



Department of Justice

STATEMENT

OF

ATTORNEY GENERAL

JANET RENO

BEFORE

COMMITTEE ON THE JUDICIARY

U.S. HOUSE OF REPRESENTATIVES

CONCERNING

THE EVENTS SURROUNDING THE BRANCH DAVIDIAN

CULT STANDOFF IN WACO, TEXAS

PRESENTED ON

APRIL 28, 1993

HOUSE JUDICIARY COMMITTEE TESTIMONY

OF

ATTORNEY GENERAL JANET RENO

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Good Morning Mr. Chairman and Members of the Committee. Thank you for affording me the opportunity to appear before you to discuss the tragic events which occurred at the Branch Davidian Compound in Waco this past week. I want to be as open as possible with you and all the people about what we knew before and during the day of April 19 and what we know today.

This was one of the hardest decisions anyone could make. We deliberated long and carefully before reaching the decision. Nothing we do can change the suffering felt by the families of the Agents killed or injured or of the families of those who perished in the compound. We must do everything we can to learn from these events about what we can do in the future to prevent people like David Koresh from causing such a senseless, horrible loss of life.

On February 28, 1993, four agents of the Bureau of Alcohol, Tobacco and Firearms were killed and sixteen were injured in a shootout that occurred when they attempted to execute an arrest warrant for Vernon Howell, AKA David Koresh, and a search warrant at the Branch Davidian compound near Waco, Texas. The Agents were met by a barrage of gunfire from numerous firing points in the compound that lasted 45 minutes, involved thousands of rounds of

ammunition, and left four agents dead and sixteen agents injured. Weapons used by the Branch Davidians included 50-caliber rifles having an effective range of 3000 yards. All of those killed or wounded were shot or injured by homemade hand grenades. While several members of the commune were killed and injured, apparently there were no serious injuries to any of the children.

After the shootout, the remaining ATF agents established a protective perimeter around the compound. A few hours later, three Branch Davidians attempted to enter the compound, resulting in a second shootout with ATF agents in which one Davidian was killed. Attempts were made to further secure the perimeter. ATF officials then requested that the FBI dispatch its Hostage Rescue Team (HRT).

On February 28, 1993, agents of the Federal Bureau of Investigation, including the HRT, arrived on the scene. The FBI found an armed fortress, a compound consisting of approximately seventy acres located on Rt. 7 near Waco.

I took office on March 12, 1993. I had been briefed previously by the Acting Attorney General and was thereafter briefed specifically on the situation at Waco. I was advised that the primary goal of the HRT was to negotiate with Koresh to secure the release of the children and the surrender and prosecution of all those who participated in the murder and assault of the federal agents without further violence or injury to anyone concerned.

Concern was expressed for the children but I concurred that we must try to negotiate to avoid further bloodshed. As this situation evolved, the FBI had consistently rejected a direct assault on the compound because of the danger of heavy casualties to the agents and the children.

I was told that the FBI had a trained negotiator on the scene and that they were consulting with behavioral experts and others who had knowledge of the cult to determine how best to proceed to negotiate with Koresh.

From the start, the negotiation tactics focused on restricting the activities of those inside the compound, and depriving them of a comfortable environment so as to bring the matter to a conclusion without further violence. Those inside the compound were advised of the FBI's rules of engagement. Under those rules, agents would not use deadly force against any person except as necessary in self-defense or defense of another, when they had reason to believe that they or another were in danger of death or grievous bodily harm.

The FBI installed lights to illuminate the compound at night and loudspeakers to ensure that they could communicate with all members of the compound at once, rather than having to rely solely on the single telephone line available to speak to Koresh and those he permitted to talk on the phone. They also used the loudspeakers

to disrupt their sleep, cut off their electricity, and sought to restrict communications of those within the compound to the hostage negotiators. Additionally, they sent in letters from family members, and made other good faith efforts designed to encourage surrender by those who wished to leave the compound. In particular, the negotiators made repeated efforts to secure the release of children.

In further efforts to encourage the negotiating process, attorneys representing Koresh and Steve Schneider were allowed to enter the compound or communicate by telephone with them on several occasions. Even promises made to these attorneys since were broken.

Throughout this 51-day process, Koresh continued to assert that he and the others inside would at some point surrender. However, the FBI advised that at no point did he keep his word on any of his promises. Despite all efforts, the negotiators concluded that negotiations were at a standstill and they had not been able to successfully negotiate a single item with Koresh. Although 21 children and 14 adults had been allowed to leave the compound between February 28 and March 23, 1993, those persons who left the compound did so because Koresh affirmatively wanted them out as they were not fully committed to his cause, they were a drain on his efforts at internal discipline and resources, or he viewed them as potential spokespersons to the media.

During the week of April 5, the FBI advised me that they were developing a plan for the possible use of teargas in an effort to increase the pressure on those in the compound to surrender. Thereafter, I had a series of meetings to discuss the emerging FBI proposal to utilize non-lethal teargas.

The threshold question I asked was whether the gas could cause permanent injury to the children. I did not even want to consider the matter further if we could not be certain about this factor. The FBI assured me that the gas would not cause permanent injury. I asked them to research further and subsequently they arranged for me to meet with Dr. Harry Salem, a doctor who reviewed case studies with us that confirmed that it would not cause permanent injury.

Then, the primary question I asked again and again during the ensuing discussion was "Why now?", "Why not wait?". I asked about their food and water supply and was told that it could last at least a year or more. I asked that the information about the water supply be checked and doublechecked by observing the level in the water tanks. We explored but could not develop a feasible method for cutting off their water supply.

I asked my staff to have direct discussions with the chief negotiator to satisfy ourselves that we had indeed reached an impasse in negotiations.

At this time, a number of things were readily apparent to me. Most important, I was convinced that, short of allowing David Koresh to go free, he was not coming out voluntarily. Given that unacceptable result, allowing the status quo to remain was not going to lead to an ultimate peaceful resolution and eliminate any risk to the safety of the innocent children in the compound, the public at large, or the government agents at the scene. On the contrary, the passage of time only increased the likelihood of incidents and possible attendant injuries and harm.a-a

In the course of our deliberations, we met with General Peter Schoomacher and Colonel Jerry Boynkin, former and present Commanders of Delta Force respectively, the Army's rough equivalent to the FBI's HRT, to review the plan. Their comments on the plan were instructive. While indicating that the plan appeared to be sound, one suggestion was that, rather than an incremental approach to the use of the gas as proposed by the FBI, gas should be inserted into all portions of the compound simultaneously. I preferred the FBI approach which called for a gradual increase in pressure over a period of time. It seemed to me that would best ensure the safety of those inside, particularly the children. I directed that if at any point Koresh or his followers threatened to harm the children, the FBI should cease the action immediately. Likewise, if it appeared that, as a result of the initial use of teargas, Koresh was prepared to negotiate in good faith for his ultimate surrender, the FBI was to cease the operation. On the

other hand, if Koresh and his followers endangered the agents by firing upon them, they were authorized to return the fire. To the great credit of the FBI, they received substantial fire from within the compound, both at the vehicles and at sniper positions surrounding the compound without returning any fire. In fact, throughout the 51-day siege, the FBI never fired a single shot. Instead, when fired upon, the FBI responded by beginning to insert gas throughout the compound.

The Commanders also expressed concern about the length of time the HRT had been on the scene in a state of readiness and all expressed the view that the team would have be pulled back for retraining. All advised that there was not a substitute civil force that could secure the extensive area around the compound that had the expertise of the HRT.

I wanted and received assurances that the gas and its means of use were not pyrotechnic. I was concerned about intentional or accidental explosions and ordered that additional resources be provided to ensure that there was an adequate emergency response if we should go forward.

I also considered that Koresh had talked about suicide and that might occur at anytime under conditions that the FBI might be less likely to control, but that experts had advised the Bureau that the chances of suicide were not likely.

In considering the FBI proposal, I weighed other concerns of the government with respect to the state of affairs inside the compound. They included:

(1) the well-being of the children in the compound, given the deteriorating sanitary conditions, the apparent lack of adequate medical care inside, and reports of sexual and other abuse;

(2) the vulnerability of the outer perimeter, which created a threat to public safety and the federal agents at the perimeter. The outer perimeter was vulnerable because there were inside the compound .50 caliber weapons having an effective killing range of 3000 yards, a distance that would reach from the U.S. Capitol to the White House;

(3) our inability to maintain the presence of the HRT on site indefinitely, and the lack of a suitable substitute force that could replace them at the compound; and

(4) the increasing risk, as the standoff continued, of injury to federal agents, whether by accident or by the risk of shooting from inside the compound.¹

Since being sworn in as Attorney General, I have had numerous conversations with people both inside and outside the Department of Justice concerning the Waco situation. In addition, I directed my

¹ During the final week of the standoff, one of the FBI helicopters struck a wire during an operation to put in a SWAT team to locate a trespasser near the compound. Remarkably, there were no fatal injuries. In the assessment of the military, the continued use of our HRT equipment in Waco enhanced the risk of accident significantly.

staff to keep the White House apprised of ongoing developments. My discussions with representatives at the White House were predicated on the premise that, as chief law enforcement officer, the decision how to proceed was mine. I advised the President on the Sunday before the operation of my decision to authorize the FBI's use of teargas at the compound, and he said he would support my decision.

It is difficult to summarize the events other than to emphasize that I believed we were dealing with a situation that would not resolve itself by mere acquiescence to the standoff. Negotiations were proven to be fruitless and, despite our best efforts, we could not secure the release of the children. It was a situation that suggested to me that time would only increase the risk to public safety, to the safety of government agents and to those within the compound, without any realistic expectation that the matter would be resolved peacefully if we did nothing. It was my call and I made it the best way I know how.

Let me urge that we focus on the future and try to determine how best we can avoid a recurrence of this tragedy. In this regard, at the President's request, Secretary Bentsen and I are developing a process whereby the events at Waco will be examined by experts both within and outside government to consider the following questions:

- (1) In the execution of the arrest and search warrants by ATF, were established procedures followed and, if so, were they

adequate?

(2) Is federal law enforcement adequately prepared to negotiate in dangerous situations, in terms of training, staffing, and available techniques?

(3) Is training for the execution of warrants involving barricaded suspects who may be holding innocent third parties adequate for all law enforcement agencies?

(4) Are improvements needed in coordinating the activities of the various investigative agencies?

(5) How should federal law enforcement agencies marshal resources in various disciplines, including psychology and psychiatry, in situations involving cults and other groups using barricades and holding innocent people? and

(6) What systems and understandings about command and control should guide the relationships among leaders of the Departments and career officials in operating units when field operations impose a substantial risk of danger to law enforcement officials and others?

The incident at Waco ended tragically for all involved. I have thought every day since April 19 about what I might have done differently. I only hope that I will never have to make such a decision again.

I would be glad to answer any questions at this time.