

Released through
LEXIS COUNSEL CONNECT

LEXIS COUNSEL CONNECT is a communications and information service for attorneys. LCC is managed by American Lawyer Media, L.P.

IV. SPECIFIC ISSUES INVESTIGATED

H. Law Enforcement Operations at Ruby Ridge From August 22, 1992 Until August 31, 1992.

1. Introduction

Following the death of Deputy Marshal Degan, the FBI assumed primary jurisdiction over the investigation of the events relating to his death. The FBI's handling of the investigation at Ruby Ridge has been criticized on several grounds: that the FBI's command and control of the crisis site was not handled properly in that insufficient emphasis was placed on negotiations to resolve the crisis; that the FBI failed to coordinate law enforcement components properly; and that false information was knowingly given to the media to cover up the cause of Sammy Weaver's death, Vicki Weaver's death, and Kevin Harris'

and Randy Weaver's injuries.

Soon after learning on August 21, 1992 about the shooting incident at Ruby Ridge, U.S. Attorney Maurice Ellsworth authorized Assistant U.S. Attorney Ronald Howen to travel there to assist law enforcement personnel with legal matters. Howen arrived late in the evening of August 21st and spent the next ten days with law enforcement personnel who had responded to the crisis.

Questions have been raised as to whether it was appropriate for Howen to have been at Ruby Ridge and whether some of his activities were improper and conflicted with his role as the federal prosecutor in the case. Foremost

among these allegations is that he was an active participant in tactical decisions, negotiations, and searches which transformed him into a witness in the investigation at Ruby Ridge.

2. Statement of Facts

a. Removal of Law Enforcement Personnel From the Mountain Following Horiuchi's Shots

When the personnel carriers were near the Weaver cabin delivering the initial announcement and installing telephone communications equipment, worsening weather conditions were reported on the

hill. HRT Gold Team leader Love reported to HRT Sniper Coordinator Hazen that visibility was poor and getting worse and that optical equipment was beginning to fog. Several of the snipers were suffering from hypothermia. [FN771] Hazen recommended to HRT Commander Rogers that the sniper/observers be removed from their positions and return to the lower command post.[FN772]

Rogers and Special Agent in Charge Glenn agreed to withdraw the sniper/observers and establish an inner perimeter around the cabin area the following morning. Glenn concluded that the weather and poor visibility made it

nearly impossible even for people with knowledge of the terrain, like the Weaver/Harris group, to move about without being detected. On the basis of the available intelligence, Glenn believed that the only way that Weaver and his group could leave the cabin area was by a road that passed through the FBI command post area. The sniper/observers were withdrawn after dark on Saturday evening, August 22.

During the night, Glenn deployed FBI SWAT teams around the command post and controlled access to the road leading to the Weaver compound. He was confident that these measures would prevent any of the Weaver group from

fleeing.[FN774] According to Hazen, the sniper/observers were also withdrawn for debriefings on the tactical and geographic information they had gathered while observing the Weaver compound.[FN775]

Upon returning to the command post after the shooting, the HRT sniper/observers were debriefed and were instructed to document their actions and observations in FD-302 investigative reports. Glenn had reported the shooting incident to FBI Headquarters earlier in the evening.

b. Command and Control Structure

The death of Deputy Marshal Degan entailed violations of federal criminal statutes that gave the FBI primary jurisdiction over the investigation.

[FN776] Eugene Glenn, Special Agent in Charge of the FBI's Salt Lake City Division, was assigned primary responsibility for managing the federal law enforcement response to the crisis. He was initially assisted by William Gore, Special Agent in Charge of the FBI's Seattle Division. As of August 23, Glenn was also assisted by Robin Montgomery, Special Agent in Charge of the Portland Division.

In addition to intelligence gathering, the primary concerns of local and federal

law enforcement were to rescue the surviving marshals, along with the body of Deputy Marshal Degan, apprehend the subjects without further loss of life, and prevent their reinforcement by sympathizers.

State and local officers and a few representatives of the Marshals Service and the border patrol were the first law enforcement officials on the scene. Two FBI agents, Larry Wages and Thelma Campos, who were attending personal matters in the area, heard about the shooting and responded. Soon after, a group of interested citizens began to gather.

Following Deputy Marshal Hunt's calls

for emergency assistance, in which he reported that a Deputy Marshall had been shot and that others were pinned down, local law enforcement agencies responded promptly and established a controlled access point at the bridge leading to the Weavers' cabin. Idaho State Police officers and a dispatcher arrived before their local commander, Captain E. Glen Schwartz arrived at 3:00 p.m. Captain Schwartz described the command structure as a "unified command" with each agency in charge of its own personnel.[FN777] On August 21, 1992, Idaho Governor Cecil Andrus declared a state of emergency in Boundary County, proclaiming that:

the nature of the disaster is the occurrence and the imminent threat of injury and loss of life and property arising out of the standoff situation in Boundary County.[FN778]

This proclamation allowed law enforcement agencies on the scene to use certain emergency services, such as Idaho National Guard resources.
[FN779]

Although Deputy Marshal Hunt was viewed as having the predominant law enforcement interest because the case was his and he was responsible for the marshals on the mountain, local law enforcement leaders believed that Hunt's decision making capacity had

diminished due to stress. They have asserted that they would not have permitted Hunt to make ill-advised decisions.[FN780]

Glenn arrived at the crisis site at approximately 9:30 p.m. on Friday, August 21, followed by Gore approximately one and a half hours later. They both arrived before the FBI's Hostage Rescue Team (approximately 50 agents) and the Marshals Service Special Operations Group (approximately 58 agents). In Glenn's view, the Idaho State Police, commanded by Major Strickfaden, appeared to be coordinating the law enforcement response before his arrival.

[FN781]

When Glenn arrived, the primary goal of the law enforcement effort was to rescue the marshals on the mountain and stabilize the situation until additional federal resources arrived. Glen ordered that a perimeter be established around the command post/staging area to ensure safety, to prevent Weaver and his associates from coming into the area during the night, and to contain a crowd of Weaver sympathizers and supporters.

[FN782}

Glenn and Gore were unfamiliar with the crisis site. The command post/staging area was located in a flat area at the base of the mountain on

which the Weaver cabin was located. Glenn and Gore directed FBI technical personnel to establish telephone communications at the command post. [FN783]

Once the command post was secure, Glenn and Gore set about gathering information about the Weaver group. When Richard Rogers, Commander of HRT, and Duke Smith, Associate Director of the U.S. Marshals service, arrived early Saturday morning, August 22, Glenn and Gore briefed them on the situation. [FN784]

The command post log entry for August 26 shows that power to the cabin was

cut off on Saturday night, August 22. On Sunday morning, a 360 degree inner perimeter around the Weaver cabin site and a forward command post near the cabin were established, and they were maintained for the remainder of the crisis.[FN785]

On August 23, Special Agent in Charge Robin Montgomery from the FBI's Portland Division reported to the Ruby Ridge site and took charge of the forward command post near the cabin were established, and they were maintained for the remainder of the crisis.[FN785]

On August 23, Special Agent in Charge Robin Montgomery from the FBI's

Portland Division reported to the Ruby Ridge site and took charge of the forward command post in alternating twelve-hour shifts with Gore. Rogers and the hostage negotiators were also in the forward command post with Gore and Montgomery. The forward command post was the central point for both tactical and negotiations efforts.[FN786]

Investigative and intelligence functions continued at the rear command post, but the establishment of the forward command brought about a change in the control of the massive resources gathered at Ruby Ridge. Glenn remained at the rear or lower command post to marshal the many law enforcement

agencies, coordinate with the leaders of those agencies, and maintain liaison with FBI Headquarters and the press.[FN787]

Glenn retained ultimate approval authority for negotiation and tactical efforts proposed by his subordinates. If emergency tactical action were necessary, Glenn authorized Gore and Montgomery at the forward command post to act. A representative of the Marshals Service was also assigned to the forward command post to ensure immediate access to information gathered during the previous fugitive investigation that might assist in formulating negotiation strategies.
[FN788]

c. Tactical Operations and Discovery of Sammy Weaver's Body

On Sunday morning, August 23, Rogers, with Glenn and Gore's approval, took two teams of HRT personnel to the vicinity of the Weaver compound in armored personnel carriers. Using a bull horn, Rogers made repeated announcements to the Weaver cabin for about 30 minutes to convince the occupants to negotiate.[FN789]

FBI Hostage negotiator Frederick Lanceley asked to accompany Rogers, but Rogers told him that he was not needed.[FN790] As a consequence, Lanceley was not present during this

attempt to communicate with those inside the cabin.[FN791]

According to Lanceley, on Sunday afternoon, after Rogers and his team returned, Rogers told Lanceley that he had "delivered an ultimatum to the effect that if they don't come out, [Rogers] would begin to knock down the outbuildings and then start knocking down their house." [FN792] Rogers asserted that he now had to knock down the buildings because he could not back down from the ultimatum. [FN793] Lanceley told Rogers that the destruction of the buildings would limit negotiations strategies.[FN794]

FBI hostage negotiator E. MacArthur

Burke was astounded upon hearing that the outbuildings were to be removed because this might escalate the situation before negotiations had begun. Although he was aware of the tactical advantage to their removal, he agreed with Lanceley that it would be detrimental to the negotiations effort.[FN795]

On Sunday evening, August 23, with the approval of Glenn, Gore, and Montgomery, personnel carriers began to remove outbuildings, such as the birthing shed and the water tanks, near the Weaver cabin to protect tactical personnel, should it become necessary to mount an emergency assault on the Weaver cabin. Removal of the

outbuildings would also tighten the inner perimeter around the cabin by removing visual and physical obstructions to HRT and SOG personnel.[FN796]

During the clearing of the birthing shed, the body of Sammy Weaver was discovered unexpectedly.[FN797] There is no evidence that law enforcement personnel knew of Sammy Weaver's death before this discovery.[FN798]

FBI negotiators reported to the FBI's Special Operations and Research Unit on the morning of August 24 that "the mood among the commanders and HRT appeared to be to mount an assault on the Weaver residence no later than the evening of 8/24".[FN799] The discovery

of Sammy weaver's body brought about renewed efforts to negotiate with the Weaver group. The discovery also brought aggressive tactical actions, such as removal of the outbuildings, to an end. It was believed that the Weavers would break their silence to express their wishes for the handling of their son's body and funeral arrangements. However, there was no response from the Weaver cabin.[FN800]

d. Change from Rules of Engagement to the FBI Standard Deadly Force Policy

On Wednesday, August 26 at 10:53 a.m. (PDT), the Rules of Engagement in effect

since the arrival of the Hostage Rescue Team were revoked. At Glenn's direction, the FBI's standard policy became the guideline for the use of deadly force by law enforcement personnel deployed on the cabin perimeter.[FN801]

On Sunday evening, August 23, after Sammy Weaver's body had been discovered, Glenn began to reevaluate the intelligence he had received at the command post. The cabin's occupants had not acted aggressively since the apparent attempt to fire on the helicopter about 24 hours earlier. A personnel carrier had been to the front of the cabin and had not been challenged, and

outbuildings had been demolished without fire from the cabin. An inner perimeter had been established, and booby traps had not been found. Glenn believed that law enforcement personnel on the scene were adequately protected. He concluded that those in the cabin were not as threatening as originally believed or that their resistance was weakening. He did not entirely dismiss their propensity for violence, but concluded that the threat had diminished by Sunday evening.[FN802]

For these reasons, Glenn changed the Rules of Engagement to the FBI's standard deadly force policy. He did not solicit Headquarter's advice on the

change because it was not necessary.
[FN803]

Glenn stated that he made the change some time around midday Monday, August 24. This contradicts the HRT sniper log, which shows that the change occurred on Wednesday, August 26. The Strategic Information and Operations Center ("SIOC") Log at FBI Headquarters reflects the change on August 26 at 12:30 p.m. EDT.

Within a day or two of the discovery of Sammy Weaver's body, Glenn told Gore that FBI agents assigned to the crime scene had reported that some of the early assumptions about the Degan shooting were in question and had not been

substantiated by the crime spans. Glenn also told Gore that the debriefings of the marshals involved in the shooting and a review of the BATF case had raised other questions. According to Gore, the entire predicate of the federal effort was in question. Gore observed that the crisis situation had been stable for several days and that the Weaver group had not engaged in aggressive action. Glenn then decided to return to the FBI's standard policy on the use of deadly force. [FN804]

Robin Montgomery arrived at the crisis site on August 23 and learned of the Rules of Engagement. Montgomery believed that the Rules were close to an

authorization to shoot on sight. He did not believe that the Rules supported the negotiation effort, and he discussed them with Glenn, Gore, Duke Smith of the Marshals Service, and possibly two other members of the Marshals Service. Shortly thereafter, the Rules of Engagement were changed. [FN805]

Rogers stated that by Wednesday the level of threat had diminished because the subjects had fired no shots since the original firefight and they had not committed any aggressive acts. HRT personnel had established well protected positions, completely surrounding the Weaver cabin. The subjects posed no immediate threat, and

consequently the Rules of Engagement were changed to the FBI's standard deadly force policy. Rogers denied that the revocation of the Rules was related to the discovery of Sammy Weaver's body.[FN806]

According to an entry in the FBI SIOC Log at Headquarters, on Wednesday, August 26, 1992, at 12:30 p.m. (EDT), Potts and Glenn agreed to change the Rules of Engagement to FBI standard deadly force policy, effective 1:00 p.m. (EDT).[FN807] There is no record of the decision to change the Rules of Engagement in the FBI's command post log at Ruby Ridge. The HRT sniper/observer log shows that Rogers

changed the Rules of Engagement to the FBI standard deadly force policy on Wednesday, August 26, at 10:53 a.m. and that each sniper/observer position acknowledged the change at 10:54 a.m. [FN808]

e. Evidence of Vicki Weaver's Death

On Friday, August 28, at approximately 5:00 p.m., Bo Gritz, a nongovernmental negotiator, started a series of discussions that ultimately led to the resolution of the crisis without additional violence. Gritz was the first person to be told that Weaver's wife was dead and the first aside from those in the cabin to observe Vicki Weaver's body.

Law enforcement personnel state that the initial evidence that Vicki Weaver was dead came in the first few moments of the first conversation Gritz had with Randy Weaver on August 28. [G.J.]

[FN809] This conversation also confirmed that Harris had been wounded by HRT rifle shots on August 22. At the conclusion of the conversation, Gritz briefed Rogers and Glenn. Later that day, he also informed a group of sympathizers gathered near the crisis site.

The efforts of Gritz and Jack McLamb, another nongovernmental negotiator, were successful, and on Sunday, August 30, between mid-morning and noon,

Harris agreed to surrender, an important development for several reasons, not the least of which was that for the first time Gritz talked face-to-face with Randy Weaver. When Gritz and McLamb met Harris at the rear door of the residence and helped hi down the stairs, the cabin door opened, exposing Weaver and the interior.

Later, Gritz saw Vicki Weaver's body on the kitchen floor, partially under a table. [FN810] A cloth had been placed over the top half of the body, leaving the lower half exposed. The feet were positioned near the front door, with the head and torso toward the interior. The manner in which the body was

positioned was consistent with a backward fall from the front doorway. It appeared to Gritz that the body had not been moved after the shooting.

[G.J.]

[FN811]

A review by the FBI of all audio and video tapes of the events at Ruby Ridge shows that no information had been received by the FBI or other law enforcement personnel about Vicki Weaver's death before Gritz' conversation with Randy Weaver on August 28. Interviews of personnel from the FBI, U.S. Marshals Service, Idaho State Police, Bureau of Alcohol,

Tobacco and Firearms, and local agencies at the scene during the standoff do not reveal any earlier knowledge of Vicki Weaver's death. No notations concerning Vicki Weaver's death were found in any official log of the events or in any other records made during the standoff. [FN812]

f. Initial Steps Toward Negotiation

On August 22, Glenn and Rogers focused much of their energy on the procurement and outfitting of two armored personnel carriers with a telephone and enough line to reach the command post from one Weaver compound, a distance of approximately

one mile.

Glenn believed that resolution of the crisis through dialogue and negotiations was the most desirable and usually the safest outcome. He stressed that the FBI tried every proposed negotiation option from the beginning of the crisis.[FN813]

Gore also believed that the objective was peaceful resolution of the crisis. In his view, tactical personnel first had to establish a means to communicate with the Weaver group in the cabin, which did not have a telephone. The objective of the operations plan was to establish a perimeter for containment of the crisis site and to get close enough to establish communications. [FN814]

FBI senior hostage negotiator, Frederick Lanceley was notified of the situation at Ruby Ridge Friday afternoon, August 21. He traveled with the main group of HRT personnel from the Washington, D.C. area to Idaho, arriving early in the morning on Saturday, August 22. He received no request for consultation on negotiations until mid-afternoon Saturday, August 22, when he was called to the command post and asked to write a negotiations addendum to the proposed operations plan. He was not consulted before the submission of the initial plan, which FBI Headquarters rejected because it did not contain a negotiations component.[FN815]

Early in the crisis, Lanceley was not a party to the discussions among command personnel. Nevertheless, he believed that they intended to resolve the crisis tactically. He was unaware of discussions between Glenn and other command personnel concerning negotiations. He strongly criticized the tactical actions taken, and he regretted not being more aggressive in voicing his objections on Saturday, August 22, and again on Sunday evening, August 23, when he opposed removal of the outbuildings. [FN816]

The initial negotiations strategy was to approach the Weaver cabin, read a surrender statement over a loudspeaker,

and attempt to resolve the crisis through the surrender of the Weaver group. The surrender announcement was to be read after tactical personnel had established a 360-degree perimeter around the Weaver compound. If the Weaver group did not surrender following the announcement, a hostage phone was to be delivered and telephone wire was to be laid down the mountain from the cabin to the command post.

Immediately after Horiuchi's shots, HRT Commander Richard Rogers decided to drive two armored personnel carriers to the cabin area to deliver a telephone and establish communications with those inside the cabin.[FN817] When the

carriers were within 30 to 50 feet of the cabin, Lanceley made the following surrender announcement at approximately 6:30 p.m. on Saturday night:

Mr. Weaver, this is Fred Lanceley of the FBI. You should understand that we have warrants for the arrest of yourself and Mr. Harris. I would like you to accept a telephone so that we can talk and work out how you will come out of the house without further violence. I would like you or one of your children to come out of the house, unarmed, pick up the telephone and return to the house. [FN818]

There was no response to Lanceley's

message. The telephone was placed approximately twenty yards from the cabin. Both carriers left, laying wire for the phone as they returned down the mountain. Continuous attempts to contact the Weaver group by ringing the telephone were made throughout the night. There was no response.

g. Continuing Efforts of the FBI Hostage Negotiators

In mid-morning, Sunday, August 13, following the return of the HRT sniper/observers to their positions, Rogers took the two carriers back to the position near the Weaver cabin where they had been the previous night. The

telephone was in the same position they had left it the night before. This required all communication with the cabin to be made by bullhorn or megaphone. Rogers spoke to the group in the cabin for approximately 30 minutes encouraging them "to come out, pick up the phone, establish dialogue, and let's move on with this and establish some kind of communications". [FN819] Rogers claims to have heard no response from the Weaver cabin.

Two assault teams were deployed from the carriers to establish a 360-degree cordon around the cabin. According to Rogers, the assault personnel could not be seen from the cabin. After this

deployment, between 20 and 21 assault personnel were around the cabin continuously until the resolution of the crisis on August 31.[FN820]

The nature of Commander Rogers' message to the Weaver group on Sunday morning is at issue. According to Lanceley, before Rogers and his team ascended the mountain, Lanceley asked Rogers if Lanceley could accompany him to the cabin area. Rogers told Lanceley that he would not be needed. [FN821]

[G.J.]

[G.J.]

[FN822]

[G.J.]

There was no response from the cabin.

[FN823]

During Bo Gritz' discussions with the Weaver group later in the week, Weaver and his daughters told Gritz that they had developed an intense hatred for Lanceley because of remarks directed to Vicki Weaver and questions he asked about what they were having for breakfast. Weaver said these remarks "pissed them off" and strengthened their resolve in the cabin." [FN824]

On August 21, the HRT supervisors told

behavioral scientists in the FBI's Special Operations and Research Unit about the HRT deployment and provided them with the limited information available. On August 23, the behavioral scientists were given incomplete additional information. When FBI Supervisory Special Agent Clint Van Zandt developed the profile, he was not aware that shots had been fired on August 22; that Vicki Weaver had been killed [FN825]; or that anyone had been wounded. He said that the shooting incident would affect the way in which the Weaver family perceived attempts by the government to negotiate.[FN826]

The behavioral scientists sent an

assessment to the crisis site on August 24. This assessment included several observations and suggestions for dealing with the Weaver group: the Weavers will not trust negotiators connected to the federal government; Randy Weaver's resolve would be strengthened if he has contact with local supporters; third parties should be considered to assist the negotiations; the Weaver group, including Vicki Weaver, her children, and Harris, could be expected to meet any attempt to enter the residence with armed resistance; if Vicki Weaver believed that efforts to overwhelm them physically or otherwise drive the Weavers from their home would be successful, she could be expected to kill

the children and commit suicide; as those inside the cabin became fatigued, the Weaver group could resort to a suicide attack directed against federal law enforcement officials, if they believed the perimeter was too close to the cabin.

On Tuesday, August 25, FBI negotiators continued their efforts, which included statements directed at Vicki Weaver and expressing concern for the family's welfare. The Weaver group was repeatedly asked to surrender, and they were assured that they would not be harmed. There was no response.[FN827] The command post log states that water to the cabin was cut off on August 25.

The first contact with Randy Weaver occurred on Wednesday, August 26. In mid-morning, Lanceley told Weaver that the personnel carrier would approach the cabin to transfer the telephone to the robot and that the robot would approach the cabin with the telephone to improve communications weaver was also told that the robot would try to push the telephone through a cabin window, breaking the cabin window in the process. Weaver shouted "Get the fuck out of here" and made other statements that could not be understood. In the afternoon, Weaver said that he would not take the telephone.

h. Efforts of Nongovernmental

Negotiators

[G.J.]

[FN828]

[G.J.]

[FN829]

[G.J.]

[FN830]

On Friday, August 28, Marnis Joy again unsuccessfully tried to establish contact with her brother. Later that day, Randy Weaver stated that he would talk to Bo Gritz.[FN831] Glenn approached Gritz,

and he offered to assist in negotiating with Weaver. Gritz convinced Glenn that because Gritz and Weaver had a common background in the Special Forces, Gritz had a better chance of talking to Weaver than anyone else on site. After conferring with Rogers and Headquarters, Glenn agreed to Gritz' participation. [FN832]

On Friday afternoon, Gritz was briefed by Rogers and FBI negotiators. At dusk, he went up the mountain toward the Weaver cabin.[FN833] After trying unsuccessfully to communicate with Weaver using the robot and then a bullhorn from the personnel carrier, Gritz walked to the cabin. Through a

window, he began to talk to Weaver. When Gritz asked if everyone was "OK," Weaver said, "No...My wife was shot and killed last Saturday." [FN834] At that time Gritz also learned that Weaver and Harris had been wounded. [FN835]

Law enforcement components at Ruby Ridge told us that they first learned that Weaver, Kevin Harris, and Vicki Weaver had been shot and that Vicki Weaver was dead from Gritz' conversation with Weaver on August 28. [FN836]

On Saturday morning, August 19, Gritz received permission to return to the Weaver residence with Jackie Brown, a

friend of the Weaver family, and Chuck Sandelin, a local minister. Weaver yelled at Sandelin to get off the property. Sandelin left and was not used in negotiations again.[FN837]

Rogers tried to discourage Jackie Brown from approaching the cabin. According to Brown, Rogers told her that, if she did not come out of the Weaver cabin within a reasonable time, he would assume that she had joined the Weavers or had been taken hostage and that HRT may have to come in to rescue her.[FN838]

Gritz and Brown went to the cabin. Gritz spoke throughout the day with Weaver, his daughters, and Harris through the

cabin wall. Gritz believed by the sound of Harris' voice that he was in need of medical attention. In addition to suggesting that Harris needed medical attention, Gritz conversed casually with Weaver about the military, spoke philosophically to him, and prayed with him. [FN839]

On Sunday morning, Gerald McLamb, a retired Phoenix police officer who was assisting Gritz in his campaign for President, began assisting Gritz in the negotiations. Both negotiators focused their conversations with Weaver and Harris on Harris' need for medical attention. In mid-morning, Harris decided to surrender.[FN840]

Gritz resumed conversations with Weaver, who agreed to the removal of Vicki Weaver's body from the cabin. When Gritz and Brown returned to the cabin with a body bag, Gritz wore a transmitting device that allowed the forward command post to monitor his conversation. For security reasons, Rogers insisted on this precaution. According to Mr. Gritz, Vicki Weaver's body was positioned in the location or very near the location where she fell at the time of her death. Brown and Gritz carried Vicki Weaver's body to the forward command post.[FN841]

After delivering the body, Gritz saw Brown return to the cabin with some

water and begin cleaning blood from the floor. Brown reported that, at her request, she was given two five gallon buckets of water, three white bath towels, and a roll of paper towels. Brown said she cleaned Vicki Weaver's blood from the cabin floor because she did not want the Weaver girls to have "to deal with cleaning the blood of their mother." [FN842]

Gritz resumed speaking with Weaver and learned that the Weaver family was convinced that the law enforcement personnel wanted to kill each of them. [FN843] Weaver told Gritz that he wanted to surrender, but that his daughters would not let him. While in

the cabin Gritz noted the armaments available to the Weavers and the configuration of the cabin structure. He relayed this information to Rogers.

[FN844]

According to Gritz at some point on Sunday, Rogers told him that, regardless of the day's events, HRT was going to assault the residence on Monday and that the assault would involve blowing out the windows and doors. Gritz disagreed with this plan and was disturbed because he felt negotiations were going well and because he was concerned about the possibility of injuring those in the cabin. Gritz discussed strategy with Rogers that involved "physically taking

down" Weaver and his daughters, if an assault was initiated, to protect them from injuries.[FN845] both Gritz and McLamb felt uncomfortable with the assault strategy, but agreed it was the only way to protect the Weavers from being "killed in a tactical assault by HRT." [FN846] At trial, Rogers testified that he vetoed an arrangement with Gritz and McLamb to overpower Weaver, if he did not surrender. [FN847]

On Monday, Gritz and McLamb returned to the Weaver residence. Gritz had the robot and the APC move away from the cabin. After contacting attorney Gerry Spence, Gritz told Randy Weaver that Spence would represent him. Gritz also

carried a handwritten note from Assistant U.S. Attorney Howen to Weaver that agreed to allow Weaver to present his account of the situation to a grand jury. The Weaver family surrendered on August 31. [FN848]

i. Decision to Send Howen to Ruby Ridge

In the afternoon of August 21, U.S. Marshal Michael Johnson informed U.S. Attorney Ellsworth about the shooting at Ruby Ridge.[FN849] Shortly thereafter, Ellsworth informed Howen, the Assistant U.S. attorney to whom the Weaver matter had been assigned, about the incident. The Marshals Service gave

Ellsworth and Howen an additional briefing.[FN850] Based on this information, Ellsworth and Howen believed that a team of marshals had been involved in an undercover operation at Ruby Ridge, that there had been a confrontation in which Deputy Marshal Degan had been killed in an exchange of gunfire, and that several marshals were still "pinned down" at the scene of the shooting.[FN851]

After having been apprised of the crisis, Howen drafted an application for a search warrant with a supporting affidavit. [FN852] Howen soon realized that it would be difficult to draft this affidavit as well as subsequent

applications in Boise when the supporting factual information was 400 miles away at Ruby Ridge. Howen suggested to Ellsworth that he travel to Ruby Ridge. Ellsworth agreed.[FN853]

Ellsworth envisioned that, at Ruby Ridge, Howen would assist in drafting applications for search warrants and supporting affidavits, as well as prepare applications for electronic surveillance. He did not intend that Howen play an investigative or tactical role.[FN854] Although Ellsworth did not recall giving Howen specific directives, he noted that the standing directive in his office was that assistants should not engage in activities that would make them a

witness in a case.[FN855] Howen believed that his presence at the scene would allow him to see matters first hand and prepare his case. In addition, Howen considered himself to be the representative of the United States Attorney and as such responsible for reporting to him about events at the scene.[FN856]

j. Howen's Activities at Ruby Ridge

At Ruby Ridge, Howen was involved in preparing criminal complaints, applications for arrest warrants, search warrants, and emergency electronic surveillance applications with supporting affidavits.[FN857] He denied

that he assumed an investigative role or that he directed the activities of the FBI. Howen insisted that he did not conduct any interviews while at Ruby Ridge.

[FN858] Nonetheless, Howen conceded that he was not a mute observer. For example, Howen was present at the Boundary County Sheriff's Office when Deputy Marshals Roderick and Cooper were interviewed. Other than asking a few questions, Howen stated that he was not an active participant in these interviews and he was unable to recall if he took notes.[FN859] Howen said that at these interview he "basically the marshals and asked question, but he did not consider these exchanges to be interviews.[FN861]

Howen denied being involved in formulating strategy or participating in negotiations between law enforcement personnel and Weaver. However, he did write one of the notes sent to Weaver during the negotiations.[FN862] FBI Agent Rampton told investigators that Howen was not involved in the negotiations process and that Howen told him that he should remain separated from that process. [FN863]

On August 24, Howen was present at the search of the Y. [FN864] Special Agent Venkus told investigators that he invited Howen to go on the search and that Howen did not find any evidence. [FN865] Howen also participated in the

walk-throughs that occurred later in the week of August 24. With the exception of the walk-through with Deputy Marshal Norris, in which Howen participated completely, Howen believed that he only participated in parts of the walk-throughs. He could not recall if he took notes.[FN866]

However, he conceded that he may have taken notes during the searches and walk-throughs when he heard something of interest.[FN867]

Special Agent Wayne Manis recalled that Howen participated in the walk-through with Hunt and that Howen asked questions and took notes. Manis thought that Howen's conduct was appropriate.

[FN868] Special Agent George Calley

recalled Howen as a member of the group that participated on an August 30 walk-

**[[PAGES 255-262 UNAVAILABLE
]]**

Finally, the profile developed by the FBI's behavioral sciences personnel was based on incomplete information, thus leading to inappropriate negotiation strategy. Initially, the FBI Special Operations and Research Unit was not informed of the HRT rifle shots fired on August 22 or of the fact that Harris might have been wounded. According to the behavioral scientists who compiled the profile, the shooting incident would affect the way the Weaver family

perceived negotiations. The scientists reported that their assessment would have been different, had they been told that shots had been fired and that someone might have been wounded. [FN901] This information was critical to the development of an accurate profile of Randy Weaver.

The failure of on-site supervisors to communicate accurate information appears to have had a negative impact on the attempt to resolve the crisis through negotiation.

(2) Balance of Tactical and Negotiation Strategies

In a crisis situation in which a deliberate

assault option is considered a necessary part of overall strategy, a written operational plan for the assault must be submitted to the FBI Headquarters for approval. On the other hand, emergency tactical operation, whether or not they will contribute to the ultimate resolution of the crisis, are the responsibility of both the Special Agents in Charge and the HRT command structure at the crisis site.

FBI hostage negotiator Lanceley was critical of FBI crisis management at Ruby Ridge. When he attended Rogers' initial briefing, he was surprised and shocked by the Rules of Engagement and did not believe them to be consistent

with the FBI's standard deadly force policy. They were the most severe rules he had seen in hundreds of prior crises. Lanceley described the situation:

[T]here was a barricaded subject at the top of a mountain, no hostages, family present and plenty of cover for perimeter personnel. The [Deputy Marshal] were no longer pinned down and the subject was barricaded at a location which had few of the problems inherent to crises that one would encounter in an urban setting. there had been on gunfire since the previous morning at the time of the firefight with the [Deputy Marshals].
[FN902]

Lanceley told this inquiry that, when he

heard Rogers tell the group that this would be "no long siege," Lanceley knew that Rogers did not intend to engage in negotiations. Following the briefing, Lanceley conveyed his perception to Rogers and told officer in the HRT command post. Rogers' response, "good," confirmed Lanceley's belief that there would be no negotiations.[FN903]

When he arrived at the command post, Lanceley told Special Agent in Charge Glenn that he was available and proceeded to work on intelligence gathering. Lanceley withdrew from the management structure and was not party to the discussions of command

personnel, who he believed intended to resolve the crisis tactically. Lanceley is not aware of discussion among Glenn and other command personnel which considered a negotiations strategy because he was not consulted before the rejection of the operations plan.[FN904] After the plan had been rejected in mid-afternoon on August 22, Lanceley was called to the command post and asked to write an addendum. He understood FBI Headquarters had rejected the operations plan because it did not contain a negotiation component.

Lanceley strongly criticized the tactical actions taken, despite his absence from meetings in which command personnel

discussed and approved strategy. Lanceley told this inquiry that he regretted not being more aggressive on August 22 and again on August 23, when he chose not to voice objections to Glenn about removing the outbuildings. [FN905]

Another FBI Hostage negotiator, E. MacArthur Burke, believed that it was Lanceley's responsibility, as senior FBI negotiator, to press the issue of negotiation. Burke concluded that negotiators and SWAT personnel are highly trained and Special Agents in Charge are not as well prepared to handle the often opposing forces weighing in favor of tactical or

negotiated resolutions. Burke believed that the negotiation-free operations order showed that the negotiation and tactical elements of the Ruby Ridge response were considerably out of balance.

[FN906]

In contrast to Burke, FBI negotiator Wilson Lima spoke of Glenn's commitment to establishing communications with the Weaver cabin from his arrival on the evening of August 21. The next morning, Glenn agreed that a phone should be given to the Weaver group.[FN907]

We are aware that the structure of the HRT and its impressive machinery may tend to overtake the negotiators' role in a

crisis situation where an inexperienced commander is in charge. Such a charge has arisen in this case. The lack of balance between the negotiation and tactical efforts created an atmosphere supporting a tactical resolution from the very beginning.

The strong influence of the HRT management team at the scene is reflected in the way Bo Gritz' participation at the crisis site was finally authorized. According to Gritz, Glenn told him that before Glenn would authorize his participation, he would have to confer with Rogers and FBI Headquarters. There is no evidence that Lanceley was consulted before Gritz

was permitted to join the effort to resolve the crisis.[FN908]

From the information gathered during this inquiry, it appears that no operations plan was ever approved throughout the entire siege. Unfortunately, FBI records provided during this inquiry do not contain all the operations plans. The records are so incomplete that we can not verify this conclusion.

In our opinion, the available records reflect insufficient consideration of negotiation strategy as compared to tactical approaches.[FN909] We have been told that the lack of a negotiation component in the initial operation plan did not reflect a lack of intent to

negotiate, but the understanding that tactical personnel had to establish communications with the Weaver cabin before negotiations could begin. We have been told that the first objective of the operations plan was to establish a perimeter containing the crises site and to get close enough to establish communications.[FN910]

[G.J.]

[FN911 -- G.J.]

While we credit the argument that it was necessary to secure the site before negotiations could commence, we find much evidence that a negotiation strategy was not the highest priority of the FBI

crisis management team. We note the following: the failure to consult with a negotiations expert while formulating the initial operations plan; the failure to bring an FBI negotiator along on Rogers' mission to the cabin on Sunday morning; the failure to inform adequately FBI behavioral scientists that shots had been fired and that someone in the cabin might have been wounded; and repeated misinformation from the site that shots had been fired from the cabin on August 22. These facts give weight to the complaint that the management team favored a tactical strategy over a negotiation strategy to resolve the crisis. We find that position disturbing and look to the FBI to establish a mechanism to

ensure a more even balance between the two strategies in the future.

d. Evidence of Vicki Weaver's Death

It has been alleged that law enforcement officials knew that Vicki Weaver was dead before Randy Weaver spoke with Bo Gritz on August 28. The allegation accuses the FBI of covering up its knowledge of Vicki Weaver's death in order to conceal that it intentionally shot and killed her. We find no factual support for that position and find that the allegation is totally without merit.

The foundation for the allegation is speculation. For example, questions

have been raised as to why during the electronic monitoring of conversations inside the Weaver cabin did law enforcement personnel not become suspicious when Vicki Weaver's voice was not heard. In our view this can be explained by the poor quality of the audio recordings and by the fact that 16 year-old Sara Weaver's voice may have been mistaken for her mother's.

There were also unconfirmed reports of something resembling a body bag on the back porch of the Weaver cabin. This, according to the allegation, was another indication that law enforcement had earlier knowledge of Vicki Weaver's death. A deputy marshal at the scene

reported that he was told by an unidentified individual that "there was something wrapped on the back porch that could possibly be a body, and there was a 'smell of death'. It was related to me as adult size." [FN912] The marshal believed that if such a bag were on the back porch, it contained the body of Kevin Harris not Vicki Weaver.[FN913] This would be a reasonable assumption on the part of the marshal in light of Horiuchi's report that he may have shot Harris with his second shot.

It is the conclusion of this inquiry that law enforcement personnel did not know of Vicki Weaver's death before Friday, August 28 when Randy Weaver

informed Bo Gritz.

e. Howen's Activities at Ruby Ridge

Howen was present throughout the crisis at Ruby Ridge. We find nothing inappropriate about his presence or his conduct. Indeed, considering the remoteness of the Weaver property and the need for expeditious applications for search warrants and Title III authority, we believe that there was a legitimate need for a representative of the U.S. Attorney to be at Ruby Ridge. Most individuals questioned that it was appropriate for Howen to be a Ruby Ridge and observed no improper conduct.

As the prosecutor in the case, Howen had an understandable interest in learning about the shootings at Ruby Ridge, as well as becoming familiar with the evidence. He was present at some of the interviews of the marshals, but primarily as an observer. The fact that he may have asked some questions and may have taken some notes was not improper. No one characterized Howen as orchestrating or controlling the interviews. Special Agent Caster reported seeing Howen take the marshals aside and talk to them but he had no knowledge of what was discussed.

The only suggestion that Howen may

have been a more active participant came from Gore's impression after talking to an agent. Such an impression is not evidence of prosecutorial misconduct. Although others reported Howen talking to individuals on the scene and taking notes, there was no evidence that these conversations were improper. Indeed, Howen needed to obtain information to draft necessary legal documents. Furthermore, as the persecutor in the case, it is understandable and appropriate that Howen took notes of matters that would assist him in preparing the case.

With the exception of drafting legal documents for search warrants and Title

III authority, there was no evidence that Howen was in a position of control at Ruby Ridge or that he exercised a decisionmaking function. No evidence was discovered that Howen had any role in the decision to deploy HRT or in the formulation or modification of the Rules of Engagement. Nor was there any evidence that he was involved in tactical or operational planning or decisions or in developing or implementing negotiation strategy.

Similarly, there is no evidence that Howen acted improperly at walk-throughs and searches or that he controlled the searches or selected the investigative methodology. Indeed,

Special Agent Davis believed that Howen tried not to interfere with the investigations. Although Howen may have made a few suggestions as to materials the investigators should seize, these suggestions were not orders and appear to have been made to assist the agents conducting the search. The advice Howen provided at these searches appears to have been solicited and was limited to the specific inquiry made. Our investigation uncovered no evidence that Howen's actions impeded investigators at the searches.

We believe that, in the future, serious consideration should be given to including a representative from the U.S.

Attorney's Office to law enforcement teams responding to crises like Ruby Ridge. The representative could assist law enforcement personnel in many matters such as participating in resolving the controversy and providing legal advice about issues arising during the crises.

We recognize, however, that in many instances the representative should not be the attorney responsible for prosecuting the case because this could lead to the charge that the prosecutor was a witness to the critical events at issue. With that caveat, we believe that many of the issues a Ruby Ridge could have been avoided, if a member of the

U.S. Attorney's Office had been a more active participant in the events.

4. Conclusion

We believe that questionable decisions by HRT managers unintentionally contributed to circumstances that required removal of HRT personnel from the mountain overlooking the Weaver cabin on August 22 after the two rifle shots were fired.

The FBI management team favored a tactical strategy and gave insufficient consideration to negotiations as a means to resolve the crisis. Negotiation experts at the site were not adequately informed

and consulted during the crisis. The failure of onsite supervisors to communicate accurate information to the FBI's behavioral sciences personnel appears to have had a negative impact on attempts to resolve the crisis through negotiation. The late decision to use third party non-governmental negotiators was a sound management decision that displayed flexibility on the part of FBI management. Finally, Howen's conduct was proper and consistent with the role of a federal prosecutor. Indeed, it may have been advisable for a member of the U.S. Attorney's Office to have participated more actively in some of the events at Ruby Ridge, thereby possibly avoiding some of the problems that

arose.

Released through

LEXIS COUNSEL CONNECT

LEXIS COUNSEL CONNECT is a communications and information service for attorneys. LCC is managed by American Lawyer Media, L.P.

**FOOTNOTES (SECTION IV, PART
H**

)

771 Sworn Statement of Lester Hazen, November 19, 1993, at 13-14. HRT personnel did not bring their "cold weather package" that included clothing better suited for the conditions because HRT supervisors did not anticipate cold weather in August. See Sworn Statement of William Luthin, November 18, 1993, at 3.

772 Hazen Sworn Statement, November 19, 1993, at 13-14.

773 HRT Commander Rogers testified that he originally planned to keep the sniper/observers on the mountain until 10:00 p.m. or midnight. Because of the weather, he ordered them off the mountain at approximately 8:00 p.m.

Rogers Trial Testimony, June 2, 1993, at 78.

774 Glenn Sworn Statement, January 12, 1994, at 24-26.

775 Hazen Sworn Statement, November 19, 1993, at 14.

776 Local authorities maintained jurisdiction over the investigation of the other deaths and injuries that occurred at Ruby Ridge.

777 FD-302 Interview of E. Glen Schwartz, October 21, 1993, at 4. Major Edwin Strickfaden of the Idaho State Police assumed command of his personnel upon his arrival some time

between 8:30 and 9:00 p.m. Strickfaden stated that Glenn arrived about the same time he arrived. The Idaho State Police had about 50 people at or near the crisis site. This included additional patrols in nearby Bonners Ferry, Idaho who were placed there at the request of city officials. FD-302 Interview of Edwin Strickfaden, October 7, 1993, at 4.

778 See Undated Proclamation signed by Idaho Governor Cecil Andrus, August 21, 1992.

779 However, it should be noted that the delay in deployment of the HRT sniper/observers could be attributed in part to the refusal of the Governor's office to release armored personnel

carriers to the site.

780 For example, Captain Schwartz stated that Hunt wanted to take some officers and rescue the remaining marshals. Schwartz and two deputy sheriffs talked Hunt out of this with a little "arm twisting." Schwartz FD-302, October 21, 1993, at 3.

781 Glenn Sworn Statement, January 12, 1994, at 2-9.

782 Id. at 9. Glenn and Gore ordered the Salt Lake City and Seattle SWAT teams to establish the perimeter. Sworn Statement of William Gore, November 3, 1993, at 4-5.

783 Id.

784 Id. at 5-6.

785 Rogers Trial Testimony, June 2, 1993, at 82-90.

786 Glenn Sworn Statement, January 12, 1994, at 20.

787 Id. at 20-21.

788 Id. at 20.

789 Rogers testified that he was trying to "get them to come out, pick up the phone, establish a dialogue, and let's move on with this and establish some kind of communications." Rogers Trial

Testimony, June 2, 1993, at 82.

790 Lanceley FD-302, October 19, 1993
at 4.

791 Rogers Trial Testimony, June 2,
1993, at 82-83.

792 Lanceley FD-302, October 19,
1993, at 5.

793 Id.

794 Id.

795 FD-302 Interview of E. MacArthur
Burke, October 5, 1993, at 2.

796 Rogers Trial Testimony, June 2,

1993, at 94.

797 Glenn stated that the discovery of Sammy Weaver's body was the first evidence that anyone in the cabin had been injured. Glenn Sworn Statement, January 12, 1994, at 28-29. This is inconsistent with HRT reports that Horiuchi's second shot might have hit an adult male.

798 Rogers Trial Testimony, June 2, 1993, at 106. The only evidence that law enforcement knew that Sammy Weaver had been struck during the exchange of gunfire of August 21 is the interview of Marshals Service Director Hudson, who stated that Deputy Director Twomey informed him that "it was believed that

Sammy [Weaver] had been wounded." FD-302 Interview of Henry Hudson, November 15, 1993, at 4. Twomey reported that he told Hudson there was no indication Sammy had been shot. See FD-302 Interview of John Twomey, November 26, 1993, at 3. None of the FBI personnel at Ruby Ridge appears to have known that Sammy Weaver had been wounded or killed during the fire fight on August 21. Initial reports of the location of the wounds on Sammy Weaver's body were incorrect. For example, the Marshals Service Crisis center Log contains an entry on Sunday night that gunshot wounds were discovered on his head and left breast. An entry, less than two hours later,

corrects the information, explaining that he had been shot once in the back and once in the arm. Crisis Center Log, August 23, 1992, at 11:03 p.m. (EDT) and August 24, 1992, at 12:48 a.m. (EDT).

799 FD-302 Interview of Clint Van Zandt, December 21, 1993, Attachment, at 1.

800 Gore Sworn Statement November 3, 1993, at 16.

801 HRT Sniper Log, August 26, 1992; FBI SIOC Log, August 26, 1992, at 12:30 p.m. (EDT) (Potts and Glenn approved the change).

802 Glenn Sworn Statement, January 12, 1994, at 28-29.

803 Id.

804 Gore Sworn Statement, November 3, 1993, at 15.

805 Sworn Statement of Robin Montgomery, October 25, 1993, at 2.

806 Rogers Trial Testimony, June 3, 1993, at 74-75. Duke Smith, Stephen McGavin, William Luthin, and Lester Hazen were not involved in the decision to revoke the Rules of Engagement but were advised of the decision.

807 SIOC Log, August 26, 1992, 12:30

p.m. (EDT), at 31. Potts does not recall this change.

808 HRT Sniper Log, August 26, 1992, 10:53 a.m. and 10:54 a.m., at 22. HRT and SWAT team members deployed at the time of the change to the FBI standard deadly force policy reported to this inquiry that they received radio notice of the change from Rogers. Each observation point was required to acknowledge that it was "on the air" before Rogers announced the change to the standard FBI policy and that it had heard and understood the change. An HRT member told HRT and SWAT personnel who began the next shift that the standard deadly force policy was in

effect. Each briefing subsequent to the announcement included a reminder that the standard policy on deadly force was in effect.

809 [G.J.]

810 Gritz was asked during this inquiry whether, at any point leading up to Harris' surrender, he had detected odors associated with a dead body. Gritz said that he had not detected such odors and explained that he was very familiar with the odor of death, due to extensive service in Viet Nam. Gritz retired from the Special Forces at the rank of Lieutenant Colonel in 1979.

Soon after Harris' surrender, Gritz

persuaded Weaver to allow him and Jackie Brown to come inside the residence and remove Vicki Weaver's body. He obtained a body bag and, with Randy Weaver's assistance, placed Vicki Weaver's body in the bag. Gritz detected only minimal odor and was unable to explain why the very recognizable odor usually associated with a several-day-old corpse had not permeated the residence. When Gritz placed the body in the bag, he removed what he described as a holstered nine millimeter semi-automatic pistol.

811 [G.J.]

812 It was rumored among law enforcement personnel that, after the

second shot, a body, possibly Harris', could be seen on the front or back porch of the cabin. FD-302 Interview of Luke Joseph Adler, January 7, 1994, at 2-3. One marshal was told that there was something wrapped on the back porch "that could be possibly a body." Sworn Statement of Mark Jurgensen, February 7, 1994, at 16-17. None of the HRT personnel in mountainside observation positions reported seeing Harris' body or any other. The Crisis Center Log reported that the rumor was "completely false and unfounded." Crisis Center Log, August 25, 1992, at 2:51 p.m. (EDT).

813 Glenn Sworn Statement, January 12, 1994, at 17-18. 814 Gore Sworn

Statement, November 3, 1993, at 8-9.

815 Lanceley FD-302, October 19, 1993, at 3-4.

816 Id. at 3-5. Wilson Lima, hostage negotiator for the FBI's Salt Lake City Division, was deployed with the Salt Lake City SWAT. Line spoke of Glenn's commitment to establishing a means of communication with the Weaver cabin from the time of his arrival on Friday evening, August 21, 1992. Lima recalls Glenn reiterating the need to get a phone to the Weaver/Harris group again on Saturday morning, August 22, 1992. FD-302 Interview of Wilson Lima, October 12, 1993, at 1-2.

817 Rogers Trial Testimony, June 2, 1993, at 67-69.

818 Lanceley FD-302, September 2, 1993, Attachment A, at 1.

819 Rogers Trial Testimony, June 2, 1993, at 82.

820 Id. at 83, 90-91, 93.

821 Lanceley FD-302, October 19, 1993, at 5.

822 [G.J.] ; Lanceley FD-302, September 2, 1993, Attachment A, at 2-4. Earlier in the day, a carrier ran over and broke the line to the hostage telephone.

823 [G.J] ; Lanceley FD-302, September 2, 1993, Attachment A, at 4-8.

824 Gritz FD-302, November 17, 1993, at 15.

825 Although the FBI at the scene did not know that Vicki Weaver was dead, they knew that shots had been fired and had substantial information that the second shot had at least injured, if not killed, Kevin Harris.

826 Van Zandt FD-302, December 21, 1993, at 1-2.

827 Lanceley FD-302, September 2, 1993, Attachment A, at 8-11.

828 [G.J.] ; Lanceley FD-302,
September 2, 1993, Attachment A, at 11-
19.

829 [G.J.]

830 Command Post Entry for August 17,
1992; FD-302 Interview of James
Scanlan, January 12, 1994, at 12.

831 Mr. Gritz was an independent
candidate for President of the United
States at the time.

832 Gritz FD-302, November 17, 1993,
at 4-5.

833 Id.

834 Transcript of conversation intercepted from microphone placed under floor of Weaver residence, August 29, 1992, at 7:39 p.m. (PDT). According to Gritz' version of the conversation, Weaver asked, "Bo, is that you?" Weaver then stated, "They have killed my wife, they have killed Vicki, and they won't tell anyone" or words to that effect.

835 Gritz Fd-302, November 17, 1993, at 6.

836 Lanceley FD-302, September 2, 1993, Attachment, at 31-32. Lanceley's notes, generated at that time, state that he first learned that Vicki Weaver, Kevin Harris, and Randy Weaver had been shot

as a result of Weaver's statement to Gritz.

837 Id., Attachment, at 32; Gritz FD-302, November 17, 1993, at 7.

838 FD-302 Interview of Jackie Brown, October 5, 1993, at 2.

839 Gritz FD-302, November 17, 1993, at 7-8.

840 Id.

841 Id. at 10-11

842 Jackie Brown FD-302, October 5, 1993, at 3.

843 The conversations Gritz had with the Weaver family on August 30 reveal that Weaver believed that the shotgun on the robot would be used to kill him if he attempted to pick up the telephone to negotiate. See Tape Channel 1. at 61-62 and Tape 2 at 5.

844 Gritz FD-302, at 11-12.

845 Id. at 12-14.

846 McLamb FD-302, January 13, 1994, at 6.

847 Rogers Trial Testimony, June 2, 1993, at 167-68 and June 3, 1993, at 108.

848 Gritz FD-302, at 12-15

849 Interview of Maurice Ellsworth on December 15-16, 1993, Tape 2, at 31 (hereinafter cited as "Ellsworth Interview").

850 Ellsworth believes that the Marshals Service representative were Michael Johnson, Ronald Evans, and possibly Warren Mays. *Id.* at 31-32.

851 Howen Interview, Tape 4, at 23-27; Ellsworth Interview, Tape 2, at 31-32.

852 It was decided that Warren Mays, who had close contact with Dave Hunt, would be the affiant. Howen Interview, Tape 4, at 28-29.

853 Howen Interview, Tape 4, at 28-29;
Ellsworth Interview, Tape 2, at 34-35.

854 FD-302 Interview of Maurice
Ellsworth, October 29, 1993, at 5;
Ellsworth Interview, Tape 2, at 42.

855 Ellsworth Interview, Tape 2, at 42.

856 Howen Interview, Tape 4, at 29-30.

857 Id., Tape 5, at 54; FD-302 Interview
of Gregory Rampton, October 18-19,
1993, at 7.

858 Howen Interview, Tape 6, at 52.

859 Id., Tape 5, at 23.

860 Id. at 17, 22.

861 Id., Tape 6, at 52.

862 This note, which Howen gave to Glenn, was not found when the cabin was searched after the standoff.

Rampton believes that the note articulated the Government's prosecutorial position, if Weaver surrendered. Rampton FD-302, October 18-19, 1993, at 17.

863 Id.

864 Howen Interview, Tape 6, at 9-10.

865 FD-302 Interview of Joseph V. Venkus, October 18-19, 1993, at 6.

866 Howen Interview, Tape 5, at 23;
Tape 6, at 6-7.

867 Id., Tape 6, at 17.

868 FD-302 Interview of Wayne F.
Manis, October 5, 1993 at 2.

[Editor's Note: Footnotes 869 through
901 are unavailable.]

901 FD-302 Interview of James Wright,
December 21, 1993, at 1-2; FD-302
Interview of Clint Van Zandt, December
21, 1993, at 1-2.

902 Lanceley FD-302, October 19,
1993, at 2.

903 Lanceley FD-302, September 2, 1993, at 2.

904 Lanceley FD-302, October 19, 1993, at 3.

905 Id. at 4.

906 Burke FD-302, at 2.

907 Lima FD-302, October 12, 1993, at 2.

908 Gritz FD-302, November 17, 1993, at 5.

909 See, for example, entries in the FBI SIOC Log concerning the proposed operations plan and strategy on the first

day.

910 Gore Sworn Statement, November 3, 1993, at 8-9.

911 [G.J.]

912 Jurgensen Sworn Statement, February 7, 1994, at 16.

913 Id.

Released through

LEXIS COUNSEL CONNECT

LEXIS COUNSEL CONNECT is a communications and information service

for attorneys. LCC is managed by American Lawyer Media, L.P.

[Table of Contents](#)