats, (substantive ?) demands or deadlines, and the absence of further violence. However, the short-term prospect for total resolution is not encouraging. "And you go on to say a lot of other things in that memo.

At least as of 3/22/93, you still thought the negotiating prospects were good. I know you've given us some pretty dismal

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prospects, as far as they got down to this impasse idea by early in April, but as of 3/22, March 22, you thought they were still good, did you not?

MR. SAGE: The negotiation prospect was never abandoned, from the 28th of February --

MR. MCCOLLUM: Well, I know it wasn't abandoned.

MR. SAGE: -- through the 19th of April, sir.

MR. MCCOLLUM: I know it wasn't abandoned. What I'm interested in is the characterization,
because it seems to me that, (as ?) you reported to superiors at some point along the way, your idea
that it -- the prospects were good changed. But as of March 22nd, they were still good, in your view,
right?

MR. SAGE: The long-term possibilities were still good. Yes, sir.

MR. MCCOLLUM: You felt that -- what was "long term," in your mind?

MR. SAGE: Long term was months, certainly beyond days to weeks.

Short term -- and these were exactly the context in which we presented the briefings to the on-scene
commander -- short term meaning the immediate release or surrender of significant numbers, and
significant numbers being 10, 20, hopefully all of them, at date certain.

MR. MCCOLLUM: All right. This second document that you have in front of you is a copy of the
transcripts of tapes number 234, 236, 237, and 238 on the 16th and 17th of April. They involve
excerpts of those portions of he transcripts of the negotiations dealing with the question of the
writings of the seals. I believe that, for the record and for everybody to have a full flavor of what
this was all about and how this was really going with David Koresh and how it was reported to you
folks, that you need to read that into

And I would like to ask the permission of the chairman that you -- that you read us starting on what
is listed as page 38, tape 234 where Dick asks a question of Steve Schneider on through that. Would
you please read that into the record?

MR. SAGE: I'm sorry. I don't know which page you're referring to?

REP. MCCOLLUM: Well, page -- it's the first page on the top. Well, it's not -- it's got a coversheet.
If you'll turn to the transcripts themselves, I -- I'm referring to the transcript itself inside. It's the third
page in, I guess, maybe on what you have. Is the first page -- does it start -- I -- I don't have what
you have necessarily in front of me.

MR. SAGE: Well, I -- I've just been given this, so I'm not as familiar with it as -- as you are.

REP. MCCOLLUM: All right. It says at the top "Dick, have you got -- have you got chapter one
edited yet?" Tape 234 dated 4/16/93.

MR. SAGE: I don't have tape 234. Mine starts with 236.

REP. MCCOLLUM: Well, would you take him this, please?

REP. ZELIFF: I'm going to ask if anybody has any objection. This is going to be a while to him
reading these -- this transcript.

REP. MELVIN WATT (D-NC): Mr. Chairman, why -- don't these transcripts speak -- speak for
themselves and aren't they already a part of the record?
REP. ZELIFF: Well, I think the intent here by Mr. McCollum is to read in the flavor as to what happened. We've been talking about Mr. DeGuerian and Mr. Zimmerman's reaction to the peace plan. I think this would give them a chance to explain on their side what actually happened. If you have no objections we'll let him proceed --

REP. CONYERS (?): Mr. Chairman --

REP. ZELIFF: -- otherwise we'll just let him read everything.

REP. CONYERS: Well, why don't we just do it within the course of the five-minute rule? Someone else can --

REP. ZELIFF: Well, just so -- just so he can tell you up front -- and I don't think Mr. McCollum wants to misjudge anything or take advantage of it. He's asked before the red light went on, and they can go on and on. I just asked you if you had any objection. It's going to be --

REP. CONYERS: Yes. We -- we would rather keep this within the five-minute rule so we can finish on time.

REP. ZELIFF: Okay. So then within a reasonable three or four minutes -- Mr. McCollum?

REP. MCCOLLUM: Well, whatever. If he could read as much as he can now maybe we'll come back to it in my second round of questions.

REP. CONYERS: Well, we -- we've already had them in the record. They're accepted.

REP. MCCOLLUM: I don't -- well, if we could -- if we could please just start on the first page and --

REP. CONYERS: Well, wait a minute here. We're discussing an objection, Chairman McCollum.

REP. MCCOLLUM: Well, if -- if it --

REP. CONYERS: And all I'm trying to point out to you is that we do allow people to go -- members to go a minute or two beyond the five-minute rule --

REP. ZELIFF: I'd like to remind the gentleman from Michigan, my good friend Mr. Conyers, that last week two on your side took 35 minutes in the same process. We -- we don't want that to happen today. If we can give him a reasonable -- a reasonable opportunity, the question's been asked to let him go ahead and proceed, and -- and let reasonable be, you know, let's say three or four minutes. Please proceed.

REP. CONYERS: Well, I will withdraw my objection on this side and hope that we can move these hearings to as rapid a conclusion as possible, Mr. Chairman.

REP. ZELIFF: I -- I thank you for your cooperation. Mr. Sage.
MR. SAGE: Can you stand prepared to do whatever you'd like me to do here?

REP. ZELIFF: If you could -- I think what -- what -- the chairman understands that Chairman McCollum would like to do is give you an opportunity to summarize, if you can, read specifically to give us a flavor of this transcript to -- to kind of from your point of view deflect perhaps the weight of the evidence --

REP. MCCOLLUM: No, what -- Mr. Chairman, what I'd like for him to do is to read verbatim the transcript, as much as you will allow him to read.

I think it's very, very important that everybody in the public domain not have this buried somewhere in a piece of paper in a hearing report. This needs to be understood. I think it's very important. As much as you will let him read of it, I would appreciate it. Just verbatim.

REP. CONYERS: Mr. Chairman, why didn't he take his five minutes to have it read, then, if it's so darned important?

REP. ZELIFF: Well, he's now going to do this. He asked a question at the end, and you can proceed. The chair now asks Mr. Sage to start reading.

MR. SAGE: If this committee has 51 days, I stand prepared to read this. I can summarize what was -- what was involved.

REP. MCCOLLUM: If you will read, Mr. -- my question is, and my request is that you read it verbatim, sir.

MR. SAGE: Starting --

REP. MCCOLLUM: It's not the entire 51 days. These are just on -- it's date 4/16/93, tape 234, list at the top, page 38 of the transcript itself, where it says, "Dick, have you got -- have you got Chapter 1 edited yet?"

REP. WATT: Mr. Chairman, parliamentary inquiry.

REP. ZELIFF: Please state your parliamentary inquiry.

REP. WATT: Is it my understanding that we are going a second round of questions with this panel, or are we near the end of this panel?

REP. ZELIFF: We worked with Mr. Schumer, and because of folks coming in, we agreed to go to a second round for both sides. Both sides agreed to that.

REP. MCCOLLUM: And I will continue to ask that this be read, as much of my time as I have, throughout the period of the second round or my own questioning of the first round, but I'd like a reasonable amount of this to be read, what I think was a legitimate request of mine when the light
was still on on my side at this point. If it's three or four minutes, that's fine.

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REP. ZELIFF: Please proceed.

MR. SAGE: Well, all right. This picks up in the middle of a conversation between Dick Wren (sp), who is one of the negotiators, and Steve is Steve Schneider. And again, this is the middle of the conversation.

Dick: "Have you got Chapter 1 edited yet?" And I don't mean to editorialize here, pardon the pun, but this is Dick Wren (sp) at part of the inquiry that we've referred to probing regarding production.

Steve's response: "Chapter 1?"

Dick: "The first seal."

Steve: "Does he have --"

Dick: "Has he --"

Steve: "I don't even know because --"

Dick: "No, see, you know, I'll bet you five bucks that you have to come out -- and you'll have to come out to get this resolved."

Steve: "Dave just came down. He just -- he just came."

Dick: "I'll be -- he hasn't written 10 words."

Steve: This is Steve talking to David, apparently. "He says I bet he hasn't written 10 words. He just came into the picture just now."

Dick: "Great. I'm happy for him. Listen."

Steve: "On the first seal."

Dick: "Yeah. He's on the first seal now? (David's voice in the background.)" That's a parenthetical. "I thought you guys had gotten, you know, through the fifth seal or some such thing."

Steve: "No, no, not at all."

Dick: "No, where are you now?"

Steve: "That was never stated."

Dick: "The First Seal?"

Steve: "No -- here's what happened."

Dick: "I mean listen, you know, truthfully, where are you?"
Steve: "Clint is the one" -- pardon me? I hope this is making more sense to you than it probably is to the public. (Laughter.)
Dick: "Pardon me?"
Steve: "Clint. Clint was the one that asked questions about --"
Dick's response: "No."
Steve: "Where in regards are we in relation to time with the seals, like what seal are we in?"
Dick: "No, I understand that."
Steve: "Okay, okay."
Dick: "We've talked about that but I was --"
Steve: "Right."
Dick: "-- talking about the manuscript, the writings, what seal are you currently reviewing and writing?"
Steve: "I believe he is still working on the first."
Dick: "He's working on the First Seal?"
Steve: "Yes." David's voice in the background not discernible.
Dick: "How long?"
Steve: "Oh, he says no. He says he's on the second."
Dick: "He's on the Second Seal?"
Steve: "Yes."
Dick: "Has the First Seal been edited yet? I mean is this -- ?"
Steve: "No, it hasn't."
Dick: "A rough draft?"
Steve: "Not that I'm aware because I am the one that is probably going to be doing that and that's not been done."
Dick: "Well, can you give me any kind of timeframe at all?"
Steve: "Well, from my part, from my part it will take no time at all."
Dick: "No, I'm not talking about your part, I'm talking about David's part."
Steve: "I -- he can't give you -- I really -- can you give him a time frame as to when the seventh seals will finally be in manuscript form --" Parenthetically, David's voice in the background not discernible, closed parenths" -- considering all the Bradleys running into the building and all the --"
Dick: "They may never get done, right?"
Steve: "Listen with all those -- no, it slows the process. No, he's doing it, Dick, but you know the noises and all that, you know it's harder to concentrate, it's harder to get the very --"
I skip to page 44. Your production has -- is missing three pages.

REP. ZELIFF: I think that that's a reasonable extension of your time, Mr. McCollum if that's agreeable?

REP. MCCOLLUM: Very well. Would it be of any value for me to give you some -- I've reviewed these at length including this past weekend trying to give you the most candid and insightful response. If you're interested in that I stand prepared to do it.

REP. ZELIFF: Okay, I think you'll have an opportunity to do that before the questioning is completed.

MR. MCCOLLUM (?): Fine.
REP. ZELIFF: The chair now recognizes Mr. Schumer, from New York, for five minutes.

REP. CHARLES SCHUMER (D-NY): I'm going to yield two of my minutes to Mr. Scott, and then I'll give Mr. Sage time to respond on my time.

REP. SCOTT: Well, first, Mr. Chairman, I'm not sure what we're reading. Mr. Sage was -- Mr. Sage, were you a party to this conversation? Was your name mentioned?

MR. SAGE: No, sir. I was not.

REP. SCOTT: Okay. Thank you. So I don't know what he was reading or why he was selected to read it.

Mr. Jamar, there was -- in terms of progress being made on these -- this interpretation of the seals, apparently there was a computer disk that was taken out that was used to support the idea that work had been done on it. And I think you had mentioned the effect that no electricity might have had on that theory. Can you restate what the significance of that disk coming out -- that had some interpretation of seals on it, and whether or not that might have supported the idea that he was in fact following through with his word this time?

MR. JAMAR: Well, that disk was on Ruth Riddle's person when they -- (McGee ?) took her out of the burning compound. The disk was provided days after the event on the 19th, and it was transcribed. And it -- I heard -- I read in the newspaper that it was -- the scholars gave it some significance.

I think there's two things that I have to keep in mind with this disk. Judy Schneider's telling us on either the 16th or the 17th that she can't type, because she needs a laptop computer. Apparently, they had some sort of thing, because if they produced that disk during that period, somebody had some means of word processing.

I know now they had batteries. The electricity was turned off as of March 12th and not turned back on. But they had a generator and they had batteries, and (it's ?) within the realm of possibility for them to have a processor that could work off batteries or a generator. That's within the realm of possibility.

REP. SCOTT: Now what's the longest those batteries could have lasted?

MR. JAMAR: With the generator can keep them going, but my point is: Why does Judy Schneider tell us that "don't expect much from me soon; I'm doing the typing. Don't expect anything, because I don't have a laptop," and they have one. That's --

REP. SCHUMER (?): Well, thank you.

You want another minute, Mr. Scott?
REP. SCOTT: I was going to ask Mr. Jamar and Mr. Sage, since we're repeating some of the things, to remind us of all the times that Mr. Koresh had promised to do something and had failed to do it. And let me just pose that question and yield back, and you can get as much of that answer out of your time as you'd like.

REP. SCHUMER: Well, then, he's rescinding the question, and I'm going to re-ask it, along with just Mr. Sage. You said you'd thought a lot about things over the weekend, including that transcript and other things, and wanted a few minute to give your views. So let me ask both those questions: Could you please reiterate, as Mr. Scott had asked, all the times that Mr. Koresh -- and maybe others on the panel could help you, although some of them -- it wasn't their jurisdiction -- Mr. Koresh promised to come out and didn't, and then could you tell us your thoughts, given your thinking of the situation over the weekend?

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Take your time because I, uncharacteristically, have no further questions at the moment.

MR. SAGE: There were obviously several times that there were promises, very specific promises made, several of us very hopeful that they in fact would be carried to fruition, including, and probably the most glaring one, his guarantee to us if we would play that 58-minute tape on the 2nd of March, that he and all the Branch Davidians would exit. We all know that that was not carried forward. He stated on multiple times that he would come out. I'm not sure if this preparation has been provided to the subcommittee. If it has, I can refer in passing to various excerpts that are specifically listed from the negotiation --

REP. SCHUMER: Why don't you read them. Read them.

REP. ZELIFF: We have not been provided that on our side, that we are aware of.

REP. SCHUMER: Well, I would ask -- we have gotten it, so I'd ask --

REP. ZELIFF: Well, that's not unusual.

REP. SCHUMER: Right. (Laughter.) Okay. I don't know how usual or unusual it is, but I'd ask that we just make it part of the record so everyone can see it, and provide it to the other side.

MR. SAGE: Okay. I can submit it, then, as part of the record; is that correct?

REP. SCHUMER: Yes, but I'd ask that you --

REP. ZELIFF: Without objection, so ordered.

REP. SCHUMER: I'd ask that you go over the highlights.

MR. SAGE: Okay. There are several in here and I'll mention them just in passing. On 3/2, Koresh states that it's a fact that he is coming out. 3/2, Koresh agrees to come out after the tape is broadcast.
3/2 again, Schneider states that God told Koresh to wait. 3/2, Koresh states he will come out when his father tells him to. 3/2, Schneider admits that Koresh doesn't know how long the wait will be. 3/7, Koresh states he won't -- it won't be that long. 3/11, Schneider states Koresh can do nothing but wait. 3/26, Schneider states Koresh will keep the promise to come out. And then 4/2/93, Koresh states that they are coming out after Passover.

Now these, I would have to stress to you, are just a few, and that's an understatement, but it did not deter our commitment to continue to try to work with both Mr. Schneider and Mr. Koresh to resolve the matter and to successfully facilitate their coming out of the compound at any time. And I would stress that they had that opportunity 24 hours a day, seven days a week, for 51 days, including the 19th of April. They could have stopped that operation at any time. I made several broadcasts to that regard during the course of the morning of the 19th of April that all they had to do was demonstrate any type of a signal and we could facilitate the safe and orderly exit from the compound. There are other excerpts here. I don't know how much you're going to want me to read into the record, but for the sake of brevity and in summation I would try to put it in this context.

From the moment that we heard from the attorneys that there was some possibility that he had shifted his focus and intended to come out after the manuscripts were prepared, we addressed that issue and followed it diligently. Had that been a viable option, we all would have jumped at the opportunity.

The fact of the matter is we pressed him for signs of good faith, particularly demonstrated through work product. Time and time again he did make reference -- he did make reference -- to the fact that David Koresh -- and, in fact, on occasion Koresh specifically stated that he had finished the first seal, was using the first seal to work on the second seal, therefore he couldn't send it out. My recollection is we volunteered to not only duplicate it so that we had some demonstrated proof to bring forward to the on-scene commander, but more importantly we kept stressing to him "David, we can facilitate this work. If this is your message, if this is your ministry, we will facilitate you producing that document. We'll get you word processors and so forth. Once you come out it will be provided to you," and we had that commitment from the McLennan County sheriff's department as well as from the U. S. attorney's office and so forth.

That was never a hindrance from our standpoint. We stood ready to try to provide him with -- with typists, word processors, dictionaries -- whatever he needed, because there was a number of comments made that he didn't know how to spell, his grammar was improper, and so forth. We were prepared to try to help him over whatever obstacle he faced to try to get that work done if, in fact, that was a truthful key to getting those people out safely. We stood prepared to do it then. I mentioned it again during the broadcast on the 19th of April about 10: 30 that David, you've said that you're working on the seven seals. We still stand -- and I can read that for you if that's of interest to this joint subcommittee.

But we never dismissed it. We addressed it as a potential viable option. But again, we also did not lose sight of the fact that David Koresh, if he had any track record whatsoever, the track record was deception.

REP. ZELIFF: Thank you, Mr. Sage. The chair now yields to Mr. Souder from Indiana.
REP. MARK E. SOUDER (R-IN): Before yielding, I'd like to make a brief comment, and that is I earlier had asked about the milk question and that Mr. Koresh had asked about the milk, then it released a hostage the next day, and then the FBI report says that he didn't release multiple hostages, and we had some discussion. And at that point I was told that you didn't negotiate per se, that you kind of -- you said one thing and they said one thing, and I'm kind of confused by that because I kind of let that pass as -- because that was one of the points that they had made, that there was a breaking of agreement from their end, too.

And I just wanted to put that in the record because it's kind of murky as to what kind of negotiations you do in that kind of situation on both ends, and clearly both sides thought that there was some not following through.

MR. SAGE: May I clarify that for you?

REP. SOUDER: Yes.

MR. SAGE: Ultimately, milk was sent in to the children on three separate occasions, up to and including the evening of the 18th of April, still in hopes that we would be able to resolve this matter. Our intent was to try to negotiate initially, and all the way through, frankly, in a classic negotiation posture. That is, a demand or request is made by a hostage taker, efforts are made to try to provide something that is of value to him in exchange for something of value to us, namely, in this instance, the children. We never had a classic quid pro quo exchange -- we'll give you this, we'll give you that. In fact, when we pursued that tangent, on multiple occasions David Koresh, in particular, became extremely irate and stated on more than one occasion, "This is not a game we're playing," whereupon we made it perfectly clear to him that we were fully aware that this was not a game. Parenthetically, there were four federal agents dead, 16 wounded, and we weren't attempting to engage in games.

We did attempt to meet him time and time again at least halfway through the exchange of things that we felt might be productive to him and, in the instance of milk, frankly, productive to us because of our concern for the welfare of the children.

I hope that sheds some light on it.

REP. SOUDER: Yeah, that expands from the first milk incident and carries it on through the --

MR. SAGE: Yes, sir. Also, the first milk, we mentioned during the course of testimony here we also facilitated the delivery of that milk utilizing Sheriff Jack Harwell (sp). Jack Harwell was selected as a potential third-party intermediary because the Davidians, because of their involvement in an altercation, a gun battle in 1987 and subsequent resolution to their best interest in court in McLennan County in 1988, they had expressed some willingness to deal with Jack Harwell (sp). We specifically orchestrated it so that Jack was the facilitator, Sheriff Harwell was the facilitator getting that milk
into the compound, trying to build his bona fides, if you will, as being in a position to not only promise to get things done but to actually deliver. We would -- if Jack Harwell could have facilitated the safe release of those people, if the ranger service, if anyone, any legitimate entity could have facilitated it, we would have embraced that opportunity and gone forward with it. I am absolutely certain. That was not the case.

REP. SOUDER: Thank you. I yield to Chairman McCollum.

REP. MCCOLLUM: Thank you, Mr. Souder. I want to do the quoting myself with the limited time myself if I can rather than yield to Mr. Sage. This transcript that we were starting to read a moment ago about conversations during negotiations regarding bringing out in progress on the interpretation of the Seals. On the same date, the 16th of April there was a question asked by the negotiator later on, "How are you working?" to David Koresh. "Are you doing well on your manuscript? Are you moving along on that? David said, 'Yea. The first one's been completed. "On the same day a little bit later, Steve Schneider is asked about all of this: "He said he said he is ready on the second, but I haven't seen the first one myself -- I haven't seen -- so I'm being totally, you know, frank with you. "Dick: "Well, why don't you do some research on it and get over there to assist him as best as possible."

Later on the same afternoon, Schneider in answering says, "But you know last night between the one conversation and the other one, Dick, the incident" -- which by the way was the tank bumping into the building -- "you know, it took a lot of time where he would have been working. "The next page there is a question being asked, Schneider responding again about these, "You know what I already know myself with the Seals like, say, one, two, three, four, five -- they're all different. And I think like the Fourth Seal you'll learn is a very deep Seal. It's one of the deepest. The first four in fact is the deepest. The first one it would seem like he's got his done. He hasn't handed it to me. I don't know why yet. "And then, "Hmm-hmm," says Henry Schneider says, "And I think he said there was like somewhere around, I don't know if it's counted real carefully, but he said it's between 28 and 30 pages or something like that, he's told me. "And Henry says, "Uh-huh. "And Schneider says, "And I know, I saw the papers all over the place. "Henry: "Yeah. "Steve Schneider: "I asked him when he wanted to give them to me, he says, 'Well, not yet.' Apparently he wants to make sure that it's real clear. I mean his thoughts are down. He said was already at work. He's working on the second one. "Henry: "He did say that?"Schneider: "Yeah, he did. "Henry: "Okay. "Schneider: "I don't know if he means that he's just begun it or what, but he said he started working on the second. I heard him say that through this process. "Then there's some discussion about Judy Schneider on the same day about a word processor.

REP. ZELIFF: Gentleman's time has expired.

REP. MCCOLLUM: Very well. Thank you.

REP. ZELIFF: Thank you.

MR. SAGE: Can I just make one brief comment from a negotiation standpoint?
REP. ZELIFF: Sure.

MR. SAGE: We've just heard the Congressman read in the fact that Steve Schneider reports during negotiations that he saw the papers, quote, all over the place. On the 2nd of March, Steve Schneider also quoted that he saw the kids lined up at the front door. Neither one were produced.

REP. ZELIFF: Thank you.

Could we just move forward here? We see the ATF agent Jerry Patrelli (sp) in the audience who was wounded in the ATF raid. I think Chief Heineman would like to acknowledge him and perhaps have him stand. Chief?

REP. HEINEMAN: Yes, Jerry. Could you stand up a minute? We've had a lot of things during these hearings being shown -- assault rifle and -- very effective, and that .50 caliber round -- very effective. Of course Mr. McGee (sp) has given his story on the day of the fire and I just -- I mentioned you and I did not see you in the audience today, as you had been last week, but Officer Petrilli (sp) had sustained 43 entry wounds in his body, both from gunfire and from shrapnel from a hand grenade. And I just felt you need to be recognized, not only here in the committee but to the American people. Thank you, Jerry.

REP. ZELIFF: Jerry, upon behalf of all of us up here too we appreciate your service to your country. Thank you.

The chair now recognizes Mr. McCollum. Five minutes.

REP. MCCOLLUM: Thank you, Mr. Chairman. I'm going to continue to read from these transcripts because I don't know any other way to get the flavor of what was going on with regard to the issue of whether or not anybody should have been paying attention or should have listened more carefully to what was being said about the progress on these matters on the development of the writings of these seals during the last day or two.

This is still the 16th of April, three days before the CS gas assault. Judy Schneider who was supposedly typing these documents, on page 44 of tape 236 says she has spoken not to him yet today -- she hadn't talked to David Koresh.

Henry says, then have you been typing?

Judy Schneider: Yeah.

Henry: Okay, how far are you?

Schneider: Well, that's what I'm telling you. I don't know how far I am into anything, you know?

Henry: No, but I'm saying, you know, have you typed half a page, three pages, ten pages?

Schneider: I've got some things on disk, yeah.
Henry: Okay. But would you say you have 10 pages, five pages?

Schneider: Let's see. 1,2,3 -- I've got a couple, maybe a couple of pages. I'm on page 45 tape 236.

Henry: Okay, okay, okay. Well, let me see what I can do with all this, okay?

Judy Schneider: And what I'm doing too is I'm trying to get some of the scriptures that I know he's going to be using even though he hasn't told me. I'm trying to get them on disk so I can pull them up.

Henry: Okay. Let's see what you're saying.

Schneider: And then I'll insert what his manuscript --

Henry: Okay. So you're typing some of that ahead.

Schneider: Yeah. I'm just going ahead on my own for now till --

Henry: Okay --

Schneider: Till he gives the word.

Henry: Okay.

Now, we move onto the afternoon -- this is still 416 to 417, tape 237 is where we are on the afternoon of the 17th. Dwayne, talking to David Koresh: Now, now, just for you, David, can you tell me about the seals? How are they coming? Are you still working on it?

David Koresh: I am, I'm working on them and working on them and --


I think we've gotten from Steve --

David Koresh: Well --

Dwayne: That you feel you're finished with the first seal?"

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David Koresh: "I'm finished. Well, actually, I'm starting to finish up the second seal now."

Dwayne: "So?"

Koresh: "So?"
Dwayne: "So you're finishing writing the second seal. What about editing inside? Do you understand that someone may edit?"

Koresh: "Well, well -- I'll probably get -- oh, what was it we wanted to know? What was it last night?"

And then I'm going to skip another page, over to page 49.

Dwayne says, "What would help us, too, David, is, you know, some sort of indication that things are moving along, because we're having a hard time getting a clear statement. You're telling me you're nearing finishing the -- "

Koresh: "The completion of the -- "

Dwayne: "The second seal."

Koresh: "The second seal, second chapter."

Dwayne: "Yeah, okay. Does that mean those two, as soon as Judy types, would be ready to come out?"

Koresh: "Well, that -- that could be, but I figured I was going to bring it all out at one volume."

Dwayne: "Okay."

"I mean, I could -- I could do that," Koresh says.

Dwayne: "Yeah. "Koresh: "And that way, when I do -- when I do come out -- "

Dwayne: "To give to our bosses -- you know, 'What sort of progress is he making?' 'We'd like to give them an accurate representation that is possible."

Koresh: "Well, at least -- "

Dwayne: "That's why we keep saying, 'All right, you're saying now you're finished with two. Can you give us any?'"

Koresh: "I'm coming to the completion of the second one now."

Dwayne: "Yeah."

Koresh: "Let me explain. See, one thing that -- that -- that is a difficulty for me is like, you know, in everything that we converse on in regards to our work is, you know, everything's like push, push, push, push. I'm pushing and I don't need any other outside influence -- "
Dwayne: "Yeah."

"-- to push, because, you see," Koresh says.

Dwayne: "Well, see, we're not trying to --"

Koresh: "In the --"

Dwayne: "Push you, David; rather, just get a clear estimate of time for you."

Koresh: "Well, you obviously think --"

Dwayne: "Where are you and --"

Koresh: "I'm lying -- I mean, the other day, the guy said you 'don't believe he's written 10 words.'"

Later on Koresh goes on to say, at the same page, "You know, they've got to go to these two scholars, and this is Dick DeGuerian who's promised me that." Later on, on Saturday afternoon, there's more of a discussion about this.

"Would you be willing," Dwayne says to Koresh, "to do that," talking about show (its ?) progress.

Koresh says, "Yeah, I'd be willing to do that."

And then we go on through this process, through quite a bit more discussion about this on Saturday, before this raid was conducted, to talking about the absence of a battery. Apparently the typist in this process -- Koresh wants to get batteries for the typewriter. He doesn't have any electricity in here. She can't get the thing typed. He's talking about it running off batteries throughout this process. And there's a lot more discussion with regard to that fact, and that's --

And also then they ask for the ribbons to come in for this typewriter, which was an electric typewriter, apparently, with ribbons.

So consequently, the bottom line is simply this: I wanted this into the record. I think it's important to show the flavor of this.

Obviously, I understand, Mr. Sage, that you've discounted it, that he'd broken his word before, that they hadn't come out, and that you didn't believe that this was really progress and you thought he was still manipulating. And maybe he was, but it makes a lot of sense to a lot of people reading the transcript that there was indeed some evidence of progress being made -- at least some sign was there -- and it is worrisome for that reason. And I thought the transcript ought to be put in the record verbatim. Thank you.

REP. ZELIFF: Thank you, Mr. McCollum.
REP. WATT: (Off mike) -- parliamentary -- (off mike).

REP. ZELIFF: Congressman, state your parliamentary inquiry.

REP. WATT: Are we into the second round of questions?

REP. ZELIFF: No, we are not. We have two on our side: Mr. Chabot -- three: Mr. Chabot, Mr. Bryant, and myself.

REP. WATT: I'm wondering whether we might release this panel while Mr. McCollum finishes reading this transcript.

MR. MCCOLLUM: I'm finished.

REP. ZELIFF: I think he's already finished, as you probably realize. Thank you. The chair now yields to Mr. Chabot.

REP. STEVE CHABOT (R-OH): Thank you.

Mr. Chairman, early on the gentleman from New York read a letter that he had gotten, that was sent to you, and it was from a lady who happened to be a Republican, had some question about this side's commitment to law enforcement.

I think it might be nice to review at this point, on this side of the aisle we have former United States attorneys, we have prosecutors, we've got a former police chief here. And I don't think there's really any question about the ardent support of law enforcement that this side has taken over the years.

But again, we not only had -- we had the loss of four law enforcement personnel's lives. We had the loss of over 80 civilians' lives, some of them certainly not coming into this with clean hands, who were firing at law enforcement personnel. I have no sympathy for those people. But we do have sympathy for the law enforcement personnel, we do have sympathy for the children.

So the whole purpose of these hearings, once again, and I think we have to keep hitting this home, is to make sure that we learn from the mistakes that were made in this particular incident both at the initial raid and the second one, and to make sure that we protect the lives of law enforcement personnel and civilians. We obviously -- I think we all agree on both sides of the aisle that we never want to have a repeat of anything like this in the future.

Now, just a couple of questions in the remaining time that I have.

Mr. Dennis, you put together the Justice Department's report of this whole situation, right?

MR. DENNIS: Just one of the four reports that you have there. Mine was a critical evaluation of the stand-off at Waco.

REP. CHABOT: Okay. Now, Mr. Sage, let me get to you for a minute here. I want to return to a
concept that you were discussing earlier. As I understand it, the final CS gas plan required you to basically call into the compound and speak with the Davidian, Mr. Schneider, that we've heard his name bandied about a number of times here, and to ensure that the message got through to him and that he would then convey that message to the other people, and the message was basically that gas was going to be coming in, but this was not an assault. Is that correct?

MR. SAGE: Yes, sir, that is.

REP. CHABOT: Okay. Now, it's my understanding that the call was made at about 5:59 a.m., is that right?

MR. SAGE: It was -- yes, sir.

REP. CHABOT: Okay. Now, the tanks started rolling at -- fairly shortly after that; wasn't it around 6:00 or so?

MR. SAGE: I'm not sure of the exact time. I know that it was worked out that I was to -- there was to be formal notice to the HRT commander that that call had been effected before, before the first track vehicle rolled into the vicinity.

REP. CHABOT: Okay. You actually made the call yourself, right?

MR. SAGE: That's correct.

REP. CHABOT: Okay. And it was Mr. Schneider that you were supposed to contact within there?

MR. SAGE: Schneider or Koresh. When I first called in, I got a third individual. He said both of them were asleep. I said please -- something to the effect, please wake them up, it's an important call, they'll want to hear this.

REP. CHABOT: Do you know who it was that you talked to?

MR. SAGE: The first person?

REP. CHABOT: Yes.

MR. SAGE: No, sir, I don't.

REP. CHABOT: And you never did talk to Schneider or Koresh?

MR. SAGE: I did talk to Schneider. He came on the phone about two -- two minutes later maybe.

REP. CHABOT: Two minutes later?Okay.

Let me read again, because there may have been some confusion here and you may be able to shed some light on this.
This is from the -- the report, the Justice Department report. Its says:

"At 5: 59 a. m. an individual answered the phone where Sage had been waiting on the other end of the line. The ensuing conversation was short. Sage said 'We're in the process of putting tear gas into the building. This not an assault. We will not enter the building.' The individual responded, 'You're going to spray tear gas into the building?' Sage replied, 'In the building. No, we are not entering the building.' The telephone was subsequently thrown outside."

There seems to be some confusion in that as to whether -- that this -- that the person that you were talking to may not have understood what -- what was going on in that conversation. Could you --

MR. SAGE: There was -- there was no confusion. Congressman, I -- according to my watch that I was keeping which we had -- there may be a minute or two disparity with some of the logs, but --

REP. CHABOT: Well, is this -- is this right in the report, that language? Because -- again, let me get back to that language. It says "The individual -- ". Excuse me. You said "We're in the process of putting tear gas into the building. This is not an assault. We will not enter the building. " That -- that's you talking. Then it says the individual responded "You're going to spray tear gas into the building?" And then -- here's the part -- your response to that is "In the building. No, we are not entering the building. " And -- and so it sounds like there may have been some confusion back and forth there. Is this correct the way this is?

MR. SAGE: It is correct as it is. The first call went in at 5: 56. At 5: 59 Steve Schneider -- and I'm certain that it was Steve Schneider. I'd talked to him for 51 days -- got on the phone. There were some pleasantries exchanged by him, and I immediately got into the prepared text, that we were in the process of delivering nonlethal CS gas -- I can read it verbatim, if you like. I have it here.

REP. CHABOT: Okay. Well, I just read from the -- from the Justice Department report --

MR. SAGE: I'm sure that's accurate.

REP. CHABOT: And then -- and then one follow-up question because I see the -- the time has -- has gone out -- the time's off there for me. Relative to that conversation about -- did you -- did you report to anybody higher up that there had been any confusion, or were you satisfied in your own mind that there wasn't any confusion?

MR. SAGE: I was satisfied there was not any confusion. There was -- at the same time I was speaking to Mr. Schneider on the phone there was a microphone on my bulletproof vest that was also broadcasting it to all the occupants inside the compound. As soon as --

REP. CHABOT: Okay. Well, let me -- let me just stop there again because I'm out of time. But it's -- it seems like the timing there, that there really wasn't much time for that person, if -- if the phone call was at 5: 59 and the report says that the tank started moving at 6: 00, that there really wouldn't
have been much time for whoever it was on the other line to convey that information to everybody else as to what was happening there. Wouldn't that seem just by--

MR. SAGE: I think the loudspeakers conveyed it quite vividly when we immediately started broadcasting the prepared text, which I can go over for you in whatever brevity you'd like. It was--

REP. CHABOT: Yeah, I've heard that.

MR. SAGE: It was very clear. It was very straightforward. It was the first information relayed to the compound that we were in the process of delivering the tear gas, that it would temporarily render the compound uninhabitable and that they should exit immediately according to the surrender plan, which had been in effect since the 2nd of March.

REP. CHABOT: Okay. But you were satisfied that it was clear with the man on the other end of the line, Mr. Scheider?

MR. SAGE: Yes, sir, I am.

REP. CHABOT: Okay. Thank you.

REP. ZELIFF: Thank you.

The chair now recognizes Mr. Bryant for five minutes.

REP. ED BRYANT (R-TN): Thank you, Mr. Chairman.

Good morning, gentlemen. I was a little late for the hearing this morning, flew in from Tennessee. And making the rounds over the weekend back in my district, I can say that the people, at least in my state, are very much interested in what's going on here and are all for what we're doing. As Mr. Chabot said, many of us have a law enforcement background. All of you are very committed public servants, and I think, too, you all are concerned, as we are, about the I guess alleged black mark that law enforcement has as a result of several recent matters over the last few months. And certainly this, again, is not a blanket indictment of law enforcement, but again, our oversight requires us to look into these situations.

Mr. Sage, let me ask you -- I don't think -- you've been here several times, and I'm not sure I've addressed a question to you. Could you just quickly -- because again, I only have five minutes -- tell me what your religious experts told you was the Branch Davidians' theology in regards to suicide? Did they believe in suicide or not?

MR. SAGE: They didn't apparently believe in--

REP. BRYANT: They did not?

MR. SAGE: -- in sacrifice, which was another area that we got into.
REP. BRYANT: You're talking not sacrifice in throwing kids into volcanoes. You're not talking about that kind of sacrifice --

MR. SAGE: No, sir.

REP. BRYANT: -- human sacrifice.

MR. SAGE: No, sir, but they could cut a very fine line as far as semantics, which we've seen demonstrated here, as well. And their concern on several occasions was that when we would suggest the possibility of suicide, they would totally discount it. We did have warnings periodically from a number of experts, both theologians, psychological experts and so forth, throughout the entire siege that we also needed to be concerned that it may in their context be the possibility of a sacrificial ending instead of a suicidal ending. All of this was taken into account during the course of the dynamics of this thing for a full 51 days.

REP. BRYANT: I recall -- I believe it was one of the Davidians who testified here or someone familiar with their cause understood that their theology did not allow for suicide, and I just wondered. Again, I realize you were under circumstances where you had to consider all options, but I just wonder if there was not undue influence placed on that possibility and maybe undue information given to the attorney general that there might be really a possibility of mass suicide, when certainly these very adamant believers of whatever philosophy, whatever theology they had--

MR. SAGE: Undue influence by us on the --

REP. BRYANT: Well, whoever was passing information up to the ultimate decision-makers in Washington.

MR. SAGE: Okay.

REP. BRYANT: And I assume that would be --

MR. SAGE: Suicide was obviously a very serious concern of ours right from the onset. And the best way to address it, according to all the behavioral scientists that I've talked to, is straight on, and that's exactly what we did; try to resolve it, get a definitive posture from them, both through direct questioning and, as I believe I mentioned to this panel before, through indirect, to see if their responses were survival oriented or terminal in nature; terminal indicating that they may well be considering a path of suicide, sacrifice, whatever.

REP. BRYANT: Okay. Let me go back to a couple -- I guess Mr. Jamar. There are two points that I raised after you left. I don't know if you watched television the next day or heard any of the accounts, but I expressed a concern on a couple of issues, and I'll talk to you about very quickly, probably only one of them as I see the yellow light is on.

The attorney general was monitoring, as you all went in that morning with the gas, from Washington. And as I understand, you actually had to send in extra gas that morning; they actually ran out of gas about 9:30 and you had to order new rounds to come in from Houston or wherever,
but you really were almost out of gas at 9:30. And about that time -- I know we're talking semantics, but it appears to me you did shift strategies and advance this 48-hour plan to the point where you did knock down the gym. I know you've talked about that already today, knocked down a portion of the gym.

I asked the panel last week that followed you whether or not the attorney general, who was on her way to give a speech, who had left the command headquarters that was monitoring this and gone out to give a speech, I'd asked had she been made aware of that? And again, everybody seemed to say well that really wasn't a major shift or a major change. And to me it appeared to be that it was, that you'd basically run out of ammunition and, you know, you were, again, advancing this plan by 42 hours by starting to tear down buildings, which to me would have ventilated the buildings even more, which -- and I know you all were having a difficult time really that morning, that's why you used your rounds up so quickly is because of the winds and the ventilation. And here you knocked down a gym and put a big hole in the building. It seems to me the real purpose was to begin

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the systematic destruction of the building as the plan called for just 42 hours earlier.

MR. JAMAR: That's not the case. What was happening on the ferret rounds, they were not penetrating. I think the estimate is we expended about 300 or 350 and only maybe a third to a half even entered the home -- entered the compound.

There was information that they were apparently able to go to a place and places without masks. We either heard that on the overhearers, and it was reported. So we got together and said what can we do to make sure we get gas into this area? So a discussion was had, and we said we'll penetrate the front and we'll go around, send one CEV around the back without gas to make a penetration in order, if we chose to gas in the back later, that there'll be a path. What happened, as he was penetrating that gym, a very high ceiling, he knocked over the main support and the whole ceiling came down and was laying sideways. In order to make the path that he was sent around to do, the agent driver backed out and began to just break up that roof so a path could go through. But for the construction and but for the fact it was held up by just one standard, we would have not had that come down. The idea was just a simple path through. It was certainly not a departure, certainly not a leap towards destruction of the building by any stretch of the imagination.

REP. ZELIFF: Mr. Bryant, your time has expired.

REP. BRYANT: Thank you, Mr. Chairman.

REP. ZELIFF: Mr. Taylor from Mississippi for five minutes.

REP. GENE TAYLOR (D-MS): Thank you, Mr. Chairman. And I apologize for taking a while to get up here from Mississippi. But I have something that I've noticed in the testimony earlier today.

I believe some of my colleagues here have forgotten why the FBI was there in the first place. So perchance we can go down the list and you can refresh the memories of my colleagues who have
come to think of Mr. Koresh as some sort of a martyr and tell them why the FBI was in Waco that morning. You, sir, please.

MR. JAMAR: We were requested to come to Waco in response to a request by ATF that they had been engaged in a firefight with ATF -- I mean, with the -- with the people in the compound and four of their agents had been killed and 16 wounded. And we were asked to come in and help them with negotiations and to ultimately take over, to resolve the crisis and resolve the -- the standoff there at the -- at Mount Carmel.

But the point is that when we arrived we had -- we followed a 45 -- a minimum of 45-minute gun battle with the -- with people in the compound using automatic weapons, possibly 50-calibers, and certainly hand grenades. And there were four ATF agents and 16 wounded. And we were asked to help resolve that situation, and we did it to the best of our ability.

REP. TAYLOR: Does anyone else have something to add to that?

MR. SAGE: I would like to also mention that when we got there we were faced with -- with virtually an insurmountable task from a negotiation standpoint. The 27th of February we would have been looking at the possibility of negotiating these people out to face five to 10-year gun charges. The afternoon -- or 11:00 on the 28th of February when -- when I rolled up as the first FBI negotiator, we were looking at the possibility of trying to negotiate these people out to face multiple charges of first-degree murder: an entirely different situation, ultimately an insurmountable task, unfortunately.

REP. TAYLOR: Anyone else?

MR. ROGERS: Mr. Taylor, I'd like to say that -- you know, one of my key objectives was to have no further loss of life among law enforcement. And we also wanted no further loss of life among the Davidians. I think if you look at the record, look at everything that was done, each of our efforts was geared in that direction. We were successful in that we lost no -- no more law enforcement. Unfortunately, we didn't control the events on the 19th, and we had those 80 Davidians perish at the hands of David Koresh.

REP. TAYLOR: Yes, sir.

MR. MORRISON: (Off mike) -- I'm low on the food chain in -- in this exercise. I'm a special agent with the FBI. I -- and I've just got a couple things to say. I've been waiting two years.

I love this country. I love the flag. I love saying the Pledge of Allegiance. I still cry at the National Anthem. I hope not only law enforcement but I hope everyone does that.

The FBI is not, as we've been labeled for the past two years, anti-religious rights or anti-personal rights. We have plenty of freedoms in this country, which I love. We have the freedom to stockpile weapons. I don't see a need to do that, but if someone wants to, I don't think there's a law against that. I know I'm a Christian and I like practicing my Christian beliefs. I know I'm going to Heaven when I die, with my kids. I teach -- I'm in charge of the nursery, used to do Sunday school, youth
group leader. If someone tries to stop me from doing that, obviously I'm going to be upset.

REP. TAYLOR: Mr. Morrison?

MR. MORRISON: I'm getting to your point.

REP. TAYLOR: Well, but my time is running out. But you can continue after I ask the second question.

MR. MORRISON: Okay.

REP. TAYLOR: Okay? Because we do have some new people, and I want to ask you the same I've asked every panel. Is there anything you've seen or read or heard as a result of these hearings to justify the murder of those four ATF agents and wounding of 20 more by David Koresh and his followers, or in any way absolve David Koresh of the death of 80 of his followers who were used as human shields? And please continue.

MR. MORRISON: Sure. And I apologize for taking so much time.

We have plenty of freedoms in this country. I just discussed them. But that does not give me the right to go kill someone, go to my house, using my children as shields, and say I'm not coming out, I've broken the law, I'm not coming out until God tells me to. That is wrong. I honestly believe with my heart that one of the problems our country is now facing is people love freedoms, but with freedom comes responsibility. There's more than one person responsible for what happened at Waco. It's not Vernon Howell's mom who spanked him when he was six, it's not the Catholic school teacher who raps his knuckles, it's Vernon Howell and every other shooter that murdered those people that day and attempted to murder the others. And I just want to say that there's nothing to absolve -- he's guiltier than sin for that, as are those other people.

And one last thing -- I promise I'm closing -- is y'all are legislators, I'm not. I don't profess to be. The hearings have been on for nine days or so. And I'm going to say this as nicely as I can, because a couple of people have said what can we learn from this. In nine days I can't learn to be a legislator. In nine days, y'all can't learn to be law enforcement officers. Byron, Floyd Clark, Jeff Jamar, Dick Rogers, like them or not or like what we do for a living or not, they've been law enforcement officers, some of them, longer than I've been alive. And with that comes a lot of experience. It's just like a 16-year old daughter, 18-year old daughter. She has the brain of an adult, the body of an adult, but she doesn't have you-alls life experience.

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What I'm saying is that you have to trust the people in charge at the time. I'm low on the food chain so I'm standing by what they did because I do what I'm told as long as it's legal and moral. All I'm saying is as legislators, please be circumspect and if -- you're the oversight people. Exercise that authority if something gross -- by that I mean obvious -- stands out. But you have to trust who's in charge and the people then that did all that stuff had the experience and that's all I'm saying.
REP. ZELIFF: Thank you very much. Your time has expired, Mr. Taylor. I'd just make a comment that --

REP. TAYLOR: Mr. Chairman, as I recall -- (off mike) -- would be allowed to answer my last question.

REP. ZELIFF: I think you called, yes -- did you not ask everybody?

REP. TAYLOR: Yes sir, but once it turned red, as I recall your rules which I'm trying to abide by, two people would be allowed to answer that last question.

REP. ZELIFF: You had asked -- you allowed them to finish answering your first question after you had asked your question, I believe. You asked -- he was in the middle, you held him up, you asked your question and they answered the question then he finished up his statement. I think we've been very fair with the time.

Okay, I would just like to just make a quick comment that our role here is oversight of the Department of Defense, ATF and FBI. We have tremendous respect for our law enforcement officers in this country and we believe that we are doing the right thing by asking the questions in day nine and we will do the same tomorrow. This is not an easy job for you to be there or for us here to be asking the questions, frankly, but we have to get to the truth and we have to somehow make a common sense answer in a report to the American people how did Waco go wrong, what happened, who did it, why did it go wrong and hopefully if somewhere along the line if mistakes were made they want it fixed, they want it corrected. And we can't correct that within our own selves. We can't write our own internal reports and expect it to be accepted. So what we're doing now is a painful oversight process that makes our country strong. It makes democracy what it is and I think it will continue to make the law enforcement agencies themselves much stronger in the end and I hope that that's certainly our goal. So I thank you for bringing that up.

I think at this point I would like to do my questioning. We had -- and this is to Mr. Jamar and Mr. Rogers -- we had probably the best listening devices money could buy in that compound and if you can just describe to me what we were listening to, who was listening, how effective was that and what were we hearing -- not necessarily the transcripts but what were we hearing relative to any work being done, any of the things -- particularly the 14th, 15th and 16th. Were we hearing anything at all?

MR. JAMAR: Well, I reviewed those transcripts. The thing you need to understand -- the best equipment available is very accurate. It's not like you're doing a microphone in an organized crime figure's office or house where you put it in and you know where it is -- you know whether you're receiving anything. When we sent microphones in, we weren't sure, number one, where they would end up.

We had no control over that, and we weren't certain where they were in the compound. So, I mean a lot of times -- when you look at the transcripts you'll see "unidentified male." I've described it in the past, because we can't be -- you know, in the past we couldn't talk about many of these things. We're not going to talk about the techniques except -- as you know, you're well aware of that.
REP. ZELIFF: I'm not asking you to. Right.

MR. JAMAR: So what I always said was that our intelligence from that sort of thing was always uncertain and inconsistent.

REP. ZELIFF: Right. Okay.

MR. JAMAR: But I read, as I promised Mr. McCollum, I read the transcripts for those days and I didn't see anything in there, and I looked at it with as broad a point of view as I can. But these are people just talking, and there weren't -- there were other references that struck me, that we didn't know at the time, that we learned later, a reference to, during the same period of time you're reading your transcripts earlier, where Steve is making comments to people -- Steve Schneider making comments: Do you want to be a briquette? That sort of thing. I don't know what that means, I have no idea.

My point to you is that I didn't see anything in there that would lend any -- would put any light on -- I would love to have an unguarded comment, because I can tell you, the ones you read were absolutely guarded. Because one thing you can always tell with Steve, when Koresh was standing there watching what he was saying -- listening to him and watching him, if you go back 51 days and have a linguist do it, Steve always stutters; Steve just can't pull it off with David standing there putting the pressure on him, and it was happening in -- when you were reading awhile ago. It just rang true as -- I mean that memory came back to me when it came in the past.

REP. ZELIFF: Thank you. I think you were helpful because I think a lot of people have those kind of questions, and you did a good job of answering.

I'm just going to read you a couple of questions here, and maybe we can come together with one answer.

Once the assault began, did you at any time receive instructions regarding how to proceed, or was the execution plan entirely up to you? In other words, did you have to -- if anything went wrong, did you have a number to call? Did anybody higher up in Washington follow this? Was there any indication -- I mean, did you have any set of numbers in your pocket that you were supposed to inform people, or did you just have complete authority to do anything you wanted to do as you saw fit?

MR. JAMAR: Okay. We maintained an open line with one of the other SACs the entire period with our command post in Washington. There was an open line maintained.

REP. ZELIFF: Who was in that command post generally?

MR. JAMAR: At Mount Carmel?

REP. ZELIFF: In Washington.
MR. JAMAR: I'm sorry. In Washington I believe the attorney general was there for a period of time, Floyd Clark, Larry Potts, I think the director, and there was a staff as well.

REP. ZELIFF: So when you proceeded to move forward as far as the back of that building goes and you recognized that gas wasn't getting in, you had full authority from the command post?

MR. JAMAR: To make that -- to drive around and drive through and make --

REP. ZELIFF: And start going through that building, and some of us said demolishing--

MR. JAMAR: To make a path.

REP. ZELIFF: -- you said made a path into the main structure.

MR. JAMAR: Well, we didn't -- there was one standard holding that thing up. This thing was build with -- not -- I don't think it could handle any inspection of any sort. But that one standard knocked down -- but no, I'm certain that they were notified that we're going to -- number one, we're going to have Mr. Craig do an insertion of gas in the front and we were going to do a penetration of the back to see if we can make a path for a possible insertion of gas in the back. That's what that was.

REP. ZELIFF: What happened with the phone line being severed, and at what point was it severed, how was it severed, and what did that do with your communications? And the only other question I would throw in that's driving me crazy that -- if you expected a fire how come we didn't have fire equipment on the scene?

MR. JAMAR: Well, let me answer your second one first. We did not expect a fire. A fire was a definite possibility, there's no question the place was a tinderbox, but we did not expect a fire. Had we expected a fire we would have had a whole other approach -- I mean we would have started talking fire with them right then. But, the other is -- I lost the -- I'm sorry --

REP. ZELIFF: Telephone line.

MR. JAMAR: After Byron made his communication that's been described earlier, it was observed that the phone was thrown out. The -- in the past we always worked hard to maintain communication with them, we worked hard to get the phone line around where we'd never run over it.

In this instance, we lost contact when we'd reached out to them to -- we need to communicate we didn't communicate. We didn't hear from them that the phone was definitely out until 9: 30. So we said, well, let's find a way to get back into communication with them.

But remember in the past, we would approach the compound, put wires out and everything else -- but today, we're taking hundreds of rounds of automatic fire. And so we had to do a survey to figure out how can we get phone lines back in touch with those people safely. And that was a great concern we just never accomplished it.
REP. ZELIFF: Obviously the phone line was critical.

MR. JAMAR: Absolutely.

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REP. ZELIFF: Did a tank cut the --

MR. JAMAR: Well they probably, I think what happened was that -- they were observed throwing the phone out -- ultimately as time passed, maybe I did cut it. Because we permitted Graham Craddock (sp) to go out and get the line so we could try to get hooked up.

Once we discovered that then we said, let's get back in communication. But it wasn't as simple as it had been in the days before, because they never shot at us before, and I was not going to risk an agent's life without feeling real good about how we were going to accomplish that. And we never got that opportunity.

REP. ZELIFF: My time is expired --

MR. CRAIG: I can comment more on that phone line if you'd like.

REP. ZELIFF: Sure. Because I think the phone line was very important.

MR. CRAIG: And that's what we were told. And I'll explain the steps we took to protect that.

From the headquarters came down the word we need to protect the phone lines, so you guys figure out a way to do that. So we went down to a local Vo-Tech school and got a 20 foot long piece of 1\(\frac{1}{4}\) inch steel. And we rigged this up, welded some supports on it and drug it out there. On either side we laid timber down first, laid the phone lines in between the timber, and covered this up with the 1\(\frac{1}{4}\) inch plate of steel. We did this all within about 25 yards of that compound.

We did it while we were being focused on behind rifles. We protected that phone line. We marked it. We marked the plate with (chem ?) lights at night, and the drivers all went through that every time they passed through.

Now when they threw the phone out, that's their business.

REP. ZELIFF: Okay. So you're sure that it was not the tanks that cut the line; it was -- they threw the phone out, and the lines --

MR. CRAIG: Even --

REP. ZELIFF: -- weren't cut or were not cut?

MR. CRAIG: Even on the 19th, when we were taking fire, we passed -- to the best of my knowledge, I did -- I drove over that steel plate.
REP. ZELIFF: Okay. And then the lines weren't cut then?

MR. CRAIG: I can say that I drove over that steel plate, sir.

REP. ZELIFF: So we don't know whether the lines were cut?

MR. CRAIG: I was not the only driver out there, so --

REP. ZELIFF: Thank you very much.

MR. SAGE: Excuse me, Mr. Chairman -- (off mike) -- it wouldn't have made any difference, cut or not. They had thrown the phone out the window. The Davidians did not come out to engage in negotiations from out front of that compound. They were too busy firing at the tanks. So when they first brought it to our attention that they needed their phone fixed, it was three hours after the incident started.

REP. ZELIFF: I guess Chairman McCollum just added -- was it possible that they threw the phone out because the lines were cut? We don't know.

MR. SAGE: No, sir. I don't believe so. When I got on the phone with Steve Schneider, we had clear conversation. In fact, his first comment to me was: "It's nice hearing from you." And then I launched into the prepared text. He was the one that terminated the phone -- I'm not a technically trained agent, but I've been hung up on before in my life, and that's how it was --

REP. ZELIFF: Okay.

MR. SAGE: -- connection was severed.

REP. ZELIFF: Thank you very much.

Mrs. Slaughter, would you like your time, or would you like to pass to our side? Shall we pass to our side?

Okay. Mr. Ehrlich, from Maryland. (Pause.)

REP. ROBERT EHRlich (R-MD): I yield my time to Mr. McCollum, Mr. Chairman.

MR. MCCOLLUM: Thank you very much, Mr. Ehrlich.

I would like Document Number 3 passed out to Mr. Jamar, if you could. But before -- and while you're doing that -- I want to ask a question both to you, Mr. Jamar, and to you, Mr. Sage, and I guess Mr. Rogers as well. Did any of the three of you talk to anyone at the Justice Department after April 15th -- that is, on the 16th, 17th, or 18th, and before the 19th -- in other words, those three days in between? We know there was a lot -- the two-hour discussion that was held -- that Mr. Sage had on the 15th, and quite a bit of activity went on on the 14th and the 15th. But did any one of
three of you talk to anybody -- not the FBI now, but at the Justice Department, whether that would have been Hubbell or whomever -- on the three days, the 16th, 17th, or 18th?

MR. JAMAR: No, sir.

MR. MCCOLLUM: Mr. Sage, did you?

MR. SAGE: Starting from the bottom, absolutely not. My briefings went to Mr. Jamar. I was not in communication --

MR. MCCOLLUM: That's fine.

And Mr. Rogers, you didn't either?

MR. ROGERS: No, I did not.

MR. MCCOLLUM: All right. That's fair enough.

Did any one of the three of you discuss the status of the negotiations with anyone in Washington -- not the Justice Department, now -- anyone in Washington after the 15th? Mr. Jamar?

MR. JAMAR: I'm certain I discussed them with Larry Potts, assistant director at the time, and at night I probably discussed them with Danny Coulson, who's his deputy.

REP. MCCOLLUM: What would you have told them?

MR. JAMAR: The status, what's happening right now.

REP. MCCOLLUM: Basically still an impasse, you didn't see any progress, or what?

MR. JAMAR: No, the impasse we had already described. I think -- I'm saying we got nothing new. Mr. McCollum, we would discuss two or three times a day, you know, what's going on so far. So this is where -- we had described where we were.

REP. MCCOLLUM: Well, what I was really trying to get at is whether there was any opportunity for -- there wouldn't have been any transcripts of these conversations that I was reading from made and shipped up there by that time, and this was an ongoing thing. You didn't have overnight transcriptions or --

MR. JAMAR: Of the --

REP. MCCOLLUM: -- of the discussions of the negotiations, I'm sure. The tapes.

MR. JAMAR: No, sir. We had shift reports of significant events.

REP. MCCOLLUM: Nothing stands out in your mind particularly that you said to them about the
negotiations. Nothing. No significant event in the negotiations took place that just strikes you that you told them about during these three days, the 16th, 17th--

MR. JAMAR: Oh, I was telling them what was going on. It would be some of the stuff you read earlier.

REP. MCCOLLUM: About the ribbons, about the need for the typewriter ribbons and--

MR. JAMAR: Oh, we told them that we're sending in ribbons on Sunday. We would have told them we were doing that probably, yes, sir.

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REP. MCCOLLUM: Let me ask you about this document number three that you've got in front of you. This appears to be a memorandum dated April 17th from Park Deetz (sp) to Jim Wright. Who was Jim Wright?

MR. JAMAR: Jim Wright is a behaviorist assigned to that -- at Quantico, the same unit that Mr. Smerick was in.

REP. MCCOLLUM: Have you seen this document before?

MR. JAMAR: Yes, sir.

REP. MCCOLLUM: This is a very -- very careful discussion by Dr. Deetz (sp), who I know was a consultant on all of this, pretty well saying he didn't see any chance for these negotiations to go anywhere. What I'm concerned about particularly is at the end of it, in his third set of paragraphs -- or third paragraph. He outlines a number of points that he says -- "I do not believe negotiating in good faith will resolve the situation as it now stands. If everything continues as it has been going, I expect the following," and then he lists a bunch of stuff here. The last two are what I really am interested in, though I don't mind your commenting on any of them. But it says, "The authority of the FBI and all of its operations will continue to weaken" if these negotiations continue and the impasse isn't broken. And the second one is, "The press will focus increasingly on the cost of the operation and begin asking questions about the White House role in the operation, how the expense can be justified, and whether the situation might have called for a more courageous approach."

First of all, what I'd like to know is, did -- is this an accurate portrayal of what your thinking was or is this just Dr. Deetz's (sp)? Did these observations have any bearing, as far as you know, on the reason why you went forward on the 19th, either one of these latter two?

MR. JAMAR: Well, the business about the press and all that, certainly not. The costs were not a concern. I take it back. We were concerned about it. We didn't throw money around. We didn't waste things. We were very conscious of -- we didn't have planes flying all over and all that. But that was not a concern to us at that time. The concern was to resolve the matter peaceably.

The authority about -- you know, will weaken, that was not a concern at all. We were there to
resolve that matter there in the best way we could do it, and these are issues that were not even --

REP. MCCOLLUM: You did not believe that continuing to have an impasse out there for an extended period of time beyond where you were would have affected negatively the operations and the authority of the FBI generally?

MR. ZELIFF: Sir, I had a lot of other things on my mind. I was not concerned about that at all.

REP. MCCOLLUM: All right. Well just for what it's worth, this was part of the attorney general's briefing book, and I just thought you might shed some light on it. Thank you.

Thank you, Mr. Chairman.

REP. ZELIFF: Thank you, Mrs. Slaughter, do you want to go now?

REP. LOUISE SLAUGHTER (D-NY): Yes, thank you, Mr. Chairman. I'll only take a few minutes. I think I've spent more time with you gentleman in the last week than I have my staff. But I would -- and I wish I could have asked this last week and try to follow-up a little better when people were here who might know. But were any of you involved with Mr. Doyle at all when he escaped from the house -- from the compound?

MR. MCGEE: Yes.

REP. SLAUGHTER: You were, Mr. McGee?

MR. MCGEE: Yes, I was.

REP. SLAUGHTER: Mr. McGee, there were a couple of things that he said to me that I'd like to give you a chance to elaborate on. First was that the -- that he had camp fuel, stove fuel on his shoes, and that he had cigarette lighter fluid on his cuffs. Now, when you first saw him, were his hands burning? Were his hands on fire?

MR. MCGEE: Yes, they were.

REP. SLAUGHTER: And did -- he complained as well that he was badly manhandled and was not well treated and he cut himself on wire. Would you comment on his treatment?

MR. MCGEE: Well, I can -- to articulate what happened to Mr. Doyle, he was one of the group that came out from the red side that -- right after the fire had begun. And after he came out they amassed in a huddle on the red/white corner.

REP. SLAUGHTER: The people who had come out?

MR. MCGEE: All of the Davidians who had come out of the fire. It was at that time that I noticed all of them were wearing some form of woodland chamois pant, top, cover, something like that, and to my knowledge, all of them were wearing a holster or carrying a sidearm or a shoulder weapon,
REP. SLAUGHTER: Including Mr. Doyle?

MR. MCGEE: Well, unfortunately, at that time they were all huddled together. I could see them dropping their weapons. At the same time I was worried about more than just watching who had a weapon, who didn't, just the fact that they were dropping their weapons.

REP. SLAUGHTER: So the point is that as you saw these people coming out, obviously some of them burning, your first thought was that they were armed?

MR. MCGEE: Yes. And I was also --

REP. SLAUGHTER: And subsequently, you found that many of them were?

MR. MCGEE: Yes. And because I was unable to specifically put a weapon on Mr. Doyle, he escaped prosecution. But the bottom line is, I was also worried with people who were firing at us still from the -- inside the compound, and the fact that many other individuals would be coming out. So we had our attention somewhat, you know, directed on several different ways there, to include watching this mass of Davidians who were disarming themselves.

REP. SLAUGHTER: Mr. McGee, Mr. Doyle also stated that he -- there was no fuel inside, which I think we've proven is not so. But he claimed that he got it walking outside -- as he came outside the compound. Do you have any knowledge at all of any fuel being spilled on the ground outside that compound?

MR. MCGEE: Well, there was fuel on the ground. In fact, that --

REP. SLAUGHTER: Camp stove fuel.

MR. MCGEE: Yes. The whole place was like a toxic waste dump. Not to, you know, attribute it to fuel and the fact that they had no sewage disposal system -- and they never had.

REP. SLAUGHTER: Right. So he could have not gotten the oil on his shoes until after he escaped.

MR. MCGEE: Well, that -- that brings up a good point, because in one way that David Koresh would deceive us, the negotiators, the FBI, the American people, and his followers, is he would -- he would negotiate to allow one of his Davidians to come out and pick up maybe a pair of glasses, milk, whatever, out of a vehicle --

REP. SLAUGHTER: Let me ask about that as well. To the time -- the 51 days people were not allowed to go in and out of there, does anyone here have knowledge whether the Branch Davidians had access to leave -- come and go to that compound as they please?Mr. Doyle said he did. It is my understanding that's not so.

MR. MCGEE: No, they -- they negotiated and allowed -- occasionally one of the Davidians would
come out and go to one of the vehicles that were parked in front to take -- to get a personal item, but then conveniently they would divert and on the way back in with that personal item they would pick up items that had been left by ATF when they were fired upon, to include 9-millimeter handguns, magazines of ammunition, ballistic helmets, ballistic shields -- all these items to go in and further fortify their position.

REP. SLAUGHTER: I see.

Let me yield the rest of my time to my colleague from New York, Mr. Schumer.

REP. SCHUMER: I -- Mr. Scott, please, --

REP. SLAUGHTER: Mr. Scott. Okay.

REP. SCHUMER: Yeah.

REP. ROBERT C. SCOTT (D-VA): Thank you.

This is -- we have a very difficult situation here because I don't think anybody could have predicted that David Koresh would burn the place down and the children would not leave, not withstanding the tear gas. We know what happened, and we knew that there was a chance the children might die. The ranking member has indicated that one question we might have wanted to look at is if the attorney general had all this information, what other decision should she have made at that time. I think there's another question that I would like to ask, and that is if we were faced with the same situation, knowing what we know now, what would we be -- what would we do different? And I'd like some comfort that we would get a different result than dozens of children dying as a result of us trying to serve a search warrant or arrest someone.

Now, the ATF, when they asked the question pointed out there's no question they were subjected to an ambush by David Koresh that was his fault, but they went to great lengths to say what mistakes they had made and how they could have gotten a different result. In fact, Secretary Bentsen in that -- asked that question went on for about five minutes to say how they could have achieved a different result.

So can someone, knowing what we know now, say whether or not children would have to die if we tried to arrest a person bent on burning the place down and possible mass suicide? What could -- is there anything we could have done different?

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And for the next time will we get a different result?

MR. ROGERS: Sir, we've already answered that question in one form yesterday -- or when I testified previously that had I known that this was going to take place, we would not have inserted gas on the 19th. There is no way that myself or any other law enforcement officer can sit here and say that there's a way to prevent those children from dying when the individual who made that
The decision to kill them is David Koresh. In other words, if we did nothing, if you look at the options, one option would be for us to do nothing. If we did nothing, and then Koresh decides to bring about this apocalyptic ending, then we're going to be criticized for sitting there and doing nothing. But the children still die.

I guess what I'm trying to say is there is no way that you can absolutely guarantee the results when you have a standoff where there are the kind of weaponry in there that we faced at that compound.

MR. DENNIS: That's one of the questions I tried to answer at least in the abstract in my report -- one thing to keep in mind about this situation is that Koresh dealt in sort of a disinformation campaign. He never really expressed his true intentions even with regard to the question of suicide. He denied that he would commit suicide on eight separate occasions when asked specifically by the negotiators. There were Branch Davidians that came out during the 51 days, and they were -- many of them were interviewed. A number of them spoke of a suicide plan involving poison. Others talk about gunshots. Others talk about explosives. There were psychiatrists that interviewed the children in the compound, and they had overheard discussions about suicide. But then the former Branch Davidians who were also interviewed on this point stated that it was Koresh's teaching that only if law enforcement brought about his death would his prophesy come true.

So you had all this conflicting information about what Koresh's true intentions were, and it's my belief that when the bureau made the decision to go forward, they realized that suicide was a risk, but they did not believe that Koresh would respond to the tear gas assault with the fire and a mass suicide/murder.

REP. ZELIFF: Thank you very much. Over I believe -- the chair now will recognize Mr. Shadegg.

REP. SHADEGG: Thank you, Mr. Chairman. Let me ask a question, Mr. Jamar, of you. As I understand it, you -- the gas plan began at 6 a.m. following the telephone conversation that Mr. Sage had I guess with Mr. Schneider that morning. Is that right?

MR. JAMAR: Correct.

REP. SHADEGG: Okay. And as I understand the record, and correct me if I'm wrong, by 6:04, you had, quote, unquote, "Begun taking rounds." And at that point you switched to the more aggressive plan?

MR. JAMAR: The -- Mr. Rogers described that earlier, the -- at least at 6:04 -- Mr. Craig may be able to add to when he thought he was receiving fire.

But it was reported on the radio to Mr. Rogers that there was fire, either by observation or the people in the CEV. He then, rather than order the change, checked it again and verified it approximately four minutes later, just as he testified earlier. Then is when he said the compromise plan, and that's when the ferrets were used to primarily put gas up in the tower there.

REP. SHADEGG: Okay.
And from that point forward, the ferrets were used to insert gas and the pace of inserting gas increased dramatically? Or at what point did the pace of inserting gas increase?

MR. JAMAR: Well, the pace increased in order to suppress the fire, hopefully. The -- as far as the sequence by the CEVs to insert gas from those (MARK V ?) system -- that -- the original plan was to insert gas at the green/white corner there, and then back away and, you know, discuss matters. But that was preempted by their firing upon the CEV.

But the sequence of the order -- of the next order of putting gas in the building was the same as we had planned in an incremental insertion of gas. It was to again bring them to the middle, take the place away from them, and make it uninhabitable as best we could.

REP. SHADEGG: I'm trying to get to the issue of timing. How soon were the first -- was the decision made to fire the ferret rounds and at what quantities?

MR. JAMAR: Well, I think it was -- immediately, as the -- each of the Bradleys had an assignment, and then when -- once that was given, those various windows and/or other openings were the targets for the ferrets.

REP. SHADEGG: Okay.

You mentioned in your testimony earlier that apparently a significant number of the ferret rounds were not -- I think you used the word "penetrating."

MR. JAMAR: Well, my impression was, they didn't enter the -- into the compound -- either hit the wall, that -- thought that maybe they could go through plywood, very light plywood, or hit a drape. If it hits a drape, it'll just drop straight down. Mr. McGee may have to add something to it.

REP. SHADEGG: Okay. The testimony or the evidence that we had was that the ferret rounds would go through 3/4-inch plywood. What --

MR. JAMAR: We thought so.

REP. SHADEGG: Okay.

MR. JAMAR: But it was fortified.

REP. SHADEGG: Okay. Okay. So what you're saying is that they either were not getting in or they were not going far enough into the building to reach the area you wanted?

MR. JAMAR: No, no, no, no, no. They just weren't getting into the -- it's not -- either not penetrating fortified plywood --

REP. SHADEGG: So they were going -- they were hitting the building and literally dropping outside?
MR. JAMAR: Dropping outside. Yes, sir.

REP. SHADEGG: I'm sorry. Mr. McGee?

MR. MCGEE: Yes, sir. I can offer some explanation on that. That was my responsibility. I was the grenadier. I was manning the (MIN ?)-79, inside one of the Bradleys, during the gas insertion. The Davidians had -- because they'd been forewarned that we were going to have a gas insertion, they had further fortified a lot of the windows. And they'd hung blankets up, laid mattresses against the windows, stacked boxes of dry goods, bales of hay, whatever, to basically prevent the rounds from coming in. And routinely, when we fired -- when I fired the ferret rounds, they would bounce off, not to mention the fact that a lot of the walls, which, I didn't realize -- I thought they were just basically just a CDX plywood, maybe two layers -- they were concrete.

All the way to the gymnasium back on the red side, that whole wall was a fortified concrete wall --

REP. SHADEGG: I appreciate that, and that explains it for me. I want to get one last question in, Mr. Jamar, of you. Just to clarify a point.

In questioning last week, I believe on Thursday, going over the timing of when you went to the decision to do the destruction -- or to take the tank into the gymnasium at the back, Mr. Clark became quite perturbed and asked if we had read this report -- which it turns out -- it appears we did not have this report, whether or not we had any version of it is unclear.

But his point was that in the op's plan, which is in this report, there is a line which says if any time the subjects open fire the FBI Rules of Engagement will apply and the appropriate deadly force will be used. That was his explanation for the use of the tank on the gymnasium, and that as a part of the disassembly of the building which is discussed in the op's plan.

From what I understand of your testimony this morning, Mr. Jamar, he's just dead wrong about that. That was not a part of the disassembly of the building it was rather to get the tank through to that center section from the back. Is that correct?

MR. JAMAR: It was not part of the plan to disassemble the building -- no way it was. It was to get a path thorough so if we decided that we want to put gas in the back that we could bring a CEV with gas. That CEV that made that penetration did not have the capability of inserting gas. We never got that far -- to actually decide to insert gas back there. But that was not part of that. It was to make a path. It turned out that -- I don't know if you heard me earlier -- it knocked the standard down and the whole thing came down. That was not the intent.

REP. SHADEGG: Yeah, well we watched the tape of it and we've seen how the building did come down. But the purpose of that tank at that point was to get a path through to -- essentially to what's called the bunker where --

MR. JAMAR: Well, the area, that would be --

REP. SHADEGG: The area.
MR. JAMAR: It was that. The bunker's really way inside. It was a gathering area, there was a large room there. The kitchen/eating area is what we're talking about.

REP. SHADEGG: And there was insufficient room between the BIDEN and the swimming pool?

MR. JAMAR: Yes sir, we were very fearful of the swimming pool because the concrete was so bad that the CEV would collapse and tumble in.

REP. ZELIFF: Mr. Shadegg your time has expired.

REP. SHADEGG: My time has expired. Thank you.

REP. ZELIFF: Mr. Coble, the gentleman from North Carolina.

MR. COBLE: Thank you, Mr. Chairman. I yield my five minutes to the chair.

REP. ZELIFF: Thank you, Mr. Coble. On March 5, 1993, memorandum from Special Agents Merrick and Special Agent Young to the special agents in charge at Waco, which is included in the attorney general's Waco briefingmaterial states the following:

"It should be noted that more children have been released from the compound when tactical forces were maintained at a greater distance than when they had been moved closer. If these forces continue to move closer to the compound, the increased paranoia of these people could result in their firing weapons, thus encouraging retaliation, leading to an escalation of violence.

The question is, this observation recognizes the strong possibility that an aggressive move against the compound could lead to a more violent confrontation. Why was this information disregarded? Mr. Jamar.

MR. JAMAR: It -- it was not disregarded. Remember that most of the children came out before March 2nd. There were no -- there was no armor visible until the evening of March 2nd, because we would do nothing to interfere with the flow of children coming out of there. There was also the day of his promised -- to bring himself and -- his promise to bring himself and all of his followers out.

During that period we had no -- no perimeter. So we had to establish a perimeter safely. And as we described to you before and earlier today, that we would not get close to that place, we would not subject our agents to gunfire, as they had demonstrated only the previous Sunday morning, we would not subject them that gunfire without full -- as much protection as we could provide. And the only protection we had at hand was the Bradleys. And that protection was used. And we did go to the Sierra One, which was that house across the street, not on their property. We did establish, though, around the back and which became Sierra Two, which was the dairy barn, which was their property. But that was a minimal thing to establish, a -- try to establish a perimeter and to protect our agents. That was a minimal contact. When they complained about it -- but again, children still
came out after that. Children still came out as of -- as of March 5th. Now, he announced to us on March 7th that we're not -- no more children are coming out.

REP. ZELIFF: On March 9th the memorandum from Smerick and Young to the special agents in charge in Waco recommends that certain non-offensive actions be taken against Koresh with the aim of demonstrating to Koresh that he is no longer in charge. The recommended actions are advocated because they would buy time, the most critical factor in successfully resolving hostage-barricade situations. The passage of time tends to physically and psychologically wear the subject down. It makes him more willing to surrender. And the question -- the memo clearly recognizes the importance of the passage of the time in seeking to resolve the crisis. Yet within 41 days of the memo, a relatively short period of -- time period from Koresh's perspective, tanks were crushing in the walls of the compound. The FBI neither waited nor refrained from offensive actions. Why did the FBI choose to not follow the advice of Smerick and Young?

MR. JAMAR: I had difficulty hearing you, but I -- but the --

REP. ZELIFF: I apologize.

MR. JAMAR: The memo he did -- among all these recommendations on the 7th, and I think the one you're talking about --

REP. ZELIFF: Is the 9th.

MR. JAMAR: -- is the 9th. That's the one he said he was told to change, but then he said that the other day, or -- or was it he got the impression he should change it? I don't think there's anything that we did that did not follow his recommendations. You know, the presumption is that we began doing tactical operations immediately. We did not. We didn't do anything other than to establish that perimeter and have the armor to protect our agents, until the 15th of March when we moved some debris from the back that they were going out and using to fortify the place, and they were also coming out, which disturbed -- you know, we were worried about something being provoked about them.

We were, I think -- Chief Heineman asked me and several others, what message do I want to get across here. I think the message I want to get across more than any other is that we were extremely deliberate, extremely careful and with absolute restraint in everything we did. We walked on egg shells at the beginning, Mr. Chairman. There were things we were doing in late March that we didn't dream of doing the first two or three weeks. They became immune, probably, to the tanks. They became immune to the activity. It was just part of life to them. Sometimes they would complain just because it gave them something to complain about. But at the end, the sounds, the activities of the tanks meant nothing to them. The only time Koresh complained, of all the removal of all that debris and automobiles, was on the Sunday the 18th, we got his Camaro and he got upset, when it was just towed away.

But the message I want to get across here is that none of these memoranda were ignored. They were all considered. I think there was -- one of his memos here, on the 7th, I think he had 20 considerations. I think we did 17 of them. But never, never did we say there's going to be a tactical
solution to this. We started out on the 19th saying we'll put gas in. If they would start talking to us, that would have been the end of it right there. The last thing we wanted, Mr. Chairman, was a tactical solution to this matter. The last thing. Because what that does, it puts everyone in peril, to include our people. That's the last thing we ever wanted.

REP. ZELIFF: Thank you very much, Mr. Jamar.

MR. ROGERS: May I add something, sir?

REP. ZELIFF: Yes, sir.

MR. ROGERS: The reason it took us until the 19th of April to finally clear out the debris and the cars and the fence around that compound is because we listened to those memorandum (sic), we listened to the advice from Mr. Smerick and others that we had to be deliberate, we had to go slowly on this thing so as not to get them riled up and have them initiate something. So it took us almost two months to finally clear our the debris around that building simply because we did listen.

REP. ZELIFF: The only thing that I worried about with Mr. Smerick, that his changing the tone of his memos, I believe it was the fifth memo, to please his superiors kind of bothered me a lot, but --

MR. ROGERS: Well, I think he went over that in great detail.

REP. ZELIFF: This completes this round of questioning. By mutual agreement, both sides would like, rather than have a full second round, we will do 10 minutes on each side, and we'll break it up into five-minute segments.

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We'll start with you, Mr. Schumer.

And then what we'll do is we will break for about 45 minutes for our final panel. So, Mr. Schumer from New York, you have five minutes.

REP. SCHUMER: All right, are we -- since this is ten minutes, Mr. Chairman, can we break it up into shorter segments and time it that way?

REP. ZELIFF: We're going to do five minutes, five minutes --

REP. SCHUMER: No, no, no, but I mean -- well, but I have more than --

REP. ZELIFF: Sure.

REP. SCHUMER: So I want to yield two minutes --

REP. ZELIFF: Sure.

REP. ZELIFF: Your clock is running on your five and I'll keep track of your two for you.

REP. SCHUMER: Okay.

REP. JACKSON-LEE: Well, thank you very much, Mr. Schumer, and this will certainly require speedy conversation here.

I had mentioned earlier because of the furor of responsibility issue dealing with the President of the United States -- Mr. Chairman, I ask unanimous consent to submit for the record a document or a page coming out of presidential documents, administration of William J. Clinton, 1993, April 20th, 1993, the president's new conference, page 461, repeating again, "I was informed of the plan to end the siege. I discussed it with attorney General Reno. I asked the questions I thought it was appropriate for me to ask. I then told her to do what she thought was right and I take full responsibility for the implementation of the decision." Some dispute as to what the President of the United States has said on this issue. Again, I remind people of the tragedy of Lebanon under the leadership of President Reagan that these are very difficult and tragic decisions to make. I ask that this be submitted into the record.

REP. ZELIFF: Without objection, so ordered.

REP. JACKSON-LEE: Thank you, Mr. Chairman.

Let me quickly go on the issue that I was concerned about in my questioning extensively last week and that had to do with the holes being placed in by the CEV equipment. That they were holes in fact that would have allowed people to come out. Mr. McGee, you were there, you were in a CEV, was there so much obstruction that individuals could not come out and then I know you have shared with us a lengthy explanation, Ms. Riddle? But you did mention that she was somewhat unconscious. I need you to be clear that you got a sense that she was in fact protesting not to come out or whether or not she was just hazy because she was unconscious or near unconsciousness. Would you answer first about whether people were able to escape and whether or not Ms. Riddle was unconscious.

REP. SCHUMER: I don't know how we're going to do this --

REP. JACKSON-LEE: Time is running -- (laughs).

REP. SCHUMER: -- but I have lots of people who want two minutes or whatever and your two minutes are up.

REP. JACKSON-LEE: Can he quickly give a ten-second answer?

REP. SCHUMER: So can we --

REP. ZELIFF: The clock's running, do it any way you want.
REP. SCHUMER: Okay if you could answer as briefly as you could, sir.

REP. JACKSON-LEE: Thank you Mr. Chairman.

MR. MCGEE: As briefly as possible.

Number one, I was not in CEV, I was in one of the Bradleys so Mr. Craig will comment the best on that. But I will say that when we had the holes, as you say, punched in the side, typically those areas were where we had prior intel, there was either 50 cal or defensive position where people were going to be shooting at or were shooting at us. So the CEV would pull up there and try to eliminate that threat to us in most instances.

REP. SCHUMER: I yield a minute and a half to Ms. Slaughter.

MR. MCGEE: And number two, the second issue was --

REP. SCHUMER: (Laughs. )You're very good, Mr. McGee. (Laughter. )

MR. MCGEE: -- in reference to -- in reference to Miss Riddle. She was without a doubt there to commit suicide. And without a doubt she protested, struggled, fought, both verbally and physically, to not allow me to bring her out. There was no doubt in my mind. And then Mr. Craig can comment on the holes with the CEV.

REP. SLAUGHTER: Mr. Craig, let's here your comment on my time.

MR. CRAIG: Regarding the holes made by the CEV?

REP. SLAUGHTER: Yes.

MR. CRAIG: At first, they were not made by the blade, just the boom, and the reason for that was just to make a hole enough for the gas to be put in. That's all. Later on, we were afraid that they might even be barricaded on the inside by Mr. Koresh, and upon pushing the front door open, sure enough, there was a piano behind the front door. Maybe to keep us out; maybe to keep them in. I don't know. But the holes were made to facilitate one, observation into the building, and two, to let people out.

REP. SLAUGHTER: Well, now I think you said they were only there to put the gas in. Then you said second they were observation and to let people out.

MR. CRAIG: Initially, ma'am, the CEV was there -- CEV I was to punch a hole in with the boom where the gas bottles were attached on the end, and once the hole was made in, the gas would be released.

REP. SLAUGHTER: All right, I yield back my time.
REP. SCHUMER: Okay, I yield my remaining time to Mr. Scott.

REP. SCOTT: I have a couple of quick questions. Mr. Sage, you were there -- we've heard this transcript being read back and forth. Based on your 51 days of negotiation, did you think progress was being made during those negotiations?

MR. SAGE: The short answer is no.

REP. SCOTT: Thank you.

REP. SCHUMER: Do we have any time left after that quick one?

MR. MCGEE: If we do have time, I'd at some point in time, I would request the opportunity to read just a brief segment from the very end of the 19th of April to give a (flair ?) to exactly what was going on shortly after the fire.

REP. ZELIFF: Please proceed.

MR. MCGEE: Either now or whenever the chair --

REP. ZELIFF: You're talking about a reasonable small amount of time? All right.

MR. MCGEE: This is approximately 12:15 on the 19th of April, and I'll read these segments from the actual transcript. And I read as follows: This is Byron Sage: "Don't do this to the people that are remaining inside there. Come out of the compound at this time. We can work through this. Don't lost control of this, David. Don't lost control of this. Bring those people out safely. They've depended upon you. This is not the way to treat those people. Bring 'em out safely. Don't wait too long. That smoke will not allow you to exit in an orderly fashion, and you'll be consumed. It's obvious that this has been torched from several locations, and has been preplanned. David, do not do this to your people. David, do not do this to your people. Bring them out in an orderly fashion. If you have a message to send, David, you need to be sending it. This is not the way to end this."

The very last point. This is just prior to my terminating the transmission after six straight hours and 51 days worth of negotiations. "If you cannot see, walk towards the voice from the loudspeaker bank. You need to lead your people out, David. Lead your people out. Don't be a destroyer, be a savior. Come out of that compound, walk towards the speakers."

"It's 12:25. The --" at this point in time I'm just basically reading into the -- or quoting into a recorder trying to memorialize this. "It's 12:25. The compound looks to be totally engulfed in flames. We've been broadcasting continually for quite some time trying to get at least a few people to come out of the compound, respond. At least to this point, it appears it's going to be very doubtful if there's many people left alive in that compound."

I can't tell you the myriad of emotions that went through my mind, the minds of everybody else that was involved in this, including HRT, at that time starting to pull people out, exiting positions of safety in those Bradleys, but I will tell you this matter of factly. There was not one person there that
was not totally committed to the preservation of life. And if this hearing finds nothing else, you need to realize that that was our commission and it was in total contrast to the commission of David Koresh.

REP. ZELIFF: Thank you, Mr. Sage.

The chair now recognizes Mr. McCollum for five minutes.

REP. MCCOLLUM: Thank you. I think all of us understand it must have been a very emotional time for every one of you there at the scene. It was a terrible ordeal for everybody concerned. I want to ask just a couple of quick follow-up questions.

To make sure I understand, Mr. Craig, when you rammed the front door, and I believe you did, you said there was a piano blocking. Is the reason you rammed it because you suspected there was something blocking it, and was it to open the doors, or why? Why did you do that?

MR. CRAIG: There were two times I approached the front door, sir. One time was with the boom only. No other part of that vehicle touched the house except the boom. And that was to push the front doors open to create a hole -- one, to let observers look inside, and two, to make sure that they had a clear space to come out. When those doors went in, it was like a pre-hung door, they all stayed together with a frame and it just laid over, and they laid on something. I didn't know what it was at that time. I went back in perhaps well over an hour later was the second penetration of the front door.

REP. MCCOLLUM: Approximately what time was the door penetrated the second time? Do you have any idea? Ten o'clock in the morning? Noon?

MR. CRAIG: Later than that, sir.

REP. MCCOLLUM: Closer to the fire?

MR. CRAIG: I'd say about 15 minutes before the fire.

REP. MCCOLLUM: All right. I've got a question for you, Mr. Jamar, about the evidence out there. At the site scene after the fire was over with, at what point was the scene turned over to the Texas Rangers?

MR. JAMAR: Once the HRT had cleared the area and the firefighters were through, later that afternoon.

REP. MCCOLLUM: So on the 19th you turned the scene over.

MR. JAMAR: That was the agreement that we made, the commitment we made --
REP. MCCOLLUM: The reason I ask that is there were some people who have complained about the make safe destruction or whatever they did with the bulldozers out there flattening the area, but that was two or three days after the fire occurred. The rangers did that; you didn't have anything to do with that, right?

MR. JAMAR: Well, there were FBI agents there from our laboratory and our evidence response team helping with the search. There could have been some agents operating those little --

REP. MCCOLLUM: But did you have any decision to do with what was called the make safe maneuver the rangers did a few days later, where they apparently leveled the area, thought it wasn't safe to leave it up? In other words, a number of experts, outside experts, have complained about that destruction. They called it destruction. I don't know if it was or not.

MR. JAMAR: Well, I'm certain it was not destruction. I think they were trying to figure out what they had there. We had nothing to do with that. That was their crime scene.

REP. MCCOLLUM: Okay.

Were overtime costs ever a concern to you? Were overtime costs ever a concern?

MR. JAMAR: Well, in the FBI it's fixed.

REP. MCCOLLUM: I didn't think so, but somebody asked me to ask you that --

MR. JAMAR: It's fixed --

REP. MCCOLLUM: -- and I thought we ought to clarify the record on that.

One last clarification question. The other day you responded to some question I think Mr. Schiff raised of Dr. Stone's comment that you had talked to him about the ATF entry on the 28th and the so-called ambush. And I think I didn't get a full flavor. Stone had indicated something about in his interviews with you that you had made some comment to him that indicated maybe this really wasn't an ambush that the ATF went into that day, and I gathered his comment to be concern over the fact that he thought that the ATF could have been shot from those windows when they first went there in the cattle trailers, when they came up. And they were not shot in the trailers. They were of course shot outside. It has nothing to do with who shot first.

Could you care to amplify that or clarify that? I got a confusing answer from what Mr. Schiff got out of you.

MR. JAMAR: I think -- I had one discussion with Dr. Stone on the telephone.

REP. MCCOLLUM: Sure.

MR. JAMAR: And I think the context was it could have been a lot worse. It was never the context
that it would imply there was not an ambush. And I think my answer to Mr. Schiff was that to try to find something redeeming in that only four ATF agents were killed, was just -- that was not part of the discussion by any means.

REP. MCCOLLUM: All right. Let me -- let me read you and Mr. Sage and the others, Mr. Rogers, a quote from today's New York Times and ask you if you -- an editorial, if you'd care to comment on it.

They say in this editorial: "Time was always on the side of law enforcement, both before the warrant-serving fiasco and during the 51- day siege that ended with fiery destruction of the compound and the deaths of more than 80 men, women and children. David Koresh was not going anywhere. Soon thirst and hunger would have delivered his followers into the hands of the authorities without such huge risks to federal law enforcement agents, not to mention the children in the compound. But federal authorities ignored this central reality of the situation."

Would you care to comment on that editorial comment of today's New York Times?

MR. JAMAR: Well, I think the reference to food and water, they had two years food, and if they had told us they needed water for the children, we'd have brought water in. So that -- we would have done that.

I was -- time was not the problem so much as the -- as time passed, the dangerous situation would increase. And in my opinion, is based on his actions on the 19th, that was the end that Koresh wanted and he would find a way to find that end before it was over with, he would find that way. But time was only -- it worked against us by the danger of increasing, increasing, all it would lead to the possibility of some provocation or some incident. But I am convinced absolutely that he would find a way to find the same end that he had on the 19th.

Time was not it, it was the increasing danger. After seven weeks, what's two more weeks, what's three more weeks really, when you think about it? But as that time passed, the pressure on him to have his prophecy fulfilled was increasing.

So had we let him do it on his schedule, as we testified last week, then we would not have been as nearly as prepared as we were medically and in -- in every other way. But the -- I think their -- their reference to time and food and water is -- demonstrates they don't understand the circumstances that were in place on -- during that period of time.

REP. MCCOLLUM: Mr. Rogers, would you care to comment on that?

MR. ROGERS: Yes, sir, I would like to. I tried to make the point a while back that -- when they went in and did the crime scene they still found forty-some automatic weapons that had not been reconverted back to semiautomatic, the very best evidence that ATF or anyone else could have if they had come out to face trial. In other words, there was no preparation on their part to come out and face a court of law with those weapons still in there.

The other point is, is that there was plenty of water in there. We had monitored a water tank. We
had seen the thing go up in the level of water, and it would drain down. So our feeling was is they probably had some kind of electric pump in there into a well, that they could periodically start up a generator and fill up this water. They had lots of food, lots of water. The New York Times clearly doesn't understand the situation out there, and that's -- that's why they've written that kind of editorial.

REP. MCCOLLUM: Thank you. My time has expired.

MR. CRAIG: (Off mike) -- water. Those folks were doing their laundry the whole time and hanging their -- their laundry out the window. So if they had water to do laundry, they could drink.

REP. ZELIFF: Thank you, Mr. Craig.

MR. CRAIG: To the food, when I testified in court, when I penetrated the middle of the white side with half of that CEV into that first room there were huge cans of tuna fish from the ground to the -- to the ceiling. There were also military C-rations or MREs stacked up also to the ceiling. There was a lot of food in that compound.

REP. ZELIFF: Thank you very much.

Mr. Schumer.

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REP. SCHUMER: In the remaining five minutes I'm going to try to apportion it the best that we can work out: two minutes to Ms. Lofgren, two minutes to Mr. Taylor, and the last minute remaining to myself. And we -- I will try to keep track here.

MS. LOFGREN: Thank you.

This is really for Mr. Dennis, because if there's value to this hearing today it's to look forward to how we can be better prepared as a nation to avoid an event such as this that no one was happy about. Looking at the information available --

REP. SCHUMER: I'll call on you.

REP. LOFGREN: -- to the department, I note on your report, page 52, the psychiatrist called the -- Koresh paranoid and indicated that he's prepared to do whatever he has to do to fulfill his ultimate game plan, his clock's running, he's fully capable of creating the circumstances to bring this matter to a magnificent end, taking the lives of all his followers and as many authorities as possible. That was received before the event. We have a report here from Dr. Deetz (sp) indicating not quite so much. I think it would be very difficult for the -- and I think these were honorable people who were trying to bring a peaceful resolution, to try and figure out what was going to happen.

And so my question to you in the recommendation section is do we need as a country to put some -- some effort into analysis of violent cults in a systematic way so that we might do some early
interception of these things?

I notice that was not in your report. And would that include a more aggressive work on child-molesting, which tends to be -- from what I've read -- very much included in many of these kind of violent cult efforts and that as I heard from Mr. Jamar, because of staffing nationwide that doesn't have a high priority; and do you think we're prepared for the next type of situation?

MR. JAMAR: I do think, and some of this has come about in the last two years as a result of thinking about his -- as I was on a short turnaround with regard to the report that I did, that I do think that it would be valuable to focus upon group situations that present a high-risk of mass suicide as this one did. We've had Jonestown, we've had this, we've had a couple of MOVE incidents in my hometown of Philadelphia, and I think that to kind of address one issue that Mr. Scott raised about, you know, are we prepared to deal with this situation now if it were to arise again?

I don't think we are, I don't think we know the answers to the questions that we need to know in terms of being able to evaluate when you have a clear case -- and this was not clear case, of a high likelihood of a mass suicide. And I think that that needs to be studied as a separate issue -- and so far as hostages --

REP. LOFGREN: If I could just say, I agree very much. We're not going to learn how to be police officers in this hearing, but as legislators, should we make that a legislative priority to put some resources into it?

REP. ZELIFF (?): Just answer yes or no.


REP. LOFGREN: Yes or no? Thank you Mr. --

REP. ZELIFF: Okay. Mr. Taylor.

REP. TAYLOR: Thank you, Mr. Chairman. I want to direct this to Mr. Dennis, Mr. Craig and Mr. McGee. Same question I've asked every other panelists? Is there anything that you've seen or read or heard or anything in your experiences that in any way justifies the murder of those four ATF agents and the wounding of 20 more by David Koresh and his followers? Or in any way absolves David Koresh from the deaths of 80 of his followers that he used as human shields?

MR. DENNIS: It was cold-blooded murder.

MR. CRAIG: No, sir.

MR. MCGEE: Most definitely not.

REP. TAYLOR: Mr. Dennis, if you would. I've spent entirely too much time on airplanes. Could you make your first statement again please because my ears are kind of stuffed up.
MR. DENNIS: My first statement?

REP. TAYLOR: What you just said, sir.

MR. DENNIS: That it was cold-blooded murder.

REP. TAYLOR: On the part of --

MR. DENNIS: On the part of the Davidians.

REP. TAYLOR: Thank you, sir.

REP. ZELIFF(?): (Off mike) -- to Mr. Scott.

REP. SCOTT: Mr. Rogers I think you said that you would not have gone in if you knew they would have set it afire and we've had audio evidence that when they were setting the fire -- did you have any warning that they were going to burn the place down?

MR. ROGERS: Absolutely none.

REP. SCOTT: Thank you, Mr. Chairman.

REP. SCHUMER: And a final question that I have. We have heard that in the 51 days the FBI was involved they did not fire a single shot. I'd just like to make two -- ask two questions about that. First -- and whoever can answer it, but I'd like Mr. Jamar, Rogers, and Dennis for sure. First, that would mean quite certainly that 27 of the people who died in the compound -- I think the autopsy report showed 27. I may be off by one or two -- who died of bullet wounds, those were self-inflicted or inflicted by other members within the compound. And second, what implication does that have about the first siege? In other words, as I understand it, according to the testimony of the agents here, the CEVs approached and were met by a fuselage (sic) of -- or fusillade. I never know which is the right word -- fusillade, I think, of bullet fire. How would that, in your professional opinion, Mr. Dennis in particular, reflect on the -- whether Koresh fired first in the first situation with the ATF, which is in more dispute? Both those questions, please, sir.

MR. DENNIS: I think that's a -- a key issue. The fact that Koresh was capable of setting the fire, of killing his own followers, that parents were capable of killing children, or adults were capable of killing children really says more about the mentality of the individual that you were dealing with and the difficulty in trying to figure out the best way to talk he and his followers out of that compound. I have not resolved in my own mind to this day, having gone through the negotiating tapes, given the way that this event played out, that I have any clear vision of how it could have been done differently with a different result.

REP. SCHUMER: Okay, thank you.

I would just ask unanimous consent of the chairmen to put into the record each of these individual
autopsy reports which show the bullet -- bullet wounds that I mentioned to Mr. Dennis and the fact that no trace of CS gas was found on any of the victims.

REP. ZELIFF: Without objection, so ordered.

REP. SCHUMER: Mr. Jamar, you've publicly stated your reservations about how the ATF planned and executed the initial -- the original raid. Let me ask you how you at the FBI would have proceeded -- what would you have done different? What did you learn, what -- and again, this is a Monday morning quarterback, but what would you have done different?

MR. JAMAR: The only time I ever said anything publicly about ATF is that had they -- I was asked on a news program what -- if they had consulted us what would we have said. And I said to them when asked when we were in Waco, the thing that was most disturbing to me when you read their search warrant affidavit, somebody with 100 automatic weapons, is you would do everything in your power to avoid a confrontation.

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And it's easy -- I'm not going to -- I didn't know what ATF knew. I don't know what their thought processes were, and I'm certainly not going to second-guess them, but had they consulted us, I would have urged them to, as I said, with the same thing we told them in 1985 at CSA, is: Find a way to resolve this without having to confront 100 automatic weapons and hand grenades. Avoid that at all costs.

REP. ZELIFF: At all costs. And maybe even include looking at arresting David Koresh outside the compound.

MR. JAMAR: I don't know about that. I'm just saying, "Find a way. "I mean, I don't know the best solution --

REP. ZELIFF: Right.

MR. JAMAR: -- because I didn't know what they knew, but again --

REP. ZELIFF: All alternatives.

MR. JAMAR: It's their business. If they wanted our opinion, they would have asked us for it.

REP. ZELIFF: Right.

And certainly, when the cover was blown, would you at FBI have stopped, or would you have continued?

MR. JAMAR: Well, it's hard to discuss that with me, but I wouldn't even think about being near a place with 100 automatic weapons.
REP. ZELIFF: Right.

MR. JAMAR: So it's hard for me to get that far along.

REP. ZELIFF: Because I think that goes to the (nut ?) of what happened and how it started.

And just one quick question: Didn't the assistant U. S. attorney, Mr. Bill Johnston, complain to the attorney general that three times he witnessed destruction of the crime scene, evidence was -- what would you -- how would you react to that?

MR. JAMAR: He complained and he, from his point of view, had a perfect right to complain. And I think part of that provoked his letter to the attorney general, which led to Mark Richard coming out and (same with the Jahns ?). I mean, he had every reason to complain. The (Jahns ?) complained.

REP. ZELIFF: Mmm-hmm. (In acknowledgement. )

MR. JAMAR: But I was going to resolve that as safely as I could. All of us worked very hard at it. The (Jahns ?) were understanding -- hardly agreeable, but they understood what we were trying to accomplish there.

REP. ZELIFF: Right.

MR. JAMAR: And it was not an easy decision to do that, believe me.

REP. ZELIFF: Let me tell you what is troubling to me, in addition to the ATF question that I asked you, in terms of moving forward with the raid.

April 14th we had -- we heard about compelling testimony about a surrender plan. I listened to all of you, and you're very sincere, and you too make very persuasive arguments. I wish I knew the answer. I wish I knew whether you were listening, whether you heard what they were trying to say, and I don't know who was right or wrong. Hopefully, we'll be able to figure it out. Whether you were committed to a gas plan that was presented -- that you all presented on March 27th, whether there was flexibility built in there -- I think that that's the thing that really drives me, and I'm just -- I don't have the answers. I'm sure you all have your individual questions in your own mind.

I guess the question I'd like to ask Mr. Sage, Mr. Rogers --

MR. JAMAR: Could I -- Mr. Chairman, can I add something there? I think: Judge my attitude by my actions.

REP. ZELIFF: Right.

MR. JAMAR: I sent the gas plan in on March 27th. I permitted Dick DeGuerian to enter the compound on March 29th. Had I'd given up, I would not have gone out on a limb like that.

REP. ZELIFF: I understand.
MR. JAMAR: I was -- I was attacked by everybody except Bob Ricks for that decision, and I permitted that. Did I believe Dick was absolutely -- Mr. DeGuerian was absolutely committed to the fact that Koresh was going to come out after Passover? Yes, he believed that absolutely, and I was for it.

REP. ZELIFF: Can I just interrupt you for a second?

MR. JAMAR: Sure.

REP. ZELIFF: And I'll give you a continue, but in the fairness here, the question was asked before, and what did we learn from your end of this, with children in the compound, would it have been better to wait it out? What would you do different now that it's a Monday morning quarterback? Mr. Rogers, Mr. Sage, Mr. Jamar. Just quick, what would you do different? Would you have waited?

MR. JAMAR: Well, I think if I knew about his plans to burn the place, we would have had a whole 'nother approach with him. We know about your plan to burn the place and destroy your people. We would have been broadcasting it. We would not even have come close to approaching that place. We would have done nothing to provoke the idea in his head number one, to do it, and if we'd believed he would -- it was close to him doing that, we would do nothing to provoke him. Absolutely not. And work on that issue. You tell us you're not going to suicide; you say you want to save your people, but we know you have this plan. If we knew, that's exactly what we would have done. We'd have done nothing to provoke that.

REP. ZELIFF: Mr. Rogers.

MR. ROGERS: Well, unfortunately I don't have another plan that I can tell you we would have pursued. What I can tell you is what we would --

REP. ZELIFF: I guess what I'm saying, did we learn anything? Did you learn anything at all based on Monday morning quarterback, with new information, would you have done anything different?

MR. ROGERS: Knowing what I know, of course, I would not have gone forward and had those kids die. At that time, we did the very best we could with the available information.

REP. ZELIFF: Thank you. Mr. Sage.

MR. SAGE: Mr. Zeliff, in hindsight, which of course is a very valuable thing which we did not have in Waco, we've determined that our analysis based on testimony of some of the Branch Davidians that have come out, the analysis that was gathered, the information based upon the efforts that went forward extensively upholds and endorses the accuracy of the findings at the time. There are no guarantees. This is not an exact science. We brought the best experience we possibly could to this effort; we will do that again next time. We will do the very best job that we possibly can, because that is our job. I don't know what we could have done differently from a negotiation standpoint.

REP. ZELIFF: Thank you all very, very much. We have a deep respect for what we've put you
through, and it's been, I know, a long session. We thank you for being here; we thank you for trying to help us to the best of your ability to try to get at the answers at Waco so that we can explain to the American people what happened. And to the degree that mistakes were made if they were made, hopefully we're going to be able to come out with some kind of a report to that effect.

Thank you all very, very much for your commitment and your service to our country. Thank you. We're going to take a 45-minute break, and we'll resume -- we'll recess till 2:30, and I'll just -- the next witness will be Ambassador Holmes and we'll be talking about military questions at that time. (Recess.)