

AFTERNOON SESSION 2:10 PM  
TUESDAY, AUGUST 1, 1995

REP. MCCOLLUM: (Sounds gavel.) The joint hearing will reconvene. When we recessed for lunch a few minutes ago it was time to recognize Mr. Condit for questioning. And you are recognized for five minutes, Mr. Condit.

REP. CONDIT: Thank you, Mr. Chairman. Attorney general, thank you very much for being here, and you've certainly been most kind and cooperative with your time, and we appreciate that very much. Attorney General Reno, when we started these hearings, some people had the perception that the ATF is an agency out of control. I think these hearings have shown that this is not necessarily the case. But it has opened up questions about the workings of federal law enforcement agencies in general. It appears that the lack of coordination between the agencies involved was in many ways detrimental to the success of this undertaking.

While we have heard testimony from the ATF and the FBI, there are scores of other federal agencies with their own law enforcement arms, such as the National Institute of Standards in Technology and the Government Printing Office. In fact, the Congressional Research Service found that there are over 140 different federal law enforcement agencies responsible for enforcing 4,100 federal criminal laws. And what I really want to get to -- and I want to take a little different twist than what we have been talking about -- Mr. Clinger sort of talked about it a little bit, but I'd like to get a little more definite defined answer when we put meanings together. What I really want to know is: Do we really need all these different agencies? Are there ways we can consolidate the responsibilities of some of these different agencies? And didn't the vice president's plan to reinvent government contain a proposal that would appoint the attorney general as director of law enforcement in order to coordinate and consolidate all these different agencies? My question again is: Has this proposal been implemented? If not, why?

ATTY GEN. RENO: As I understand it -- Is this on now, Mr. Chairman?

REP. MCCOLLUM: You have to flip that switch.

ATTY GEN. RENO: As I understand it, the vice president had that under consideration as part of the National Performance Review. He talked about -- he explored the possibility of merging some of the agencies. One of the areas that was discussed was the merger of the FBI and the DEA. I went into that in great detail. I listened to agents from both sides. I listened to people who had been involved on both sides. And I determined that, for example, with the Drug Enforcement Administration, its mission in terms of drug enforcement was so singular and so important that it was critical that it be maintained as a separate agency. But, as I indicated, I formed the Office of Investigative Agency Policy to make sure that within Justice we had a coordination.

To that end -- and I take it a step at a time, because it's important -- we are trying to develop a coordinated intelligence system. Before I came to Washington, the DEA and the FBI didn't share information and intelligence information as much as they should. They now have worked out a system whereby through computers they can and do -- and I think it's very effective. We are trying to coordinate and share automation, training where it is appropriate. We've for example formed

--we've taken the INS, the United States Marshal Service, the FBI, and the Bureau of Prisons, and have developed a coordinated air system for the transport of prisoners that avoids the duplication. In that regard, we have reached out to the Treasury Department. DEA and Customs have developed some very effective memorandums of understanding as to how best to proceed in an coordinated investigation involving drugs. I think we are making progress, but my understanding is that the National Performance Review is looking at that progress, and measuring what we have done. With respect to this specific --

REP. CONDIT: Can I just ask -- Can I just ask, so that I can get it on the record? Out of the 140 different federal law enforcement agencies responsible for enforcing 4,100 criminal laws, have we eliminated any of those since the --

ATTY GEN. RENO: I'm not aware -- we certainly have not in terms of any that I have jurisdiction over, but those are the major law enforcement agencies. I am not aware of what has been done in the remainder of the federal government. But with respect to the specific issue that is before us today, one of the recommendations that came from the review of Waco was that the FBI should be the lead federal agency in complex hostage barricade situations and domestic terror operations -- and I think we've made progress there. We are pursuing MOUs with law enforcement counterparts to establish responsibility for control and command when tactical resources from the Critical Incident Response Group are involved, and I think we have made real progress there.

REP. CONDIT: Mr. Chairman, I know that my time is out, but I would like to just be on the record as asking and recommending to the committee that I serve on, which is the Government Reform Committee, and Mr. Zeliff's committee -- we wanted to be I think most helpful and proactive in terms of finding some sort of response to all this hearing stuff -- is for us to initiate some additional oversight hearings of this 140 agencies. I mean, you're talking about the printing office -- the Government Printing Office has over 100 officers. We've got duplication throughout the system, and I just think out of all this this may be one of the constructive things that we can do -- is do some oversight and see whether or not we really can help the attorney general and the administration in doing away with duplication.

REP. ZELIFF: You're absolutely right.

REP. MCCOLLUM: Thank you, Mr. Condit, your time has expired. Mr. Bryant, you are recognized for five minutes.

REP. BRYANT: Thank you, Mr. Chairman. Madam Attorney General, thank you for testifying today. You are a most articulate and loyal person to the administration, and I appreciate very much the perspective you bring to these hearings. I have several -- three areas of questioning that I would like to ask you about, and I'll do that as quickly as I can, and I will ask you if you could keep your answers as short as possible so that I might complete those.

Number one, Special Agent Jamar, who was in charge at the site at Waco testified earlier this week -- he has testified three times -- but earlier that had he known the Davidians were spreading gasoline and other accelerants on the morning of the 19th, had he known this information he would not have instituted this action, this raid or whatever you want to call it. My question to you: Would you agree

that had you known that they were spreading gasoline or other accelerants prior to this raid on that day, would you have also not allowed this action to proceed?

ATTY GEN. RENO: That's correct.

REP. BRYANT: Now, the reason, as I understand it, he did not know was because they had -- actually they had eavesdropping devices in there, and I think the U. S. attorney, the assistant U. S. attorney, Mr. Jahn, testified in here, as he did through the trial, that the tapes that were coming out of these eavesdropping, these bugs, these tapes which were not enhanced at that time, because Mr. Jahn said he heard these -- that he actually discern that they were talking about spread this here or put this there -- put this gasoline here, whatever. And I'm wondering if you didn't get a complete picture before you had to make your decision; that is, that in fact the FBI knew that the Davidians were spreading gasoline, because they had the bug in there -- Mr. Jahn testified to that at these hearings. He introduced proof of that at the trial in Texas. The jury heard these tapes that were unenhanced, and you could very clearly understand what they were doing. I'm wondering why you didn't have this information from the FBI. And in fact I questioned them about this. Under such a critical -- at such a -- I call it the crunch time of the 51 days, this is the time when you need that inside intelligence, and it would be very critical, as you point out, because it would have caused you to cancel the plans had you known. And apparently the FBI did know, or should have known.

ATTY GEN. RENO: Well, as Mr. Jamar said, he did not know, and the reason that he did not know is because the agents didn't pick it up because of the background noise, because clearly in a situation like this, as you probably in your experience have heard tapes that are somewhat garbled when you are right at a scene or in a situation, and with retrospect, as you sit in the quiet you can hear them.

What I understand the bureau has done to avoid such situations in the future -- and I'm going to continue to work with Director Freeh to make sure that we've enhanced our efforts as much as possible is to have a check and double check on such electronic surveillances in such critical situations.

TUE PM PAGE 5 08/01/95

REP. BRYANT: I agree. And I think again it just points out the need that they should have had trained people on the job in an environment that day that where it was quiet and they could actually hear this information, because this was critical information at a most critical time.

And let me move on quickly. You indicated that you had talked to the President -- and I wrote this quote down as much as possible -- that he did -- he acted appropriately and that you asked good questions to make sure that we had explored every opportunity. What specifically -- what good questions did the President ask you before this raid was instituted?

ATTY GEN. RENO: When I called him on April the 18th, I gave him a brief overview, told him of the process -- very much what I've talked with you about today. He asked further questions about the children, he asked further questions about why now, and satisfied himself according to what he told me that we had fully explored all our possible avenues.

REP. BRYANT: Did he ask -- what specific questions about children?

ATTY GEN. RENO: I don't recall the specific questions. I just remember that the was specifically concerned about the children, and had wanted to make sure that I had explored the possible harm to them as I considered the whole undertaking.

REP. BRYANT: What did you tell the President as to why now? Why April 19th, 1993?

ATTY GEN. RENO: I don't want to take up your -- the time of your question, but it goes through the whole process that I laid out to Congressman Schumer earlier: the fact that --

REP. BRYANT: My time is up, so you can talk as long as you want to.

ATTY GEN. RENO: Okay. But, again, before I even considered undertaking it, I wanted to make sure that the gas would not produce permanent harm to the children or to the elderly people. The concerns about the HRT team, the fact that negotiations had reached a standstill according to Byron Sage in terms of anybody coming out voluntarily -- the fact that they had a food and water supply that could last for a long time, the concerns about the perimeter. I talked about the concerns about what they might do to themselves, but mentioned that again the assessment was, based on Koresh's own statements, that the likelihood of suicide was low, that this was our best opportunity to effectively control the situation for some time to come.

REP. BRYANT: And he did not disapprove of your action?

ATTY GEN. RENO: No. He said, "It sounds like you've explored everything, and I will support your decision. "

REP. MCCOLLUM: Thank you, Mr. Bryant.

REP. BRYANT: My time is up.

REP. MCCOLLUM: Your time is up. Mr. Brewster, you are recognized for five minutes.

REP. BREWSTER: Thank you, Mr. Chairman. I appreciate the fact that you started in the middle of this deal. You weren't sworn in until I believe March 12th; this started quite some time before that. I can't imagine the pressure of trying to get settled in a new office, and at the same time something like this was going on.

My question to start with would be: Were you aware of the extreme conflicts, as far as we can tell, between the negotiators and the tactical team? And were you also aware of the tactical team's intent to use psychological pressure -- of Tibetan Buddhist chants, a myriad of animal sounds including the slaughtering of rabbits? Was that something that was ever brought up to you -- and also the conflict part?

ATTY GEN. RENO: With respect to the conflict, that was brought up to me in memorandum, which I started to consider at about the time that I started to consider the whole plan for the gas. It

was clear as a result of it. That's one of the reasons that we went back to Byron Sage, that I asked Web Hubbell to call Byron Sage to make sure that at least at that point when I knew of these situations, that we had done everything we could to negotiate this situation. And that produced what I understand was a two-hour call between the two, in which Mr. Sage said that based on everything that he knew at that point, we had reached an impasse in trying to get people to come out voluntarily. Again, our whole effort was to continue to negotiate, but he felt that the additional step was going to be necessary.

With respect to the noise and the like, I was advised of that at the time. I was advised, again, that it was a part -- I didn't know whether -- I didn't know at the time that there were conflicts between the tactical people and the negotiators, and that's one of the reasons that I think the recommendation that there be a team of negotiators and operators in the Critical Incident Response Group is one of the most important developments that we have undertaken.

REP. BREWSTER: You know, I think these hearings, if nothing else, have debunked any conspiracy theory that may be out there, for those who have watched it all the way through. For me, at least, it also pointed out mistakes that I think were made in the way the plan was executed from the beginning on. I would certainly hope that those -- that there have been changes made in theory on how we would attack a problem such as this again. I think also anyone that's watched this has to believe that David Koresh had certainly committed some crimes, was certainly a bad guy. But the mistakes that were made in executing the warrant to start with, and everything else, have been very troubling to me. Have changes been made in your opinion, and I know Mr. Magaw told us of numerous changes made at ATF, have changes also been made at FBI concerning the way these would be handled in the future?

ATTY GEN. RENO: As I have indicated previously, I can't speak to the issues involved in the initial raid, only with respect to what the FBI is responsible for.

REP. BREWSTER: I understand that.

ATTY GEN. RENO: And as I outlined at the beginning, one of the first steps was to create the critical incident response group based at Quantico with the HRT team enhanced in number, and enhanced in its ability to work with the negotiators. We now have a larger number of negotiators at Quantico who work daily with the operators so that they form a partnership, a team, an understanding, an alliance up front.

REP. BREWSTER: When you have an opportunity, -- (inaudible) -- if you could. One last question, to you and I, it may seem that some of these far-out religious beliefs out there are certainly far out. It does to me. I don't know how anyone could follow some of the things that Koresh did. But on the other hand, they're out there. Do you think it would be beneficial to ATF or FBI in the future, when there's some very radical religious group out there, to utilize more people such as professors who may have some understanding of that, and have some better understanding of who's suicidal and who's not?

ATTY GEN. RENO: I think that the FBI consulted with some experts that had a good feel for it, that talked about suicide. And based again Koresh's own statements, it's hard to predict. But

regardless, one of the things that we have done, and I understand from Director Freeh, you don't want to find out about religious groups, you don't want to investigate religious groups, you don't want the FBI doing something in lawful groups, and so it's important that we have a roster of outside experts that we can talk to about different types of religion. And my understanding is that the bureau has developed that list that they can consult with as appropriate and needed.

REP. BREWSTER: Thank you.

REP. MCCOLLUM: Thank you very much, Mr. Brewster. Your time has expired. Mr. Heineman, I recognize you for five minutes.

REP. HEINEMAN: Thank you, Mr. Chairman. Let me add my welcome, Attorney General Reno. On making the decision to go on April 19th, you spoke to Mr. Jamar, Mr. Potts, Mr. Clark and Director Sessions, and you're all in concert on that? That it was okay to go?

ATTY GEN. RENO: I don't have a specific -- because again, I was new in office, and I don't have -- there were so many names. I have a specific recollection of talking directly with Director Sessions, Floyd Clark, Larry Potts -- I believe Doug Gal (sp) was part of that group, but the specific people that I talked to most of the time were Larry Potts and Floyd Clark.

REP. HEINEMAN: There was a consultant from Syracuse. In 25 words or less, if you can, can you tell me what his contribution was?

ATTY GEN. RENO: My understanding is that the bureau had used him extensively over the last 18 years in negotiation situations. When they received the letter of April the 14th that Koresh sent out to DeGuerin, they sent it immediately to him. He assessed that letter and reviewed that letter, and presented a report.

REP. HEINEMAN: Just that he thought that it was a dodge?

ATTY GEN. RENO: That it was a dodge, but he went in, he analyzed the religious implications of it. We'll provide you with a copy of the letter so that I don't misstate it in any way.

REP. HEINEMAN: Did he render an opinion as to whether you should go or you shouldn't go as far as assaulting the compound?

ATTY GEN. RENO: To my knowledge, he did not. But I would have to refer you to the FBI in case they consulted him. I was not advised of it.

REP. HEINEMAN: Had you at any time spoken to Mr. Smerick? He was a member of the FBI.

ATTY GEN. RENO: No, I did not.

REP. HEINEMAN: Did they ever show you reports by Mr. Smerick? He submitted four reports relative to -- at various times -- as to whether they should wait or go in.

ATTY GEN. RENO: At the point that I was beginning to make the decision whether I saw the

reports or was told of the reports, I cannot tell you, sir. But one way or the other, I was advised of some of the concerns expressed in the reports -- the tension between negotiators and others. I remember particularly Dr. Park Dietz's memorandum expressing some of the concerns. And that's one of the reasons we felt it was important to, having been advised of this, see whether there was anything that could be done at that point in terms of negotiation.

REP. HEINEMAN: If you can remember the most valuable piece of information you received when you had reluctance about going in, your gut feeling initially was that we'll put a hold on it, and then you changed your position on that. What specifically made you change your position? You had a signed document that apparently you scanned cursory, and I'd just like to know what changed your mind to say, okay, we'll go.

ATTY GEN. RENO: I'd like to address the issue of what you referred to as the signed document. There's an awful lot of confusion that's been developed. This is a briefing book that was presented to me on April the 12th. It's a briefing for the attorney general. This is what I read as I started to consider whether to even consider the gas plan. I went through it in detail, and that's -- it's this book and some of the descriptions of what gas could do that precipitated my questions. So this is a book that I read. As the week went on, there were various pieces of information being collected, and I wanted to make sure that we had on paper what we had done. A summary was prepared. I read that summary and asked them to provide the back-up to the summary. I can't tell -- it was not a gut feeling early on. And it was not go, no go. It was, I don't have the -- I can't say at this point that we should go.

All of the factors were important. The fact that the perimeter was unstable; the fact that negotiations had reached an impasse according to Sage; the fact that the food and water supply could last up to a year; the fact that he had rehearsed a suicide plan and could, based on what the experts were telling us, based on some of the religious statements, could possibly commit suicide. He talked about Lake Waco causing a catastrophe of some sort. Based on all of this, as we discussed it and as the FBI talked about the state of readiness of the HRT team and the fact that they did not have a back-up capable of substituting with adequate security in place of the HRT team, I made the decision to go ahead. I would say probably the feature was again, the HRT team not having the state of readiness, but that, by itself, would not be adequate.

TUE PM PAGE 10 08/01/95

REP. MCCOLLUM: Mr. Heineman, your time has expired. Ms. Jackson Lee, you're recognized for five minutes.

REP. SHEILA JACKSON-LEE (D-TX): Mr. Chairman, I thank you very much, and to Attorney General Reno, let me thank you for your leadership in actions involving violence against women and particularly the establishment of the advisory committee dealing with clinic (ph) violence. I thank you for that.

I will have to go with a great deal of rapid speed and so I apologize for my talking at a very rapid pace. I know Chairman Zeff started out this morning, and I believe, if I can paraphrase him, with a comment that military weapons were turned against the American people. We find that we are

abounded with, if you will, conspiratorial theories. Coming from Texas, we were riveted by this experience. All of us, to a one, realized that these were Texans, human beings. The ATF officers were our neighbors, and there was a great deal of emotion and concern.

But I think if we do anything for the American people during this process, it should be an emphasis that the government works. We have referred constantly to a document called WACMUR (ph) Major Case #80, Assault on a Federal Officer Briefing for the Attorney General dated April 12, 1993. Mr. Chairman, I'd like unanimous consent to admit the entire document to the record--

REP. MCCOLLUM: Without objection.

REP. LEE: -- at this time. Ms. Reno, I'm going to quickly try to bring to your attention just some snippets, if you will, out of this document, and I must move quickly. One, starting with strategy, FBI deadly force policy against any person except as necessary, agents are not to use deadly force against any person except if necessary in self-defense or the defense of another when they have a reason to believe they or another are in danger of death or grievous bodily harm. All personnel being deployed were advised of these rules, and my understanding was, in your document, the acknowledgement of the policy not to use deadly force, and I think we can admit that no FBI agent used any weapon during this period of time.

We then had a series of episodes relayed to you so that we can know what was going on. On the second of March, you played an hour- long tape-recorded message by Koresh over national radio and television. I think they were trying to accommodate his concerns. Davidians are given a new telephone and a 150-foot cord per their demands, 3/4/93. A suture kit is sent in for Koresh's injured wrist. Davidians are offered removal of the Bradleys in exchange for the release of sect members, 3/7/93. Allow the Davidians to bury Peter Gent's (ph) body, 3/9/93. Three released children are united with their parent William Mauve (ph).

We have put positions on telephones to assist Judy Schneider and others. That was on 3/12/93. Returned phone calls to compound by numerous children, in addition to Cathy Schroeder (ph), Brad Branch (ph), Professor and Sheila Martin (ph). These are things that were occurring to be of assistance to move this along.

And then we have a document where you were able to read about the medical personnel that would be there -- minimum required staffing and 12 dedicated medical care providers, ambulances, et cetera, that would be there. There was discussion about the CS gas, and I think we will always raise the concern of whether or not that should have been utilized, but you had language in here that gave you at least an impression that extensive testing had been done regarding children. You asked the question about -- there was a comment about pregnant women and children that had been mentioned. That's in this document.

Then, lastly, there is a letter from David Koresh which includes in there a comment that says, "I am your God and you will bow under my feet. "

These documents or these comments were in this particular document. You have just testified that you read it extensively. Two questions that I have, then. With this document in hand, did you try to

expose yourself to the FBI, no matter what problems we may have now seen and we want to correct, with as much information as you possibly could, including during the negotiation process the fact that the FBI appeared to be trying to accommodate all that the Branch Davidians were asking for, for we have all seen what can happen when one's constitutional rights are undermined.

Would you answer that question for me, please, and follow it up by my final question, a direct response to this question: Did the president of the United States use the telephone system, the fax system, the memorandum system, any communication system -- Internet -- to call you up and say, "Go get 'em, General Reno. Now is the time to do it. It is time for us to go forth on the siege. These are my orders. Do it now, and I will get a report from you later"? Would you answer those two questions, please? Thank you very much.

ATTY GEN. RENO: First, with respect to the report, after I looked at the report on April the 12th, I still had questions. That's when I really started. I mean, I read this report, and I said -- I still wanted more information about the children. That's when they arranged for a meeting on April the 14th with Dr. Harry Salem and myself so I could inquire further.

Then I wanted to know about the water supply, and they pursued that further. We were concerned because it was in this time frame that we were beginning to hear that there might be some tension between the tactical people and the negotiating people, and we wanted to make sure that at least at that point we had done everything we could to pursue negotiation strategies that might affect a peaceful resolution.

So at that time that I found out more about the HRT team, the fact that we only had one, that we couldn't pull back and put in a substitute. So these were some of the issues that I considered in addition to this briefing material that I received.

REP. LEE: This was not the final document -- (inaudible) --

ATTY GEN. RENO: This was not the final document. This was the beginning. With respect to your second question, though, the president of the United States never told me to do that. It would be wrong and improper for him to do it. He did everything, as I have said, what I consider to be the right way, which is to let law enforcement do its job and advise the president in critical circumstances.

REP. LEE: You had no direct orders from the president?

ATTY GEN. RENO: No. I mean, the president of the United States told me, "Look, it sounds to me like you all have explored everything, and I'll stand behind you. "

REP. MCCOLLUM: Ms. Jackson-Lee, your time has expired.

REP. LEE: Thank you, Mr. Chairman.

REP. MCCOLLUM: Mr. Shadegg, you're recognized for five minutes.

REP. JOHN SHADEGG (R-AZ): Thank you, Mr. Chairman. Attorney General Reno, I am pleased to have you here and appreciate the opportunity to ask you some questions which I believe need to be asked. You are clearly an articulate spokesman on this issue.

I must tell you, in world where too many of us all too often seek to duck individual responsibility, it is truly impressive that you have stepped up to take responsibility for something which I think may at least, to some degree, not be your responsibility to a degree greater than you believe. The siege began by another agency. You had been in office only 38 days. Ultimately, when it fell apart, you took the fall. You took the blame. You said, "It was my decision. "But decisions are only as good as the information you are provided, and someone said here this morning other people might have helped you more by giving you, I think, more accurate information, but they did not.

I'm deeply troubled by the information you were given and, indeed, by the information we've been given in this hearing. Byron Sage, the chief negotiator, came before this committee and said, very directly, that he never gave up hope. And yet in your report -- that is, the Justice Department's report -- on page 270, it reports that Mr. Hubbell advised you that Sage, quote -- that Sage said, quote, "Further negotiations with the subjects in the compound would be fruitless. "In the FBI's interview of Mr. Hubbell, it says, "Hubbell recalls AG Reno inquired, 'Why now?'"Indeed, in reading this record, it is clear you agonized over this decision. You were, in fact, deeply concerned about those children.

But it goes on, "She was told the negotiations would not get anyone else out of the compound and that negotiations were at an impasse. "

I am troubled by Mr. Sage saying he never gave up and you being told that negotiations were fruitless and you would never get anybody out, they were at an impasse.

But I'm troubled more by additional testimony we got. I asked the panel that came here a question about why a building was crushed. Interestingly, that picture we have of the portion of the gym being crushed is now missing. I can't find it. I'm told either the FBI or the Department of Justice took it back. But this photograph shows the gymnasium at the back, the right-hand side of that gymnasium. At one point, that gymnasium was destroyed.

I asked a question about why it was destroyed. Mr. Clarke, who was not asked the question, became quite angry with me and said the answer was clearly in the report given to you and that it was that, under the plan, the ops plan for this invasion, or whatever you want to call it, the operations personnel on site were given the authority to crush the building if, in fact, after 48 hours there was no progress.

And yet that crushing began at 11: 30 in the morning. I found it troubling and I looked through the report. I didn't see the answer in the ops plan.

But the next day, I asked Mr. Jamar. Mr. Jamar was here, and Mr. Jamar said that Mr. Clarke was dead wrong, absolutely wrong on that issue, that there was no intent to crush the gym, that, in fact, the tank was trying to go through. And that's troubling, because both on the video and in the still pictures, you can see the tank could have gone all the way through. So I have trouble with Mr.

Jamar's

TUE PM PAGE 15 08/01/95

testimony, and that leads me to two questions I have to ask you. Three questions I have to ask you. First, the gas injection began at 6: 04 -- 6: 00 a. m. Precisely four minutes after that, four minutes into this plan, the shots were reported and the contingency plan was set aside and we now went to the massive injection all at once of gas.

One question I have for you is -- and I'm going to state the three questions and then let you answer -- did you in Washington at 7: 04 a. m. Washington time, four minutes into this, consider abandoning your speech and staying to monitor it, considering the massive escalation?

The second question I have, at 9: 00, you depart for your speech to go to the Fourth District Circuit in Baltimore, and, at 9: 00 Waco time, 10: 00 a. m. Washington, DC, time, at 10: 00 a. m. also, the phone which the Davidians have is thrown out the window. Forty -- 10 minutes later, a banner is put up by the Davidians, "We want our phone fixed. "Forty minutes after that, the FBI, after beginning to run out of gas, puts up a sign that responds, "We will only fix your phone if you'll agree to surrender. "

My question of you is were you advised when you went to Baltimore that the phone line had been broken?Were you -- and would you have said, "The only way we'll fix the phone is if you agree to surrender"? I want to know the information you were given.

The third question I have goes back to the destruction of the gym. At 9: 30, the FBI begins to run out of gas. At 11: 30, the crushing of that gym begins. I see, as I said, in your own testimony and throughout these proceedings, you agonized over injury to the women and the children, who were clearly innocent. Were you advised that the gym was to be crushed?Whether Mr. Jamar is right or Mr. Clarke is right, it was, in fact, crushed -- a section 40 feet by 40 feet or 45 feet by 45 feet -- and had you known that the plan was going to escalate to the degree of crushing the gym, if you -- were you told that, and if you were not told that, would you have agreed to the crushing of the gym?

ATTY GEN. RENO: What was your first question?

REP. SHADEGG: The first question was -- the first question was four minutes into the raid it escalates. The 48-hour plan, according to testimony, is gone. We're now going to do a massive insertion of gas into every window. Did you consider staying in Washington, DC, given that escalation four minutes into the plan?

ATTY GEN. RENO: At 6: 00 in the morning, I didn't know what I was going to do. I was there. It escalated consistent with the plan. The shots were fired and the tanks began to insert gas throughout the compound.

During the course of the morning, the question arose whether I should cancel the speech, and the FBI did not want me to do so, because they thought it would attract attention if I suddenly canceled a speech. It would look like there would be an emergency.

REP. SHADEGG: (I think it goes to ?) the issue of the FBI did not want you to do so. I think that's an important piece of information.

ATTY GEN. RENO: Well, just let me finish, because -- what's your second question?

REP. SHADEGG: The second question was at 10: 00 a. m. Washington time, 9: 00 a. m. Waco time, you depart for Baltimore --

ATTY GEN. RENO: I think you've got your time wrong.

REP. SHADEGG: Okay, what --

ATTY GEN. RENO: Because I saw the phone thrown out --

REP. SHADEGG: You did see the phone thrown out?

ATTY GEN. RENO: -- and my understanding is -- you'd have to check with Mr. Sage, because I didn't hear his testimony; I'll be happy to check with him -- but my understanding is they said, "We'll get you your phone back if you really want to negotiate. "

REP. SHADEGG: Well, 50 minutes later, according to the information we have, they responded by megaphone, "We will only fix the phone if it is used to surrender. "

ATTY GEN. RENO: We can correct -- I mean, we can provide you with whatever Mr. Sage said, but my understanding at the time from a distance was that if we provide you with a phone, will you negotiate?

REP. SHADEGG: Well, we (all ?) deal with hypotheticals in law school. I'm sure you dealt with them --

ATTY GEN. RENO: Well, that's the reason I'm suggesting that we get exactly what Mr. Sage said.

REP. SHADEGG: Would you have agreed that we would only give the phone back if they agreed to surrender?

ATTY GEN. RENO: I don't know what the circumstances would be there. What I would prefer, rather than talking about hypotheticals, is what actually happened.

REP. SHADEGG: And then the third question is they demolish -- the demolition of the gym. Were you aware of it? Had you been aware of it, would you have agreed to it given the potential danger to people inside?

ATTY GEN. RENO: What I understand there -- and, again, I have not been able to hear all of the testimony, but we can review it -- is that the plan when they started to fire on them was to insert gas throughout the compound and they proceeded to do that.

I have heard, and I -- this is just hearsay at this point, because I haven't seen the exact transcript of what the vehicle operator said, but that it was an inadvertent crushing of a back support.

Don't laugh at me, please --

REP. SHADEGG: -- (inaudible; crosstalk) -- videotape of that tank going in and out of that -- (inaudible) -- and up on its roof --

ATTY GEN. RENO: Okay, but -- but what I am -- what I am asking you to do is to look to the record.

REP. SHADEGG: I looked at the videotape.

ATTY GEN. RENO: Okay, well, then you make your best judgment, but I'm giving you the information that I know.

REP. SHADEGG: Just again, if you had known they were going to crush the gym, would you have approved of that?

ATTY GEN. RENO: The statement, as you will recall, that was provided was that, "In the event that all persons do not leave the compound after the initial introduction of CS, or that good faith negotiations leading to a resolution are not forthcoming, the irritant will be introduced in other wings of the compound. Eventually, walls would be torn down to increase the exposure of those still left inside. "

My understanding, and why I was there while it all took place is, they -- we were concerned that they might be trying to block the escapes. So, there was a step taken to introduce a hole in the front of the building to make sure that people could come out, that there was a step taken to do the same with the back of the building.

You also raised another, which you've not put in one of your three questions -- and that was, I believe it was, you -- with respect to the inconsistency -- which you perceive to be an inconsistency between Mr. Sage and Mr. Hubbell. What Mr. Sage, I understand -- because I checked on this -- said, and what Mr. Hubbell advised me is that negotiations had reached an impasse at that point, and he did not expect others to come out. But our whole purpose had been to continue to try, not to give up, because our hope was that, with the injection of gas or the statement that we're going to start injecting gas, they would begin to negotiate. So that there was a consistent effort to try to do everything we could with the increased pressure -- not to give up hope. So, I don't see any inconsistency.

REP. MCCOLLUM: Mr. Shadegg, your --

REP. SHADEGG: The phone would have facilitated those negotiations.

REP. MCCOLLUM: Your time has expired.

It's my understanding that there's no one who wants time at this time on my left -- even though Mr. Taylor hasn't been recognized. And so, I'm going to Mr. Blute. You are recognized for five minutes.

REP. PETER BLUTE (R-MA): Thank you very much, Mr. Chairman.

And thank you very much, Attorney General Reno, for your testimony. I have a great deal of respect for you and the job that you are doing. And you and I have agreed on many issues that have come before this Congress over the last couple of years.

TUE PM PAGE 20 08/01/95

I think this incident is a great American tragedy. I don't think there's any doubt about that. Clearly, Mr. Koresh is the ultimate villain in this. And I think everyone on this committee -- indeed, everyone in the country -- knows that. But I also believe it's not sufficient to just blame Koresh -- particularly from the perspective of congressional oversight committees. I think it's important that we get to the bottom of the federal government's role in this -- both the ATF, the FBI, the Justice Department, and the Department of Treasury, and, indeed, even the White House's role in this. And I think that all of those questions are clearly legitimate and important questions -- because if anything good is going to come out of this, it's going to be that we found out what happened, why it happened, and how we can avoid anything like this from happening in the future.

Let me turn to a couple of the issues that have been talked about. You stated, in a thing -- a report in the USA Today, an op-ed piece, that, quote, "We didn't misunderstand Koresh. We didn't suffer from misinformation. I wasn't misled. "Frankly, as you look at the entire testimony that we've heard in these ten days, there seems like there was a lot of miscommunication, that there was some misleading happening, and that there was some misinformation with regard to Koresh's theology that occurred in this episode.

And I wondered if you could comment on the comments of Mr. Stone -- Dr. Stone from Harvard University -- someone who the Justice Department -- I think you chose him to conduct an investigation and give a report on how the Justice Department acted in this episode. And he was very strong in his statement. He said, quote, "I do not doubt that Janet Reno was concerned for the children. She would never have felt justified in ordering the gas attack if she had understood the risk to them. I can only conclude she was misinformed and misled. "I wonder if you would react to that -- give that this is someone who the Justice Department asked to look into this episode.

ATTY GEN. RENO: Obviously, when we go out to experts, we're expecting them to come up with their thoughts. We had asked Dr. Stone to look at this whole matter from the point of view of negotiations, and what might have been done otherwise in terms of strategy. He also commented on the gas. He is not a toxicologist. So, taking his report, we went back to the toxicologist and tried to look at it. He has been very gracious in responding and saying, "I may not be a toxicologist, but I'm a doctor and I know what can happen.

We then proceeded to talk with the British experts -- one of whom is a pathologist, is a physician, who could understand. We are trying to do everything we can to make sure that we are fully

informed. And based on the experts that we have talked to -- and we will continue to try to do everything we can -- this is a safe gas that would have not -- would not have permanent harm.

REP. BLUTE: He also --

ATTY GEN. RENO: But that is --

REP. BLUTE: I'm sorry.

ATTY GEN. RENO: -- as I said earlier this morning, we are going to continue to review all the technology -- both for CS gas and for any technology that can produce a non-lethal resolution of these matters.

REP. BLUTE: He also indicated that the FBI had silenced its own expert. I wonder if you'd comment on that. I think he's referring to Mr. Smerick, and the fact that Mr. Smerick has testified before this committee that he felt pressured from above in the FBI to change his recommendations.

ATTY GEN. RENO: I would have look at Mr. Smerick's testimony. That was not what I understood to be the case.

REP. BLUTE: Let me ask one last question about the memo of March 1st, -- to the president from his chief of staff, we saw earlier, in which clearly the White House is indicating that, if any significant action is taken, the White House would be notified, and the White House would then approve.

You mentioned, earlier, in reaction to that, that that was because we had an acting attorney general. Is that correct?

ATTY GEN. RENO: That's correct.

REP. BLUTE: Well, at what point -- in your understanding -- did the White House change that? Did they issue a memo back to you that now you were free to act on your own judgment, or was this left open-ended?

ATTY GEN. RENO: I don't know. I hadn't seen this memorandum. But I just knew, from acting Attorney General Gershwin, what the president's feeling was. I didn't notify him until we had made a determination. I think I would have notified him under any circumstance.

REP. BLUTE: Well, let me just finally say that, in this memo, this appears to say that the White House would have the final approval of any significant action. And also, on the Altman memo, he refers to Secretary Bentsen saying that, "Nothing like this would occur without your knowledge" -- meaning Secretary Bentsen's. And now, no one seems to know much about those check-offs --

ATTY GEN. RENO: I don't know anything --

REP. BLUTE: -- of the president or the secretary.

ATTY GEN. RENO: I don't know anything about the check-offs of Secretary Bentsen or how he was involved, because they were not part of our briefing. But in terms of law enforcement initiatives, I think it is very important that law enforcement developed the plan, that the president be kept advised. And I -- we tried to do just that.

REP. BLUTE: I see my time has expired.

Thank you, Mr. Chairman. Thank you, Attorney General.

REP. MCCOLLUM: Thank you. Mr. Taylor is not here, or he is here. Do you wish to use your time at this point, Mr. Taylor? Are you reserving it still?

REP. GENE TAYLOR (D-MS): I'm reserving it. Yes, sir.

REP. MCCOLLUM: All right. Then, I guess at this point, we go to Mr. Barr for five minutes.

MR. BOB BARR (R-GA): Thank you, Mr. Chairman. We've all heard, at some length, about the 51 days that concern us, during which the siege took place. What concerns me, Madam Attorney General, is certainly those 51 days, and the work that we've been about trying to discover what went wrong there so steps can be taken to address it. But I don't know exactly how many days -- 940 or whatnot since then -- since this administration came in. And kind of looking ahead, your written statement this morning has seven items listed on pages six and seven -- a larger hostage rescue team, increase the number of negotiators, form a critical incident response group, more SWAT teams, and then, two continuing studies -- all of which certainly are appropriate, I suppose -- if the lessons of Waco are simply to, as you say, to improve our capacity to respond to, quote, "complex hostage barricade incidents." And that's certainly appropriate.

My concern is something a little bit broader than that -- and that is, looking at how this whole situation developed in the first place, which even if one doesn't conclude that virtually everything about it turned out wrong, certainly a number of things did. And I understand also, certainly, that you are the attorney general and not the secretary of the Treasury, or the secretary of the Interior, or any other of our federal departments under which there are law enforcement components. But you are the chief law enforcement officer of this country, and the chief advisor on law enforcement matters to the president.

And I was somewhat dismayed previously -- and I forget which one of my colleagues on the subcommittees here posed the question about sort of a broader picture in terms of solutions to this problem -- looking at ATF. And your response being, that's a turf problem and a turf battle.

And the question that I have in my mind, if the president turns to you -- and I don't know whether he has or has not, but at some point I would think he would -- and asked you, I mean, how can we avoid these problems in the future, not simply how can we better respond to them if they come up. I certainly would presume that you're not going to tell the president, as the chief law enforcement officer, "I can't deal with ATF because that's a turf problem.

Four agents died the very first day of this situation here. And over six dozen additional people -- many of whom were innocent -- died in activities that were set in motion by that initial day's activities. And I think, obviously, some steps will have to be taken that are more systemic than simply, you know, more HRT or more SWAT teams or whatnot -- as important as those may be from a tactical standpoint. Is this really -- these seven points on two pages -- is this really all the administration has to offer the American people after 900 and some odd days, and probably one of the most -- if not the most -- serious law enforcement operation in the history of our country, to assure the American people that -- not simply, "We are going to be better able to respond if this sort of thing does come up again, but to take meaningful steps, explicit steps, specific steps to ensure that it doesn't come up again. ?

And I say that also in light of the fact that the administration certainly has not been timid in coming before the Congress -- as recently as just several weeks ago -- asking for additional authorities, expanded law enforcement authorities for the federal government through anti-terrorism legislation. And yet, citizens have asked me, well, I mean, "What's happened with the problems of Waco," first, before we even get to the point of does the federal government need more power. Are the problems that are apparent to all of us in Waco being properly addressed? I mean, what specific systemic steps are being taken -- whether in ATF or elsewhere, in the government generally -- to ensure that this doesn't happen again?

ATTY GEN. RENO: One of the first steps that has been taken is the development of a Critical Incident Response Team. That is not just a statement. It is a very effective team. I have had the opportunity to visit, to participate in the training, to understand how the FBI would respond with ATF in the future. What we're trying to do is to work out with ATF, with the Customs, with any law enforcement agency involved -- a capacity and an understanding where we go in first.

But to answer your question best, one of the classic examples of how law enforcement is working, moving together, was seen as we responded as the FBI's specially trained SACs responded to Oklahoma City. I had the opportunity to go to Oklahoma City very shortly after that tragic bombing. I walked into that command post. I found law enforcement together as I have never seen it before. ATF agents working with DEA agents --

MR. BARR: Madam Attorney General, that's very true and that's an outstanding example of how the government can respond in a coordinated fashion to an emergency that develops. Now, you may not want to look at me. I'm not trying to be rude. I'm just saying, that's something very different--

ATTY GEN. RENO: I was looking at the chairman to see what I'm supposed to do?

MR. BARR: -- that's something very different, Madam Attorney General, from what we're talking about here --

REP. MCCOLLUM: Mr. Barr, would you please --

MR. BARR: -- a law enforcement operation planned by the government that went very badly awry --

REP. MCCOLLUM: Mr. --

MR. BARR: -- seemingly based on some systemic problems with ATF and other law enforcement agencies. That's not Oklahoma.

REP. MCCOLLUM: Mr. Barr, your time has expired. The attorney general may respond, but your time has expired.

MR. BARR: I'd like the response to -- with all due respect -- to be responsive. I didn't ask about Oklahoma City.

ATTY GEN. RENO: Well, you may not like my response, and you may disagree with it, but I am going to continue in my response because what we were faced with in Oklahoma City required close coordination of federal agencies. And we saw a very effective effort brought about, in part, because of the steps learned from Waco.

You may disagree with that, sir, but I've got to answer --

TUE PM PAGE 25 08/01/95

MR. BARR: I don't disagree with that at all.

ATTY GEN. RENO: Well, if I may just finish --

MR. BARR: That's not the point.

ATTY GEN. RENO: -- because I've got to answer it the best I know how. And then, if you disagree, that would be -- of course -- your prerogative. But if I could?

Secondly, we have enhanced the training of SWAT teams around the country so that they are ready and far more responsive than they were before Waco. We responded to Waco and the specifics of Waco by enhanced training. We have developed a far better capacity for the negotiation team to work together with the tactical operatives -- a very direct specific step after Waco.

We're going to continue to do everything that we can along these lines to develop a coordinated response of law enforcement so that we can address these issues.

REP. MCCOLLUM: Thank you. Mr. Souder, you are recognized for five minutes.

REP. SOUDER: Thank you, Mr. Chairman. I wanted to probe a little bit and review some of what we've heard on the question of we did this because of the children. In the process of questioning Mr. Jamar he said it was 99 percent certain that they would be fired on, and I think that was a pretty good guess given what happened with the ATF agents and so on, that the tanks would be fired on. He also said that the doors were blocked. I think that was fairly predictable that doors would be blocked because of the fear of an assault, particularly once the gas insertion and the tanks started.

He said that seven of the nine people escaped because holes were punched in the wall once they realized the doors were blocked. We also learned that -- Mr. Jamar also told me in one of my questions that he didn't in fact know where the children were. In fact, where they hoped they were, in the bus, they weren't, but there was no way for them to know where in the compound before they put the gas in, to know where the children were. We also knew and both the FBI and all the outside experts knew that Koresh had a tendency to talk in Messianic terms about fire. We learned also that the FBI did not hear the tape and that there was really no way because that equipment wasn't checked or planned in advance to hear whether or not they were starting a fire during that time.

I think we all agree that Koresh was a paranoid pervert with a Messianic complex. But given that it seems very logical that once the walls were being knocked down that broadcasting over a loudspeaker we are not assaulting your compound isn't going to cut it, that an average person, if the walls were getting knocked down in their home, would consider that an assault and possibly precipitate you know his radical actions that he in fact did, which was start a fire in the complex. We also heard from Dr. Salem who -- he did not say that the gas was safe. He said that there was -- I think the FBI report says that there is no laboratory test and anecdotal evidence was convincing that there would be no permanent injury. The gentlemen from Britain said that the anecdotal evidence was mixed, but the scientific evidence suggested that it probably wouldn't be.

I've been going back and forth between an FDA oversight hearing on breast implants, where the FDA has taken the position that they shouldn't be allowed because there's no compelling research to say that it's safe, not that it's proven that it's dangerous. The research is mixed. At best what Dr. Salem said was one case in Ireland and one baby at 48 hours who seemed to have recovered. That's the scientific evidence, even at the anecdotal level on that side. And he, when asked by Mrs. Collins, said that if gas had to be used, CS gas was the safest gas. He did not say he approved of using the gas.

Furthermore, you acknowledged, and we all know there were no gas masks for the children. We've heard Clyde Doyle say that -- describe what it was like inside, pitch black, rolling around, trying to figure out where a hole had been knocked in the wall, hearing screaming behind him. There was no chance that those children were going to escape unless just by chance they were at one of those holes. All of which the FBI said was a plan that was signed off on in advance. When I asked Joyce Sparks, who was the only person to have gone in, and was very frustrated because she believed that Koresh -- the parents were shielding Koresh and that nobody would come forth -- but I asked her about the President's quote. But in the end, the last comment I had from Janet Reno, was when I said I want you to tell me once more why you believe we should move now rather than wait some more. And she said it is because of the children.

I asked Joyce Sparks whether she thought that was true and she said no, she didn't think it was because of the children. For four days you valiantly tried to hold them off from going in. You asked the questions repeatedly of the children. I can understand why with the White House asking questions and the political problems of a hostage situation, which we've gone through in this country in a multitude of different ways, I can understand with the FBI being tired, why there might have been decisions made to go ahead and that quite frankly they had given up hope and there might not have been another way to get Koresh out. I certainly don't have any suggestions. But I would suggest that after all these hearings it is not believable to say that the reason you went in was

because of the children. This evidence is just too overwhelming.

ATTY GEN. RENO: You are quite correct, sir, and let me tell you why we went in. You apparently were not here earlier. We were faced with a situation where they had been there for 51 days, dangerous people who had killed four ATF agents and wounded 15. I could not walk away from it. I tried to consider what alternatives because since March 21st, no other children, nobody else had come out except some people that had gone in. And it was clear based on interviews that the people who had come out either were not Koresh's adopted or biological children, or they were adults who were causing him trouble.

The FBI submitted a gas plan. The questions I asked immediately were what about the gas. This report was not enough, I explored additional information. I researched everything that I knew to do through the FBI in terms of toxicology in terms of the impact and was told it would not produce permanent harm. That was one of the keys before I ever considered any further aspect of it. I considered at the time what the military commanders or the military HRT team and the FBI was saying about the state of readiness of the HRT team. And I was surprised to find that there was only one team, that I could not pull back the one team and substitute another. I asked if I could substitute -- they could substitute the SWAT teams and they said no the training was not of a standard that would permit the security for the perimeter and they were very concerned about the security in terms of intruders or people coming to assist or to attack the Davidians. That was another factor.

I then said well why can't we wait and see -- you know let's starve them out or they will run out of water. We were told by people who were coming out that they had a supply of food that could last up till a year, that their water supply -- I asked the FBI to go back because there was some indication from the electronic surveillance that they might be short of water. They did tests through some type of equipment and found that the water supply was being replenished in excess of the amount of rain fall on a regular basis and that that seemed to be adequate. I looked for other alternatives as to what to do.

One of the things that struck me from the beginning and gave me such sleepless nights was the fact that he had talked about suicide. Instead of coming out on March the 2nd he had rehearsed a suicide attempt where he would come out with explosives on, blow himself and some agents up while the others committed suicide inside. That could have happened then, it could happen 10 days from then, it could happen six months from then. It was hard to tell based on all his writings, based on the evaluation of the writings. But I then weighed with that the statements he made and I read transcripts where he said I am not going to commit suicide, it's against my teachings.

I weighed all of these factors -- the condition of the children and the others there, the fact that there had been allegations of sexual abuse, there had been allegations of beatings. I weighed it all, and consistent with the HRT telling me that unless they pulled back shortly, they would not be at the state of readiness necessary to secure the compound. I made the judgment that at this point we would have the best opportunity to control any situation that Koresh might develop.

What haunted me was that if I did not go in I might be sitting there 10 days from then when he came out with explosives, blew himself, some agents and the entire place up. So those were the factors that went into my decisions.

REP. SOUDER: Thank you. I hope I can ask in the second round a couple of follow ups to that.

REP. MCCOLLUM: Well in the next round you will get that opportunity. Your time for now has expired. Mr. Taylor, we do not have but one other Republican questioner, so I'll yield to you your five minutes.

REP. TAYLOR: Thank you, Mr. Chairman. Ms. Reno, you've had the opportunity now to look at this for a couple of years. And one thing we know is for certain is that a young man, born almost on Christmas Day 1962 named Conway LaBlue (ph) is dead. Another one born October of '64 named Todd McKeehan (ph) is dead. Another born March 1st of 1966 named Robert Williams is dead. And another one born a week before Christmas in 1960 named Steven Willis (ph) is dead. They were ATF agents who were paid by the people of this land to enforce the laws of this land, laws like kidnapping, laws like sexually mistreating children, laws against owning machine guns unless you have a license for that, laws against threatening other people with death or elimination, as the good Mr. Koresh liked to use.

Now having looked at all those things for the past two and a half years, have there been anything that you've seen or read or heard that would justify the murder of those four ATF agents or the wounding of 20 more or in any way remove the guilt of David Koresh for surrounding himself with 80 people as human shields, 80 people who died at his wish?

ATTY GEN. RENO: No, sir, not one solitary fact.

REP. TAYLOR: I'm curious -- I remember as a state senator and a city councilman back in Mississippi we required all law enforcement officers to take an oath of office to enforce all laws. Even if there was something like bingo back when bingo was illegal in Mississippi, even though it was pretty popular with the Grandmas and the Grandpas, they had to enforce the bingo laws. Even when the state was a dry state and a lot of people liked to drink, they had to enforce the liquor laws. Do FBI agents and ATF agents take an oath to enforce all the laws, whether they like them or not?

ATTY GEN. RENO: Yes, sir.

REP. TAYLOR: And we are the rule of law, am I not mistaken, Ms. Reno, where everyone in this country, be they a Congressman or a guy who is sweeping streets, they've got to live by the same laws?

ATTY GEN. RENO: That's right, sir.

REP. TAYLOR: So is there anything that you have seen that allows a guy who was sleeping with 10-year old little girls, who had threatened to kill his ex-members who left to talk to the police, who held at least one person against their will for three months, who killed four ATF agents and 20 more, is there anything that justifies what he did, or somehow makes him above the law because he had some perverted sense that he called religion?

TUE PM PAGE 30 08/01/95

ATTY GEN. RENO: Nothing whatsoever, sir.

REP. TAYLOR: Ms. Reno, I'm only going to ask but one thing. I was disappointed when I read that the federal government spent a considerable sum of money, and after all was said and done in the hearings down at the trial against the Davidians, that there were not murder convictions against those Davidians. I have read the same evidence as the people in this room, I've seen the same evidence as the people in this same room, and I've come to be convinced that four good people died trying to serve a legal warrant, using military equipment that was legally supplied to them, and yet no one was convicted of it. Is it your belief now that you've had two years to look at it that those people who survived were not involved in the crime or were no more guilty than they were found guilty of?

ATTY GEN. RENO: The matter is now pending on appeal, so it is probably appropriate that I not comment too extensively on the verdicts, except to say that the verdicts of the court, with respect to certain of the defendants, makes clear that what they did was not justified and not excused.

REP. TAYLOR: Ms. Reno, if I may make one request as a Congressman from one state, I wish you would put together a team that would have the job of enforcing the laws when law enforcement agents are killed in the line of duty, of being the people that will prosecute that law because I don't want to see one more cop killer walk free and I hope no one in this room does either. Thank you, Ms. Reno.

REP. MCCOLLUM: Thank you, Mr. Taylor, your time has expired. To conclude the questioning on the first round I will yield to Mr. Chabot five minutes.

REP. CHABOT: Thank you, Mr. Chairman, and I think we all agree with Mr. Taylor that it's absolutely a tragedy that four law enforcement officials lost their lives and our hearts go out to the families of those men.

One thing that bothers me, and I think a lot of people, was the nature -- the high risk nature of the final assault on the Davidian complex, particularly when we know that there were 20 innocent children in that particular facility. And again I have no sympathy for Koresh, I have no sympathy for any of the other adults who were using weapons in that facility, they were guilty as sin. But the children were completely innocent in this particular incident. And what I wonder, and some other people I think wonder, is had this been -- say a school bus had been going down in front of the compound, and a school bus of kids had been hijacked by the Davidians and taken inside and were taken hostage for example. Under those circumstances, is it conceivable that our government would have acted as it did, by gasing the compound, assaulting the building with tanks, knowing that there were such significant risks involved, particularly a risk of fire, had they been a school bus of citizens as opposed to children of these Davidians?

ATTY GEN. RENO: If instead of a raid on the 28th he had taken the children into the compound and 51 days had gone by and he had not let any of the children out, and on March the 2nd he had rehearsed a suicide plan where he would come out with explosives strapped to his waist and blow up the agents outside while the group inside committed suicide along with the 20 children who had

been kidnapped by him, I would have pursued the issue in the same way, trying to make the best judgment I could as to the most effective, propitious time to take action to try to get those children out safely.

REP. CHABOT: Thank you. So the answer is yes. And the suicide incident you talked to was March 2nd, so that was three or so days after the initial raid. And for 48 days, obviously that hadn't occurred. And nobody died within the facility until the government actually took its action. And I have -- there's no question that you were acting as you best thought was right, and I think we all agree with that. Obviously it was a terrible tragedy that ultimately occurred, though.

As you know, General Reno, one of the central purposes of these hearings is to try to learn whatever lessons we can from the debacle at Waco. And one issue that we keep coming back to is the question of accountability, individual accountability. And one person's name who's come up a number of times in these hearings is that of Larry Potts. And, of course, Mr. Potts at the time of Waco was the assistant director of the criminal investigative division of the FBI and he was at most of the important meetings in which the urging of CS gas occurred.

Now, this followed by only about eight weeks Mr. Potts's tragic involvement at Ruby Ridge, the Randy Weaver case. And the rules of engagement, as is coming out now, were such that I think everyone agrees it was unconstitutional. I think by your own department's evaluation, the rules of engagement were improper there. But that operation wound up with a mother shot through the head by an FBI sniper as she was actually holding an infant in her arms. And Mr. Potts was accused by FBI agents of lying to cover up, according to news accounts, and he was disciplined by your department.

Mr. Potts, after Ruby Ridge then, he then had the Waco responsibilities, and we saw the tragedy that resulted there. In the wake of those two disasters, you approved Mr. Potts' promotion to the number two post at the FBI, even amidst allegations of a cover-up in the Weaver case, the Ruby Ridge case. Now, Mr. Potts only served as deputy FBI director for 10 weeks until he was recently demoted; within the past couple of weeks he was demoted. Didn't his promotion send exactly the wrong message if you're trying to establish some notion of accountability within the department?

ATTY GEN. RENO: Yes, I had -- I'm trying to establish accountability. What I did was to review his work at Waco, since that's what we're focusing on. And I have not -- as I go over everything with respect to Waco, all those hours, those days, the FBI, including Mr. Potts, was dedicated. They tried their best. They gave me their best judgment. They pursued every factual inquiry that I came up with. And from my understanding, Mr. Potts has been here, testified before you, and has been accountable.

REP. CHABOT: Thank you.

REP. MCCOLLUM: Thank you, Mr. Chabot. Your time has expired. We're now going to commence the second round of questioning at this point. Everybody has had an opportunity to have five minutes in the first round. I will yield myself five minutes to commence this second round.

Ms. Reno, I have listened very attentively during your testimony this morning and I've heard you

say four things that particularly stand out about what contributed most to your decision on the 17th of April -- the belief that there really was an impasse in the negotiations; the fatigue of the hostage rescue team and the need to put them in down time at some point soon; concern over the condition of the children and the possibility they were continuing to be abused; and the fear of an imminent, violent breakout by Koresh if you waited and let him do it on his terms. There are other factors, but those four I've heard you say pretty strongly.

What bothers me about what you've said so far is that the evidence we've taken over the last eight days before today does not corroborate or substantiate the basis for any one of the four. First of all, with regard to the impasse, yes, I'm convinced that the FBI really believed there was an impasse, and I don't doubt that you believed them. But the fact of the matter is we've had a lot of evidence that would indicate that Koresh really was serious this time about coming out. David -- or I guess Mr. DeGuerin, his attorney, was very impassioned and very believable, very credible here the other day when he told us that he honestly believed that Koresh would have been out within 10 days or so if the raid -- if the assault had not occurred.

We also know from the transcripts there was a lot going on of hustling and bustling, though the FBI dismissed that. We do know that there were problems with the typewriter. There was no electricity, et cetera. And even though Dr. Miron, who was your consultant, did say he thought, with other FBI officials, that this might be a ploy to gain more time, he also said that he believed that Koresh was working feverishly, as he put it, on the transcripts and his interpretations of the seven seals and that it was a potentially very valuable negotiating tool.

We had Dick Rogers, the head of the hostage rescue team, tell us that he had about two weeks left before there would have to be a stand-down of the hostage rescue team. I would submit that, considering what Mr. DeGuerin had to say, that was a very critical two weeks. As far as the imminence -- or let's put it this way, about the kids being abused, there is no evidence we've had that the children were under any more abuse or physical harm threat during the time of the siege than existed prior to the siege; that existed prior to the raid on February 28th, for that matter. Sanitary conditions weren't good in there, but nobody apparently was getting ill. And as you've stated yourself, there was a plentiful supply of food and apparently adequate water from rain water, as best we could determine; adequate but not good.

And as far as the fear of an imminent violent breakout if you waited is concerned, the only thing I've heard -- and you've repeated it today -- is this concern of March the 2nd, where Koresh apparently, according to one Davidian who came out, was planning or had made indications he wanted to come out that day with the explosives tied around him and might blow himself up. As Mr. Chabot has pointed out, in the intervening, well, 49 days until the 19th of April, there was not one shred of evidence that Koresh was implementing such a plan. We've heard nothing to indicate that he was considering that any longer. And it bothers me a lot that you and the FBI have relied upon that factor, that fear or that concern as the rationale for going ahead at this particular moment in time.

It seems to me that indeed you had an opportunity, as I asked in my first round of questions, to personally get involved and talk to Mr. DeGuerin, Koresh's attorney, talk to Mr. Sage personally, talk with Mr. Jamar personally. I think if you'd done that -- and I know that I'm hindsight-guessing you now -- you would have found that that certainty about an impasse would not have been so great

in your mind. I'm bothered by that. And I'm bothered by the fact that you were pressed in your mind to act anyway. I just don't think the facts corroborate the basis upon which you have told us today you've made this decision.

Now, I want to ask you a question about the actual assault itself and the planning of that assault. My question is this: It seems to me that in the process of looking at this plan, it was early on decided -- and it's clear from the plan itself -- that if the Bradley vehicles and the CEVs were fired upon, the plan would be accelerated. And there was a general understanding by Mr. Clarke at the FBI, who

TUE PM PAGE 35 08/01/95

has been the deputy director, and I think others there, that an accelerated plan was a higher-risk plan. He was very concerned, and told us that, that the Davidians might react negatively to that kind of more aggressive assault. And that's why initially that apparently hadn't gotten brought up to you as early as it might otherwise have been brought up to you.

And it seems as though internally in the FBI the idea of a slow implementation plan was the desired thing and that's what they promoted. Yet Mr. Jamar told us that he was 99 percent certain that when those vehicles approached the compound they would be fired upon, and under the plan it would be accelerated. I do not see why you would not have seen the same thing Mr. Jamar saw in this. He did say he didn't pass his thoughts on to anybody else, so I don't doubt for a minute that you got those words. You didn't. That thought didn't go up. Neither Mr. Potts nor Mr. Clarke nor anyone else that I could find -- maybe you did; you may tell me somebody else I didn't ask passed that thought on to you. But I don't think Mr. Jamar expressed that thought to any superior.

But it seems to me logical that one would assume and that you yourself should have assumed that the plan would have been accelerated almost to a probability because of the fact that surely after the ATF officers had been shot in a raid on February 28th, one would have to assume the likelihood that these vehicles would indeed be fired on. And with that higher risk involved, my question is, were you thinking, "Yes, it is probable; the risks of that are there but I'm going to take that chance anyway; will we let the events unfold? We've just got to come to an end to this," or did you really think, despite all that I have analyzed with you, that when those vehicles approached up there that the insertion of that gas would, in all probability, be a slow unfolding and that the plan would be carried out over the 48 hours rather than over what turned out to be six hours, but a much accelerated plan?

ATTY GEN. RENO: First of all, let me make clear to you that I did not feel pressed to make a decision except by the facts. Secondly, let me make sure that you have said that I made a mistake. No one will ever know whether you had been in the same position, using the same analysis that you have made today, you would have made a mistake.

With respect to the first issue that you raised, you don't think that there was an impasse in negotiations. What Mr. Sage said, as I understand his testimony here, was that they had reached an impasse in negotiations in terms of anybody coming out voluntarily. And I don't think there's any doubt about that. He wanted to continue to negotiate. I wanted to continue to negotiate. And it was our hope that with the pressure of the gas, it would produce the possibility of negotiations if not

getting them all out.

As you look over all the transcripts over all the time, it's easy for you to take a piece here and a piece here and wishful thinking say, "Gee, if I had been the attorney general, this is the way it would have worked. "And I wish, if it had turned out right, that that had been the case. But what I was faced with was not the ability to Monday-morning-quarterback. I was faced with a situation in which he said he had rehearsed the plan March 2nd. There had been continuing concerns about suicide based on some of his messianic writings -- Chairman Hyde refers to this -- and that I didn't know what circumstances might exist that would produce that -- an attack from the outside, an intruder, a fight, a response -- that this was the best time to use the resources we had to encourage further negotiation.

Secondly, with respect to the fatigue, it was never expressed to me in terms of fatigue. It was expressed to me in terms of a state of readiness, in terms of their sharpshooting ability and the like. What was expressed to me is that they might have a little bit longer but that this was their best time in order to properly hold the perimeter. But what I was faced with was here was a man on March 2nd who had said he would come out. He was very explicit. He said he would come out immediately. The tape was broadcast. And what did he do?"I'm sorry, I'm not coming out. God told me to wait. "

He said he was coming out soon around March 19th or 20th. He never came out. He said he was coming out after Passover. After Passover he suddenly comes out with the fact that he's going to do the seven seals. I went through the transcripts to see, after the fact, to engage in some Monday-morning-quarterbacking myself. And it was so clear those days following the end of his passover, or what he referred to as Passover, trying to get some signal, trying to find out, when is he coming out?What is he going to do?He could take forever to finish the seals; as Steven Schneider said, six months or six years.

We will never know the answer, but the record is replete with equivocation, with broken promise, of him just toying and manipulating the whole system. I'm willing to be toyed with and manipulated if I can maintain a perimeter. And obviously, with what we have learned, we now have a capacity so that if -- I would have the HRT capacity and the SWAT capacity to wait longer, and would have done so then, because that was one of the very points of the equation.

With respect to the kids being abused, I have never suggested that there was more abuse after the raid than there was before the raid. What I was concerned about are allegations that have been supported that children were being sexually abused and that children were being beaten. And children kept under those circumstances for six months to a year without being able to get out, that's not a good condition for children.

With respect to talking to DeGuerin, to Sage and to Jamar, I could talk to them till I'm blue in the face. But my whole point is, from all that I have learned, the factors are still there. Everything that has come up has been part of the factor in terms of trying to understand it. We will never know what happened.

If I could wave a magic wand and do it over again and have the right answer, I would feel like I was

the most fortunate person in the world.

REP. MCCOLLUM: Do you want to respond to the last question I asked? I know you responded to my analysis. I really -- the question I asked pertained to the issue of the question of your belief of whether or not that plan -- the use of the gas would --

ATTY GEN. RENO: I think --

REP. MCCOLLUM: -- be (rated ?) almost as a probability because you would have assumed -- or would you not have assumed? -- that this would -- (inaudible) -- fired upon by the Davidians?

ATTY GEN. RENO: If I understand your question, and I have it at little bit -- down a little bit differently, I think what they were trying to do -- I think they faced an unusual situation where the gas did not appear to be working because the wind was very high, and they were worried that people did not have the opportunity to get out because they had barred doors.

In terms of knocking down the doors, nothing happened. They moved slowly. Nothing happened for one hour, two hours, three hours, four hours. I think it was an appropriate effort to ensure that there was egress from the compound.

REP. MCCOLLUM: But the question -- and I don't want to belabor it, because my time has expired and -- you spent a lot of time, obviously, analyzing my analysis, and I understand that. Maybe I should not have asked the question at the end I did. But what my question at the end was was pertaining to a comment made to us by Mr. Jamar, the tactical commander, who told us that he was 99 percent certain in his own mind that when the gas inserting vehicles approached that compound, they would be fired upon.

And my real question to you is whether -- he didn't pass it on to you, as far as I know. I mean, everybody here said they didn't hear it from him. He didn't say it to anybody. Wouldn't it have been reasonable for you to think about that yourself, in light of the fact they'd fired on the ATF? Wasn't it a probability, as Jamar thought, and did you have that same thought he did, that they would be fired on? And if you did, would that have not implied that to your thinking at the time you made your decision that this was going to inevitably be an accelerated assault from the beginning? That's the question.

ATTY GEN. RENO: We speculated on that from the beginning, because one of the things that I was concerned about is that they would put children up in the window and use them as shields to fire on agents below, and I said, "If they put the children in the window, back off immediately."

But what we were faced with here was a situation in which we expected them to fire, perhaps, in certain instances. We wouldn't have had the people in those armored vehicles.

REP. MCCOLLUM: Well, that's what I would think. Mr. Schumer? Oh, Mr. Scott? Mr. Scott, you're recognized for five minutes.

REP. SCOTT: Thank you, Mr. Chairman. I will yield one minute to the gentleman from New York,

Mr. Schumer.

REP. SCHUMER: Thank the gentleman, and as we begin this second round of questioning, I just want to say to you, Madame Attorney General, that you have done a -- I think a very fine job of forthrightly explaining your position and what happened.

Before these hearings began, it was no secret around town that some said they were going to bring you here to embarrass you or humiliate you -- "The Washington Post" on July 16: "Attorney General Janet Reno is the sole witness on the hearings' last day, and some Republican staff members privately expressed hope they can humiliate her. ""Newsweek," July 31: "Republicans have cast her as the climactic witness in what they hope will be a high-profile humiliation. "Associated Press, July 28: "Some Republicans privately concede they hope to use Waco hearings to embarrass the administration. "

What I want to say is you haven't been embarrassed or humiliated at all. You've stood strong and tall. The only embarrassment and humiliation came in a few moments from incidents like the gas mask incident, which was not your doing.

I just have one question for you, and that is you've sat here all morning, you've read, I'm sure, the accounts of the hearings for the last nine days. You probably listened to some. Have you learned anything different or new that would have led you -- that leads you to think differently of the decision you made?

ATTY GEN. RENO: First of all, I have to say it's a matter of personal privilege that I don't know that many other members of the -- I've had dealings with a number of the members, and I don't think that they would embarrass me. I know for sure Chairman McCollum would never be out to humiliate me.

TUE PM PAGE 40 08/01/95

REP. SCHUMER: I agree. Hear, hear.

ATTY GEN. RENO: And if he tried, he couldn't do it. (Laughter. )

REP. MCCOLLUM: Well, I assure you, if I might, I'm not trying to humiliate you today. I'm trying to ask honest questions, but we do have -- (inaudible) --

REP. SCHUMER: The question I asked is had you learned anything new from sitting here this morning or in reading the accounts that would have led you to make a different decision?

ATTY GEN. RENO: Well, I've been doing an awful lot of the talking, so it's -- I'm trying to -- to furnish the information.

What I have done -- I have not been able to see that much of the hearings, and I've asked for reports. We're going to go over everything to see if there's anything that we should follow up on, because I am very sincere in what I said to the Judiciary Committee two years ago and what I'm saying now.

Whatever we can do to work together, to avoid tragedies like this in the future, we want to try to do that.

REP. SCOTT: Thank you. Ms. Reno, I want to get back to the situation of the gas, just very briefly. We've heard about the 48 hours of gas insertion planned. Was it the plan to insert gas for a constant 48 hours?

ATTY GEN. RENO: I think that's a very good question, because what happened, first of all, was the wind was much higher than anybody anticipated, and you could see the curtains at right angles. It was hoped that the gas would be inserted in a very measured way, that it would force some people out. Our anticipation was that people would come out, would straggle out, some faster than others, and that we would increase the pressure to limit them in space so that they would react to the gas.

But I think what happened here is that the wind was much higher, the gas was dispersed much more quickly. It didn't have an impact. They were concerned, because people weren't coming out, that perhaps their way was blocked, but it was to be a very measured process, trying -- and the total expectation, based on my conversations with the HRT team, based on my conversations with the military commanders and with Dr. Salem was that people would react to the gas much more quickly.

REP. SCOTT: We've heard the gentleman from Indiana mention the background with CS gas. CN gas has been proven, documented to kill people from time to time, but there's been no documented case of anyone suffering long-term medical implications from exposure to CS gas, although it is very traumatic, obviously, when you're under the effects.

Although it is physically safe, we've also heard testimony that it is very difficult to predict what someone will do under its influence. Some will panic, some may not panic, but it's very difficult to predict.

Had this difficulty in predicting someone's reactions been taken into consideration as you developed the plan?

ATTY GEN. RENO: We took it into consideration -- not the panic, so much, but if a child came out without a parent or vice versa, those circumstances, we tried to consider what could be done. And, again, there was the anticipation that the gas would have a much more immediate impact than it did?

REP. MCCOLLUM: The gentleman's time has expired. Mr. Barr, you're recognized for five minutes.

REP. BARR: Thank you, Mr. Chairman. Ms. Reno, there was testimony earlier, and I don't know how much of it you heard, but I know you're aware of it. Part of this was the subject matter of a letter that had been written to you by the AUSA down there, and that is the state of relations between the FBI and the Texas Rangers and possibly with some of the other agencies that was causing some problems, and Commander Maurice Cook (ph), the senior captain and commander of the Texas Ranger division of the Texas Department of Public Safety talked about this the other day,

and one of the questions that he was -- responded to during his testimony was that the governor of Texas had furnished him a number at the White House should he need to address certain concerns concerning cooperation with the FBI.

That struck a number of us as somewhat odd at the time, that the governor would be referring him to somebody in the White House as opposed to the director of the FBI or yourself or somebody at Justice, and I'd like to have a letter shown to you, if I could, please. This is a letter that we received I think just today or late yesterday from Commander Cook of the Texas Ranger division in which he says that in further response to --

REP. : -- (off mike) --

REP. BARR: Absolutely. Absolutely.

REP. : Thank you -- (inaudible) --

REP. BARR: -- that in further response to Chairman Zeliff's further inquiry that the name of the person to whom he was referred by the governor of Texas to address certain concerns that he might have with regard to the FBI and the Waco situation was Vince Foster, and then he's given the number at the White House.

I'm wondering if you have any knowledge as to why he would be referred to the White House, in particular Vince Foster, concerning problems that might have cropped up during the Waco siege.

ATTY GEN. RENO: I would have no idea why the governor would do that.

REP. BARR: Okay. This morning, during the Whitewater hearings, it's my understanding that Mr. Foster's secretary, Deborah Goreham (ph) I think is her name, testified that Mr. Foster maintained a Waco file in his locked file cabinet, and I further believe that that file did not turn up in the White House's accounting of files maintained by Mr. Foster in the wake of his unfortunate suicide.

Do you have any knowledge of whether or not he maintained a Waco file?

ATTY GEN. RENO: I have no idea, sir.

REP. BARR: Do you have any knowledge as to what might have happened to such a file?

ATTY GEN. RENO: No, I don't.

REP. BARR: Does it strike you at all odd that questions regarding the FBI, which comes under your jurisdiction, regarding an investigation as serious as this one would be referred not to the FBI, not to the Department of Justice, but to the White House?

ATTY GEN. RENO: I don't know what the timing of it was, sir, whether I was in office or not.

REP. BARR: Okay, when were you sworn into office?

ATTY GEN. RENO: March 12, 1993.

REP. BARR: Okay. And were you in an acting capacity prior to that in any --

ATTY GEN. RENO: No, sir, the acting attorney general was Stuart Gerson, who was from the previous administration.

REP. BARR: Okay. The testimony of Commander Cook (ph) was that during this time period -- and that is between February 28, the initial raid, and then going into the -- into the siege, because the Texas Rangers had been provided the jurisdiction or had been, as a matter of fact, I think he said some of his men were deputized as special assistant marshals, that would be U. S. marshals, in order to conduct a continuing investigation of the murders of the agents, so this was a situation that developed, and I don't know whether it had to do with any one particular day or whatnot, but you had no knowledge of Vince Foster's involvement in this?

ATTY GEN. RENO: No, sir. I don't know what the timing was, because I didn't get there until March 12. You had a very unusual situation in the Department of Justice, because you didn't have an attorney general nominated until February the 11th. The confirmation process then took the ensuing time, and there was an acting attorney general, Mr. Stuart Gerson, who was a holdover from the prior administration, so that there may have been concerns about appropriate communication. I don't know.

REP. BARR: Okay.

The investigation of Waco obviously continues even today, and certainly both the departments of Justice and the Department of Treasury were maintaining active investigations, which resulted in the respective departments issuing voluminous reports in late 1993, so during the period of time in which Mr. Foster died, there was continuing activity within the administration -- at least within two departments thereof -- concerning Waco.

Had Mr. Foster maintained a file on Waco in his office at the time of his death, and if, in fact, that file disappeared, would that give -- raise some question in your mind as to why or that it ought to be looked into why such a file disappeared?

ATTY GEN. RENO: I don't know, sir.

REP. BARR: You don't know whether that would raise a question in your mind?

ATTY GEN. RENO: I don't know what the file was.

REP. BARR: Let's just say a file that had documents pertaining to Waco in it, which would be, you know, logical to presume if it said "Waco. "

ATTY GEN. RENO: I would have to check and see what the testimony was this morning and understand it.

REP. BARR: The testimony where?

ATTY GEN. RENO: Whatever -- this is the first time I've heard about a Waco file, so I would have to be informed in order to make a decision --

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

Mr. Watts, you're recognized for five minutes. Mr. Watts, do you wish your time? You're recognized for five minutes.

REP. WATTS: Thank you, Mr. Chairman. I made the mistake this morning, Madame Attorney General, of getting off on some factual issues related to your initial testimony, and while the responses were excellent and good and informative, I want to make sure that I get to the things that I really wanted to deal with this morning, having to do with the seven recommendations that -- or action items I guess you have taken in response to the incidents that occurred at Waco.

TUE PM PAGE 45 08/01/95

I noticed that the first four of those action items, the ones listed on page 6 of your initial statement, all relate to involvement of additional people in the process -- 30 senior agents for additional training in hostage barricade situations, increasing the size, composition, and equipment of the hostage rescue team, FBI increased the number of negotiators, FBI has formed a critical incident response group.

And one of the questions I wanted to ask is whether any of that additional training and personnel -- is the emphasis in any of that training those people in the -- having a clear understanding of personal and individual rights and liberties -- the Fourth Amendment, and the exclusionary rule, and the value that that plays in the process? I would just like to be reassured that the lessons that some of us have tried to make during the context of this hearing that our federal government really appreciates the value of the Fourth Amendment protections and constitutional protections and their safeguards, and the way they are safeguarded through the exclusionary rule, are being reinforced to any new personnel that comes into this kind of situation?

ATTY GEN. RENO: Well, first of all, they are being reinforced with new personnel coming into the law enforcement agencies of the Department of Justice. I put -- set great store on our whole training program. I've visited Quantico. I'm doing everything I can to work with Director Freeh to make sure that Quantico -- as well as the other federal agencies under the marshal service and the border patrol, which train at Glenco (sp) -- have a curriculum that addresses the issue of constitutional guarantees, and that it does it well. So, I feel comfortable there.

With respect to the HRT and the SWAT teams, I don't know whether there is additional training over and above and beyond -- with respect to constitutional issues. But I know -- in my conversations with Director Freeh and my conversations with the head of the Crisis Incident Review Group -- that human life is paramount, and the protection of human life is paramount to what we're doing.

REP. WATTS: Okay. Your response leads me actually to the second question that I already had. It didn't provoke the second question. And that was your reference to the SWAT teams. Does that SWAT team -- is that an acronym for something? I always have these visions in my own mind of -- when I hear the word SWAT team -- of people shooting at folks. And I just wondering, is that an acronym for something?

ATTY GEN. RENO: I don't know what the --

MR. : Special weapons and tactics team.

ATTY GEN. RENO: It's the special weapons attack team, or something like that.

REP. WATTS: Special weapons attack team.

ATTY GEN. RENO: Yes.

REP. WATTS: Okay. I just -- I guess, one of the concerns a lot of people in the public expressed to me is this notion that the government is getting more and more armed and dangerous to us citizens. What kind of training is being provided to the HRT and SWAT team members.

ATTY GEN. RENO: It's special weapons and tactics.

REP. WATTS: Special weapons and tactics.

ATTY GEN. RENO: Weapons and tactics.

REP. WATTS: That might -- that sounds like a lot better to me than attack team. It really does.

ATTY GEN. RENO: What the director is trying to do -- and he really should address this issue directly. But what we are trying to do is to develop the capacity with the Crisis Incident Response Team, working with these enhanced SWAT teams, to understand the behavioral issues, to understand the issues that may help us to negotiate out a peaceful resolution of these matters.

From my experience, if you have a well-trained team that can respond, that can work as a partner with the negotiators, where they are truly on the same team, you can be more effective. And the director is absolutely dedicated to doing everything he can to enhance the capacity of these teams to save human life.

REP. MCCOLLUM: The time of --

REP. WATTS: And can you just tell me one more time what SWAT stands for?

ATTY GEN. RENO: Special weapons and tactics.

REP. WATTS: Okay.

ATTY GEN. RENO: Right.

REP. WATTS: Special weapons and tactics. Okay.

REP. MCCOLLUM: Thank you for clarifying that --

REP. WATTS: Thank you.

REP. MCCOLLUM: -- after all these days, Mr. Watt. Your time has expired.

Mr. Hyde, you're recognized for five minutes.

REP. HENRY HYDE (R-ILL): I'll bet Mr. Schumer knew what those letters stood for.

REP. MCCOLLUM: Beg your pardon?

REP. HYDE: I'll bet Mr. Schumer knew what those letters stood for -- SWAT. (Laughter)

REP. SCHUMER: You'll never know. (Laughter)

REP. WATTS: He thought I was saying (watch ?). He didn't know -- (off mike).

REP. SCHUMER: Not at all.

REP. HYDE: Incidentally, I just want Mr. Schumer to know how much I am unhappy with his quoting anonymous staffers making insulting remarks about the attorney general. He knows no Republican member would talk that way, is that stupid or that mean-spirited. And it just isn't helpful. If there's any commenting left around here, quoting garbage like that isn't helpful. And I yield to the gentleman.

REP. SCHUMER: (Off mike) -- to the gentleman -- their quotes, not mine.

REP. HYDE: Yes. Well, they don't help this discussion.

Now, General, we're nearing the end. And I know there's no one who desires that more than you, because this has been exhausting. And you've done exceptionally well. But as we reach the end, I think you have said there's nothing you would do differently know what you know now. Is that true?

ATTY GEN. RENO: There are three parts to that, Mr. Chairman. First of all, knowing what I do now and having enhanced the capacity of the SWAT team and the HRT team, I would do what I would have hoped I could have done then, which was bring in another HRT team or a compliment that could ensure the --

REP. HYDE: Well, I'm not talking about --

ATTY GEN. RENO: Okay, but --

REP. HYDE: -- changing circumstances. I mean, what happened at that time and place, knowing what you know now?

ATTY GEN. RENO: Okay. I'm trying to take it point by point.

REP. HYDE: All right.

ATTY GEN. RENO: Secondly, knowing what I know now, I would wait and take the risk of the impaired perimeter.

REP. HYDE: Okay. I think what you're saying is that the behavioral science people, who had this exactly right and whose reports you were given on April 17th -- I think you would have -- the behavioral scientists, Peter Smerick and this gentleman named Young and others, you would have paid more attention to what they said, because they hit the nail on the head.

Smerick -- and I'm quoting from the Justice report -- "Smerick and Young noted this was not a typical hostage situation, in that the hostages in this situation wanted to be barricaded inside with their leader, and had no intention of leaving. Given this dynamic, Smerick -- FBI behavior scientist -- and Young suggested a different approach. In traditional hostage situations, a strategy which has been successful has been negotiations couple with ever increasing tactical presence. In this situation, it is believed this strategy, if carried to excess, could be counter-productive, and could result in loss of life. Smerick and Young explained that if the FBI could not establish some trust with Koresh, the FBI would face the possibility of eventually taking physical action against the compound. If such an attack took place, Koresh and his followers will fight back to the death to defend their property and their faith, as they believe they did on February 28th. "

And then, quoting from page 183 of the Justice report, Smerick again, "He wrote the memos because he was concerned that the FBI commanders were moving too rapidly toward a tactical solution, and not allowing adequate time for negotiations to work. "

Now, I say that knowing you had 51 days. And that must have seemed like an eternity -- especially on the plains of Waco. But to go on.

"Smerick notes that the FBI commanders were action oriented. They wanted to treat Koresh not as a negotiating partner, but rather as a psychotic criminal who needed to be caught and punished."

Now, there were five reports -- as I understand it -- analyzing, from that that perspective, this situation. And I say, had I been in your situation, I might well have done exactly as you did. So, I'm not being judgmental. But in looking back at this, these fellows who understood that these weapons were stockpiled in anticipation of an apocalyptic confrontation with Babylon -- which happened to be our government -- they believed an aggressive assault plan would dramatically increase the paranoia and the fear of the Davidians.

(TUE PM PAGE 49 08/01/95)

It's a shame. And I regret, and I hope you regret, that you didn't look at this from the point of view of how would the reasonable Davidian react to this assault with teargas, not how the reasonable person would react. And do -- have I made myself clear? And wouldn't you pay more attention to these behavioral scientists than evidently you did?

ATTY GEN. RENO: I think you've made yourself clear. But I think we're a little bit confused in time. Mr. Smerick's remarks -- as I understand it and as I was advised -- were developed in early March, when there was tension between the negotiators and the tactical people. My concern, when they were -- they -- and I was unaware of that tension.

When the gas plan was submitted to me, I began to hear about some of the tension. That's what caused me to follow-up and to make sure that we had talked to negotiators, to make sure that there was nothing else that could be done to try to negotiate people out -- short of adding the pressure.

As I understand it, Mr. Smerick testified before the committee that the FBI did not move at that particular time that you've raised. And for the longest period of time, went over and beyond what normally the negotiators might consider doing in a situation like this -- in my experience in the past of working with negotiators in similar crisis. For instance, the idea of bringing in attorneys to deal with this offender is unheard of. The idea of bringing in religious experts to discuss the matter with the offender is unheard of. And yet, the FBI considered all these options. The FBI did not ignore my memos. And, in fact, that -- did, in fact, follow many of the suggestions I made.

TUE PM PAGE 50 08/01/95

REP. HYDE: Well --

ATTY GEN. RENO: What I was faced with, Mr. Chairman, was that was passed. I came in March 12th. They had -- the tensions had developed. When I was confronted with those tensions, that's when we talked to Sage to make sure that nothing more could be done.

In retrospect, if I had been the attorney general on February 28th, I would have -- knowing everything that I know now -- and perhaps even not in retrospect, because negotiation was key to us. Try to work it out, work it out, work it out. It continued to be, up until the morning we went in. It continue to be through that morning. But what we have tried to do, in response to that, is to develop the capacity of negotiators and tactical people in the Crisis Incident Review Team and -- Review Group to have that teamwork that is so necessary in understanding how you negotiate, but how you increase pressure when it's appropriate.

REP. HYDE: Well, my time is up. Thank you.

REP. MCCOLLUM: Mr. Hyde, you time is up.

Ms. Lofgren, you're recognized for five minutes.

REP. ZOE LOFGREN (D-CA): Thank you, Mr. Chairman.

First, I'd like to yield a minute to Mr. Schumer, who had a question.

REP. CHARLES SCHUMER (D-NY): Fine. It's not a question. I just thought I'd clarify more innuendoes that come up at this late hour.

The so-called file -- Foster file -- it consisted of one document. We saw it. Mr. Zeff, Mr. McCollum, Ms. Thurman, and I saw it. It was in the 28 documents that could not be released. This one not because of executive privilege, but because they were under the privy of the -- of Mr. -- the independent counsel.

REP. : Mr. Starr.

REP. SCHUMER: Mr. Starr. And then we did see it. And what it simply said is that Mr. Foster was forwarding Linda Thompson -- the militia leader's tape on Waco to Mr. Noble and the attorney general. Nothing nefarious. Nothing that had anything to do with anything. And I don't think we should leave that hanging. As for this letter from the Texas Department of Public Safety, again, it was acknowledged by the Texas Rangers. They asked Ann Richards who they should call, because they were having trouble with the FBI. Ann Richards mentioned a name. And that has nothing that -- it's not positive of anything. She may -- she mentioned Vince Foster's name. We don't know why she did. She had nothing to with the investigation. I would hope that we wouldn't call Ann Richards in now and ask her why she mentioned that name -- continuing in this fishing expedition-type of mode.

REP. LOFGREN: Well --

REP. SCHUMER: And I thank the gentlelady for yielding.

REP. LOFGREN: Thank you. And if we do call Ann Richards, I hope we can also get the reporters from the Waco newspaper that my colleague has asked repeatedly to hear. Attorney General, some have suggested that the use of teargas be suspended in America by police forces. And I have heard from a local police who fear that that would leave them only with lethal weapons, not non-lethal weapons. Do you have a view on that?

ATTY GEN. RENO: I certainly do. I mean, if we just look at America in these last two weeks, teargas has been a means of resolving a situation that could otherwise be terribly dangerous to life and limb. From what I understand in the review of police agencies around the country, many have had to use it. It is an alternative to lethal force. And what we all must do is continue to look -- as the Department of Justice is pursuing -- what we can develop. I mean, if we can send a man to the moon, we ought to be able to develop non-lethal technologies that help us review this. I keep thinking of -- waking up in the middle of the night and thinking, there must be some substance that we could fly over, put them to sleep for an hour, and go in and get them.

REP. LOFGREN: Thank you.

I did get an answer, and I know you indicated earlier, and I absolutely believe that you were not watching the clock in terms of money at the time that you were making your decision based on the what was the prudent law enforcement course to make. But I recall -- at the time I was not a member of Congress; I was living off in a town in California -- a lot of people were watching it, wondering how much was it costing to do that siege.

And as I understand it, it was about \$5.9 million for the siege projected out for a year. If my figures are right, that would be about \$47 million for a year if we kept the force up. And I'm just sort of wondering, is there a policy -- \$47 million would probably save 20 kids from some other death or disorder in the country. How do you assess resources in the future, especially given the budget-cutting that is going on, you know, in this Congress? How do you balance the need to do a law enforcement job with the reality that your budget is being cut and resources need to be sorted in the way that will do the most good for the most people?

ATTY GEN. RENO: Those are the most difficult financial issues that we have to face. But at that point I had not addressed that. I just didn't think that money should be part of the equation.

REP. LOFGREN: And I acknowledge that. But since we're looking in an oversight capacity about what do we do in the future -- and I note that there's an AP report that last year a group of Branch Davidians had an incident out west, not the same as this, but it could have grown to that. In the future, how are you going to cope with the fiscal realities and the budget cuts and the need to apply resources in the most prudent way, especially given your record on early intervention and prevention of crime with young people, which has the greatest potential for making our country safe?

ATTY GEN. RENO: I think what we need to do is to make sure that our efforts are as effective as possible to address the concerns that Chairman Hyde raised to make sure that negotiators and tactical people have the best information possible, have exposure to the best experts, so that we try to bring these matters of this type to solution as early as possible. As you well know, I'm a strong proponent of prevention.

REP. LOFGREN: Thank you.

REP. MCCOLLUM: Thank you, Ms. Lofgren. Your time has expired. Mr. Zeliff, you're recognized for five minutes.

REP. ZELIFF: Attorney General Reno, I sure hope in no way that my former questioning had anything to do with the embarrassment situation that was referred to.

ATTY GEN. RENO: Mr. Chairman, as I mentioned to you earlier, I don't know you nearly as well as I know Chairman McCollum, but I --

REP. ZELIFF: Okay. I just would --

ATTY GEN. RENO: You have not --

REP. ZELIFF: I certainly would like to respect you and your position in every way possible.

ATTY GEN. RENO: You have not in any way embarrassed me.

REP. ZELIFF: Thank you. I would like to thank you quickly on Oklahoma City. I think it was an outstanding example of success for the U. S. government, led by our president. The FBI, DOD, ATF, FEMA, every organization in this government responded with perfection. And at the time I spoke out in New Hampshire what a great job the president did, and I think he deserved the credit for coordinating that response, as you and all the law enforcement people and everybody else did. And I think that's outstanding.

I'd like to pass out a copy of the White House document that's been referred to earlier from Judge Mikva, July 31st, 1995, second paragraph, first two sentences: "The facts relating to the president's involvement in the decision to end the siege at Waco are a matter of public record. The president has never shied away from, indeed has repeatedly acknowledged his knowledge and ultimate approval of the decision. "And again, I don't want to keep --

REP. : (Is this letter?) part of the record?

REP. ZELIFF: Yes, it is.

REP. SCHUMER: Do we have it?

REP. : I thought this is the same letter that Mr. Barr objected to earlier.

REP. MCCOLLUM: This could be distributed if nobody has it.

REP. ZELIFF: We're in the process of distributing it right now.

REP. : I thought Mr. Barr had already objected to the letter being a part of the record, though.

REP. ZELIFF: Well, is this on my time or -- I hope not.

REP. : I'm just making a parliamentary inquiry. I thought --

REP. MCCOLLUM: I don't believe -- regular order is being called for. It is Mr. Zeliff's time. I do not know if this document was the one or not, but we'll determine that in a minute. Please proceed.

REP. : Well, I object if --

REP. ZELIFF: I think --

REP. MCCOLLUM: He hasn't asked to admit it yet into evidence.

REP. ZELIFF: Okay, well, I would like -- I am submitting it. We are discussing it. It has been talked about on several occasions on both sides of the aisle. It was received yesterday. It involves --

and all I'm trying to do is establish the chain of command, who was in the loop. I think it is important. I share it with anybody that would like to have it shared with them. And I appreciate the acknowledgement from the judge that --

REP. MCCOLLUM: Are you asking unanimous consent to submit this document into evidence?

REP. ZELIFF: Yes, I am.

TUE PM PAGE 55 08/01/95

REP. MCCOLLUM: Is there objection?Hearing none, it is so admitted. You have an additional minute on your time.

REP. ZELIFF: And I guess my problem with all this -- I'm just a small businessman from New Hampshire who now is a member of Congress. And when something happens in my business, I have to be responsible for it. I can't blame it on the maintenance man. I can't blame it on any number of people. And so my problem with government generally is accountability and responsibility. It's what I ran on. And what I have -- and I have no problem with, if we make mistakes, we just need to address it.

As I'm trying to explain the oversight role that I have, the responsibility that I have here as I see it, and the accountability and the responsibility as we try to explain to the American people exactly what took place at Waco, I think one chapter of that is what is the chain of command and who is in the loop?And I said on Sunday -- and I just would like to kind of explain when I said that we killed over 80 people, what I really said, Koresh was the bomb. We lit the fuse. Now, we can talk about whether that's right or whether that's not right, but maybe you can comment on that.

But what I'm trying to get to in my own way is how do I go back to a town meeting in New Hampshire and explain, after 10 days, exactly what happened and do it in a concise way?Who was involved in the decision?What went wrong?What went wrong with ATF?What went wrong with FBI?Right now people say, "Well, why do we have these hearings?"And what they really saw is they saw Mr. Potts get promoted and they saw two other folks from ATF get fired and rehired. Even in this hearing we were not able to bring out the substantial information as to why they got rehired. And it just seems like it's awfully hard.

We have a Treasury document and we have a Justice document, and a lot of people say, "Well, you know, what's wrong with just analyzing your own department and putting out your own report?Why do we need oversight?"And so what I'm really trying to do is have we really gone through the process adequately and to the fullest extent possible in terms of identifying who was in the loop?And I think, based on this last statement, the president was in the loop and Judge Mikva said, "That's great. "When you go to him and ask for approval -- and I assume you did that on the gas plan -- or did you just tell him about it and (imply?) approval?I mean, you might just mention -- in the corporate world, in the private sector, you would be asking for

(TUE PM PAGE 56 08/01/95)

approval and he would give it. And again, we stand by those decisions.

I guess what I worry about is as we go forward with our report, do you feel that all the people that were responsible for everything that happened at Waco -- have we gone to the American people? Have we told them everything that's going to happen? Or what about the next areas of accountability? We're going to probably deal with the two folks at ATF that got fired and rehired. You're dealing with Mr. Potts. Is there any other major areas here that we can add to the fact that we had this tragic situation? We've learned a lot from it. We need now to go forward and fix it so it doesn't ever happen again. Now, you've indicated some things in your area. Is there anything else that you'd like to include --

ATTY GEN. RENO: I --

REP. ZELIFF: -- and particularly in the chain of command and who's involved in the loop?

ATTY GEN. RENO: I would just like to address one thing without -- and I mean to be supportive of you, sir, not critical. But there is --

REP. ZELIFF: As I am with you.

ATTY GEN. RENO: There is an impression -- and everything that I've heard about what you say, you're very supportive of law enforcement. You understand the pressures of people on the street. But when you tell me, because if you're correct, I lit a fuse that killed --

REP. ZELIFF: No, I didn't accuse you of doing that. I said we. I used the word w-e, we as a government.

ATTY GEN. RENO: But --

REP. ZELIFF: I didn't say you.

ATTY GEN. RENO: -- it has been characterized, and I think that's the reason it's so important that we are careful. I join with you in just saying law enforcement --

REP. ZELIFF: Did you really think that I meant you?

ATTY GEN. RENO: I really did, sir, and it hurts.

REP. ZELIFF: Okay. Well, I'm talking about the picture -- I'm talking about a picture of a tank going into somebody's home, coming out, and an announcement saying, "This is not an attack." And I'm not blaming --

ATTY GEN. RENO: I understand. But you've heard the process by which I went through --

(TUE PM PAGE 57 08/01/95)

REP. ZELIFF: I have.

ATTY GEN. RENO: -- and you can't -- I don't think you believe that I was callous enough to set a fuse.

REP. ZELIFF: I don't -- I think you did what you thought was right.

ATTY GEN. RENO: And so it is important how we phrase things. With respect -- let me see if I can give you a situation. If there was a congressman who was under investigation and the president of the United States was involved in that investigation, that should not be. If there was a public official involved in the subject of an investigation and a congressman called me and said, "I want you to get that so-and-so and he's" -- that would be wrong.

The Justice Department and the prosecutor and law enforcement have a special role that is to some extent different from the military's. The president is the commander-in-chief. But in law enforcement it's characterized by some as quasi-judicial, quasi- executive. It requires some independence. What the president did, for example, in Oklahoma City, I think, was a classic example. He went. He spoke out. He ensured that this nation responded in terms of State Department issues and coordination. But he didn't ask me about the details of the investigation until we had proceeded to the point where I could tell him, as I was making the announcement.

And it is so important that those processes be independent. That's the reason I think you can -- and I feel presumptuous, but you asked -- that you can tell your town meeting that the president of the United States let law enforcement do its job, asked to be kept advised in an appropriate way, and did his job the right way. I can't respond for ATF. That they will do. But let me just take it with the FBI, because people have said, "Well, nobody was disciplined." Mr. Chairman, I have been over and over and over this case, trying to find out anything that anybody did wrong. We -- I don't know if anybody would ever have been right. But I didn't find what I perceived to be any negligence. I didn't find any misconduct. I didn't find any basis for disciplining somebody. I can assure you that the anguish of those deaths will be with us all.

REP. ZELIFF: Well, obstruction of justice in some cases, rearranging a crime scene --

REP. MCCOLLUM: Mr. Zeliff, your time has expired.

REP. ZELIFF: You don't think anything was done wrong?

REP. MCCOLLUM: Mr. Zeliff, your time has expired.

REP. ZELIFF: My time has expired.

TUE PM PAGE 58 08/01/95

REP. MCCOLLUM: Yeah, it has. Mr. Bryant, you're recognized for five minutes.

REP. BRYANT: If I can find a microphone. Thank you, Mr. Chairman. Before I get into my line of

questioning, Ms. Collins on the other side, I think, referred to Mr. Souder in an earlier statement she made this morning, and Mr. Souder has had to go back to his hearing and asked that I ask a unanimous consent that we attach a column apparently in response to this article she cited, and at this point I would ask unanimous consent that we just attach this column to the record.

REP. MCCOLLUM: Without objection, so ordered.

REP. BRYANT: Thank you, Mr. Chairman. Ms. Reno, let me follow up on Mr. Barr's questioning regarding the response from the Texas Ranger who testified last week, I believe. And as I review this letter and think about and try to recall his testimony, I do remember that it was early on. I had a different recollection, but now I remember it was early on after the initial ATF raid, as I recall, that he went to see the governor. And as I read this letter from Mr. Cook, that it was at that meeting with the governor that she gave him the name of Mr. Foster and Mr. Foster's telephone number, that if he had any further problems with the FBI that he should call Mr. Foster directly at the White House, that that was the White House contact.

Now, again, I guess we could surmise one of two things. Either that was her personal contact at the White House and she just gave him the number, or the second thing we could surmise would be that he was, in fact, handling the Waco and that he had told her to call about any questions with Waco. I don't know that we'll ever know that answer, but it gets around to this issue of a belief that I have that the White House had a role in this in terms of Mr. Hubbell on your end and his colleagues from Arkansas, who include Mr. Foster and Mr. McLarty and Mr. Lindsey, who were close advisers to the president at that time; putting this into the political context of those days and not just focusing strictly on Waco as we have these 10 days.

Let me get back to your trip to Maryland that day. As I understand, you retained authority to terminate that -- and I have the wrong word, but I call it raid or whatever. You retained the authority to cancel that.