



SPECIAL OPERATIONS/
LOW-INTENSITY CONFLICT

THE ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301-2500

January 24, 1996

Honorable William H. Zeff, Jr.
Chairman
Subcommittee on National Security, International
Affairs, and Criminal Justice
Committee on Government Reform and Oversight
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Mr. Chairman:

This responds to your letters of October 17 and 25, 1995, requesting further information on Department of Defense policies and procedures relating to the support provided to law enforcement agencies involved in the Waco siege.

In your letter of October 17, you first asked about the general DoD policies, procedures and regulations in force at the time of the Waco siege under which civilian law enforcement agencies were permitted to request and receive military assistance. Those policies and procedures are contained in DoD Directive 5525.5, "DoD Cooperation with Civilian Law Enforcement Officials," dated January 15, 1986, enclosed. In particular, Enclosure 4 of the directive details DoD's statutory authority for such assistance, restrictions that might apply, and approval authorities for various categories of support. As a general rule, the Executive Secretary to the Secretary of Defense received requests from law enforcement agencies, and forwarded them to the agencies possessing approval authority under the directive, depending on the type of support requested.

The same directive applies to counterdrug support to law enforcement agencies, with exception of the approval procedures. The Secretary of Defense, beginning in 1990, delegated approval authority for counterdrug support to unified and specified combatant commanders-in-chief, and authorized them, in turn, to delegate that authority further to general or flag officers in the chain of command. As a consequence, the Commander, Joint Task Force Six, a task force under the command of the Commander-in-Chief, U.S. Forces Command, was the official who had been delegated the authority to approve counterdrug support to law enforcement agencies on the southwest border of the United States, which included the state of Texas. I have enclosed copies of the delegation documents that were current at the time of the Waco siege.

You asked about the standards in place for establishing a "bona fide drug nexus." I must first clarify that the term "drug nexus" appears in no legislation or regulation. Instead, it has developed as a shorthand term of art to connote the concept that the support is in furtherance of the counterdrug responsibilities of the requesting agency and falls within the categories of

support that DoD is lawfully permitted to provide. Consequently, the standards for determining a "drug nexus" are those contained in underlying legislative authority, such as chapter 18 of title 10, U.S. Code, section 1004 of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101-510, as amended, or section 112 of title 32, U.S. Code. The Commander, JTF-6, or other designated approval authority, therefore, must: (a) determine that the request originates from an agency with counterdrug responsibilities; (b) assess the request against DoD's statutory authority and policy; and (c) conclude that the requested support, if provided, would facilitate the counterdrug activities of that agency. "Drug nexus," therefore, is not a standard, such as "beyond a reasonable doubt." It is rather the conclusion reached after the exercise of the considered judgment of approval authorities that the support given is lawful and appropriate in the context of DoD's legislative authority and policy. The decisions by commanders who approve counterdrug support, therefore, are made in the same way as their decisions are made in pure military operations: given a set of facts and assumptions, the commander assesses the mission against his command authority, his legal authority, and the source of the tasking, and makes his decision.

You asked in your October 25th letter about the Department's policies to assure that the Posse Comitatus Act is not violated. Again, DoD Directive 5525.5 is the governing directive. Enclosure 4 of the Directive begins with the text of the Posse Comitatus Act and proceeds to a discussion of permissible assistance under the Act. In my opinion, this policy is not in need of revision or of supplementation by legislation. It is put into practice daily: each order that approves support to law enforcement agencies repeats the guidance that DoD personnel are not to participate directly in law enforcement activities. This reinforcement ensures that commanders, troops, and the law enforcement agencies they support fully comprehend legal limits on DoD's support role. Commanders at all levels receive legal advice from judge advocates that emphasizes this guidance. Further, as I stated during my testimony before your committee, I am confident that the support DoD provided to the FBI and the ATF during the Waco siege was consistent with the laws passed by the Congress and with our implementing policy. The support was appropriate to the circumstances and did not exceed our authority precisely because the directive provides clear guidance on the limits of our authority in this area.

Turning to the National Guard, you asked whether its title 32 status causes problems. The exemption from the Posse Comitatus Act that the National Guard enjoys in its title 32 status not only does not cause problems, but it is essential to the Guard in carrying out its historic and current militia roles and missions. By way of explanation, "title 32 status" merely indicates that the Guard is not in federal service and its members are performing duties specified in or permitted under title 32 of the U.S. Code. Guard personnel in this status remain under the command and control of the state governor. Because National Guard forces in title 32 status remain under the command and control of state governors, there is no formal DoD review of memoranda of agreement between state governors under which they agree to use their forces in cooperative efforts to support law enforcement agencies.

You asked about Operation Alliance and JTF-6. I do not believe the Congress needs to take a closer look at the policies and procedures governing the organizations that the law enforcement community and the Department of Defense have established to facilitate DoD's providing support to law enforcement. I note, however, that as of October 1, 1995, JTF-6's area

of responsibility has been expanded from the southwest border to the entire continental United States, plus Puerto Rico and the U.S. Virgin Islands. As a consequence of this broadening of JTF-6's geographic responsibilities, the Department is working with law enforcement agencies to review the arrangements under which law enforcement agencies' requests are submitted and processed.

You asked whether troops had been placed in a "questionable situation ... due to a tenuous drug nexus." In short, the answer is, "No." As I explained above, "drug nexus" is not a standard that is defined in statute or regulation. Support is not provided unless DoD's properly designated approval authority concludes, based on all facts and circumstances, that the support he or she is about to approve is permissible under both law and policy.

Finally, you asked whether we are "uncomfortable" with any types of training provided to law enforcement agencies. I would simply state that the Department periodically reviews its programs of support to law enforcement agencies, just as it reviews other programs, and we are currently examining issues related to various types of support to law enforcement--not just training--to determine whether we need to make any adjustments.

I understand that a representative of the Army's Chief of Legislative Liaison has already contacted your staff to help answer their questions about the capabilities of Bradley Fighting Vehicles.

I trust this responds to the concerns you raised in your letters.

Sincerely,

[Redacted signature]

[Redacted name]

Enclosure:
As stated



UNITED STATES SPECIAL OPERATIONS COMMAND
OFFICE OF THE COMMANDER IN CHIEF
7701 TAMPA POINT BLVD.
MACDILL AIR FORCE BASE, FLORIDA 32621-5323

10 January 1996

Policy Memorandum 96-01

MEMORANDUM FOR:

COMMANDER, U.S. ARMY SPECIAL OPERATIONS COMMAND, FORT BRAGG, NC
28307-5200

COMMANDER, NAVAL SPECIAL WARFARE COMMAND, NAB CORONADO, 2000
TRIDENT WAY, SAN DIEGO, CA 92155-5599

COMMANDER, AIR FORCE SPECIAL OPERATIONS COMMAND, 100 BARTLEY
STREET, CMD STE, HURLBURT FIELD, FL 32544-5273

COMMANDER, JOINT SPECIAL OPERATIONS COMMAND, POST OFFICE BOX 70239,
FORT BRAGG, NC 28307-5000

SUBJECT: USSOCOM Policy on Training for Domestic Law Enforcement Agencies

1. REFERENCES: SECDEF memorandum, 17 Apr 93 (Counterdrug Operations and Programs); CJCS Instruction 3710.01, 28 May 93 (Delegation of Authority); DEP&S memorandum, 26 Jan 95 (Priorities, Policies and Procedures for DOD CD Support to Domestic Drug Law Enforcement Agencies); DOD General Counsel memorandum, 28 Sep 93 (Assignment of Special Operations Forces); and SECDEF memorandum, 12 Dec 95 (Military Assistance to Civilian Authorities).

2. POLICY: This memorandum establishes policy on provision of special operations forces (SOF) training for domestic law enforcement agencies (LEA).

3. BACKGROUND: In accordance with legislative and SECDEF direction, SOF provide training assistance to domestic LEA.

a. Training assistance is authorized under two primary statutes: (1) 10 USC 373, which states that military personnel may "train Federal, State, and local law enforcement officials in the operation and maintenance of equipment, including equipment made available under section 372 (permits lending of military equipment and facilities)"; and (2) Section 1004 of the FY91 Defense Authorization Act, as amended, which permits SECDEF to provide "Counterdrug-related training of law enforcement personnel of the Federal Government, of State and local governments, and of foreign countries...".

SOCC

SUBJECT: USSOCOM Policy on Training for Domestic Law Enforcement Agencies

b. Legally, 10 USC 373 and 1004 authority permit a wide range of training missions as long as the training includes equipment (10 USC 373) or has a justifiable Counterdrug (CD) nexus (1004 authority). Prudence, however, dictates that additional policy guidance be provided to ensure that LEA training is appropriate and minimizes the potential that advanced military training could be misapplied or misused by LEA, resulting in death or injury to non-hostile individuals. This document identifies, categorizes, and limits the types of training that SOF will provide to LEA.

c. *For the purpose of this policy document, Basic military training refers to skills-oriented instruction, including weapons handling and proficiency training. Advanced military training is scenario-based instructing, evaluating, critiquing or planning of LEA operations involving the application or employment of deadly force.*

4. **APPLICABILITY:** This policy applies to all Active and Reserve Forces, including National Guard Forces in Federal Service, assigned to USCINCSOC. It does not apply to National Guard Forces while in State status (under Title 32).

5. **IMPLEMENTATION:**

a. SOF are permitted to conduct the following types of Basic military training for domestic LEA:

- | | |
|-------------------------------------|----------------------------|
| * Basic marksmanship (pistol/rifle) | * Patrolling |
| * Improvise/Explosive device (IED) | * Mission planning |
| - Detection & Avoidance | * Survival skills |
| * Night vision devices | * Land navigation |
| * Rappelling | * Medical/combat lifesaver |
| * Fast rope | |

b. SOF are not permitted to provide Advanced military training to LEA which includes:

- Advanced Marksmanship - to include sniper training
- Military Operations in Urban Terrain (MOUT)
 - * Individual/team movement
 - * Dynamic entry
 - * Room clearing
- Advanced Military Operations in Urban Terrain (AMOUT)
 - * Line-up stack
 - * Entry (2/4 man)

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SUBJECT: USSOCOM Policy on Training for Domestic Law Enforcement Agencies

- * Soft/dynamic entry
- * Movement/obstacles
- * Explosive breaching
- * Command and control
- * Distraction devices
- * Live fire/shoothouse
- Close Quarter Battle/Close Quarter Combat (CQB/CQC)
 - * Tactics
 - * Marksmanship
 - * Linear objectives
 - * Discriminate fire
 - * Explosive entry

c. Field training exercises which incorporate scenario-based events are not permitted.

d. SOF will not train LEA in preparation/planning for a specific operation.


e. SOF will not, under any circumstances, provide instruction, review, or evaluation of LEA use/application of law enforcement rules of engagement.

f. LEA will not be invited to participate in SOF-sponsored shooting competitions.

6. EXCEPTIONS: Advanced military training support to LEA may be conducted as an exception to policy in special cases. In every case this training will be specifically approved by this Headquarters. Criteria for determining an exception will include: (1) the skill levels of both the LEA receiving the training and the SOF personnel providing the training; (2) justification for the training; and (3) the time available to adequately conduct the training to the required skill level.

7. PERIODIC REVIEW: This policy is in effect for two years from the date of publication.

(SOJ5-O)



General, U. S. Army
Commander in Chief

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF TEXAS
3 HOUSTON DIVISION

4 DEBORAH BROWN, et al.,

5 Plaintiffs

6 v.

7 UNITED STATES OF AMERICA, et al.

8 Defendants

Civil Action No.

H-95-587

Judge Atlas

9
10 DECLARATION OF EDWARD F. ALLARD, PhD.

11 Edward F. Allard declares and states as follows:

12 1. My name is Edward F. Allard. I have worked for many years in the
13 field of radiation physics related to thermal imaging, thermal signatures,
14 thermal suppression and especially in aspects of those subjects relating to
Forward Looking Infrared [FLIR] military systems.

15 2. My experience is set forth in my curriculum vitae, which is attached to
16 this declaration. I received my Bachelor of Science in physics from Boston
17 College and my doctorate in physics from the University of Missouri. I hold
18 Patent no. 4,413,668 on a device to suppress thermal signatures and Patent no.
19 5,013,092 on a microdischarge image intensifier. My inventions and studies
20 will enable use of uncooled thermal imagers with predicted performance better
than the current TOW antitank missile night sight; design and calculation for
these required an expert knowledge of photocathodes, photo detectors, signal
detection, noise, charge transfer and optics for thermal imaging devices.

21 3. I began my career in this field as a supervisor at the Defense
22 Department's Night Vision Laboratory, later becoming Deputy Director,
23 Systems Development. My team developed and defended a variety of programs
24 in the area, including the L3TV systems, the thermal night sight for the
Dragon antitank weapon, the night sight for the TOW antitank missile system,
and other programs. NVL pioneered the Common Module System that is the
foundation of the thermal imaging systems used in Operation Desert Storm.

25 4. As a defense contractor and government employee, I have analyzed a
26 number of thermal imaging devices. These include comparisons of L3TV with
27 thermal imagers, comparisons of American and foreign imagers, analyses of
the thermal imager for the M1 tank, design of thermal pointing systems,
28 construction of a T-62 thermal target for tank gunnery, and countermeasures

EXHIBIT

34

1 to completely hide an M60 tank from enemy FLIR and to reduce FLIR
2 signatures of tents, trucks, ships, and individual soldiers. The interpretation of
3 FLIR imagery requires skill and experience. As but a few examples, materials
4 which reflect sunlight and thus seem bright in the visual spectrum will often
5 appear indistinct, or even dark, to a thermal imager; the very reflective
6 properties that make them bright to the eye make them appear cool, and thus
7 dark, to FLIR systems. Interpretation of thermal images requires a knowledge
8 of the reflective properties of both natural and man-made objects.

9
10 5. I have reviewed a FLIR tape depicting the events outside Waco, Texas,
11 on April 19, 1993, which tape was obtained from one of the defense attorneys
12 involved in the criminal cases that arose out of those events. My analysis of the
13 tape follows. All times given are those shown in the timeclock shown in the
14 tape. All directions are given from the standpoint of the viewer.

15
16 6. At 11:24:31, the FLIR is recording events in the rear of the building,
17 where the Combat Engineering Vehicle [CEV] has partially demolished the
18 area known as the "gymnasium." The FLIR shows several flashes appearing
19 from a point to the left of the CEV. These are elongated in shape, several feet
20 long, and appear and disappear at a regular rate with regular spacing between
21 them. I note five flashes from one point, appearing and disappearing at the rate
22 of 7-10 per second. At this location some non-flashing movement also appears
23 visible. There is no natural explanation for these flashes. Natural phenomena
24 do not heat and cool in fractions of a second. My expert opinion is that these
25 flashes appear to be the muzzle flashes of a fully-automatic firearm, firing at
26 about 500 rounds per minute cyclic rate. Carefully examined, in slow motion
27 and by frame-to-frame observation, the flashes originate to the left and progress
28 to the right, indicating that they are being fired from a source outside the
building, and fired into the building.

uct — 17 At 11:42:56, the aircraft bearing the FLIR is circling the side of the
18 building. A hot image is visible inside the side, ground floor, window of the
19 "corner tower." As the aircraft continues its movement the image vanishes,
20 underscoring the fact that the image is of a hot object inside the room, the sight
21 of which is lost as the aircraft moves on and alters its perspective through the
22 window.

23
24 8. At 11:44:52, a momentary flash of radiation is seen to the rear of the
25 central "tower." This may be at a location in the open area to the immediate
26 rear of the building. The flash is visible for ten frames, approximately a third of
27 a second, much longer than the flashes described above. It is not possible with
28 these data to determine the cause or source of the flash.

29
30 9. At 11:47:50, the FLIR is recording events at the front of the building. A
31 CEV has driven into the building, withdrawn, and has a large piece of rubble
32 lodged on the front of the vehicle. An individual is dimly visible exiting the
33 vehicle, walking to its front, and dislodging the rubble. The CEV is at this point
34 halted within a vehicle length, perhaps twenty feet, of the front of the building.

1 10. At 12:07:40-42, the aircraft bearing the FLIR is circling past the right
2 tower. A heat source, long and narrow in form, quickly appears across a
3 window of the tower. Upon careful examination, slow motion and frame-by-
4 frame, I believe this is more likely to be a heat source outside the window, than
one inside it. It is noteworthy that the image does not vanish or fade as the
aircraft flies past, in contrast to the heat signature noted at 11:42:56.

5 11. At 12:08:32, the FLIR depicts events at the rear of the building, where
6 the large "gymnasium" structure has largely been demolished. Two very bright
7 thermal flashes are visible near to or in the window at the center, in front of
8 and to one side of the CEV which is stopped there. I see no natural explanation
9 for these flashes. They would not, for instance, be reflections of sunlight off
10 glass.

11 12. At 12:08:52 there are again radiation flashes, which I believe to be
12 firearms fire, from the side and rear of the CEV. Again, when carefully
13 examined they appear to move in the direction of the building.

14 13. In brief, my examination of the FLIR-tape indicates:

15 a. An analysis of the tape, field by field, reveals thermal flashes
16 occurring that have pulse times and time intervals between them
17 consistent with the intervals of automatic weapons fire. Pulses of
18 approximately 1/15 second occur. There are no naturally-
19 occurring phenomena that could explain these events.

20 b. Other thermal flashes of radiation, approximately 1/3 second in
21 duration, occur in various areas of the building complex. Again,
22 no naturally-occurring phenomena can explain this.

23 I declare under penalty of perjury that the above is true and correct.

24 Edward F. Allard
25 Edward F. Allard, Phd.

26 Dated this 1 day of Feb, 1996.

PERSONAL RESUME OF

EDWARD F. ALLARD, PhD

EMPLOYMENT HISTORY

Area Therm Corporation

1978 to Present

In 1978, I left the Defense Department (Night Vision Laboratory, Fort Belvoir, VA) to form my own company, called Area Therm Corporation (ATC). Since I was very knowledgeable of electro-optical devices, ATC was set up to countermeasure these devices. I was the sole analyst, designer and theoretician of all programs. Additionally, I wrote all the proposals, final reports and supervised the developments.

Thermal and Acoustical Suppressors

I invented and patented a new way to suppress thermal signatures and acoustical signatures of military vehicles and engine generator sets. The suppressed signatures were the best in the country then and still are today. Since my technology was new, the following techniques and parts were developed by me:

- The cooling system of engine generators was replaced by a compact heat exchanger and a high pressure blower. This was required for low noise performance. I analyzed compact heat exchangers, proposed a design, calculated predicted performance, bought components, supervised construction and personally tested the heat exchanger on an operating engine. It worked as designed.

- A double walled enclosure was invented by me that was built as a surface heat exchanger with an array of fins on an inside wall. By using engine intake air, the entire surface of the enclosure surrounding an engine generator was close to ground temperature, day and night. This essentially suppressed the engine generator's thermal signature. I tested many surfaces, many surface heat exchangers, many double walled enclosures, etc., to obtain an optimum design.

- The property of acoustical materials was tested by me with my own test equipment designed by me. I analyzed noise properties of engines, mufflers, generators, pumps, etc., and designed acoustical suppressors for a variety of systems. All my theory and calculations were compared to test data.

• I designed a combined thermal and acoustical suppressor for a Military Standard 15kW engine generator set. From test data, it has been acknowledged by all who have seen the data, as the best system ever tested. In addition to the best performance anywhere, I designed the system so that it could be taken apart for maintenance faster than the standard 15kW.

• I designed, built and tested thermal suppressors for a Russian tank, a M113 personnel carrier, a ROLAND missile system, an M60 tank, a 3kW engine generator set, a 1.5kW engine generator, a fuel cell, a thermal electric generator, a man and a tent. All suppressors were successful.

• I designed a combined acoustical and thermal suppressor for a 15kW engine generator set, 30kW EG set, 60kW EG set and a 10kW EG set. All devices were built and tested under my direct supervision. All of them had outstanding performance.

• The testing and evaluation of these programs required acoustical test equipment, air flow test equipment, temperature measuring equipment, environmental test equipment, imaging radiometers and computers for reduction of data.

• I analyzed the metal bending, welding, strength of materials, properties of materials, bolts, latches, paint, and supervised their inclusion into the designs.

• I planned all field tests, supervised the tests, reduced the data and wrote the reports. National Stockpile. A production line had to be set up to produce month of material. I set up a small manufacturing facility to handle Signature Measurements to weigh and measure, to chemically box and package and deliver the germanium to Chicago. I planned

As a DOD contractor, I have been involved with numerous field tests in the USA and overseas. I consider myself somewhat of an expert on radiation theory and have applied this knowledge to the interpretation of thermal signatures measured in the field. In every case, I was asked to develop a field test plan, provide personnel, supervise the tests and write the report. Test instruments were required for environmental ground truth data and thermal signatures. Thermal signatures were usually recorded by imaging radiometers integrated with computers. I operated the radiometers because on many occasions, surprise conditions occur which require recognition and quick reaction. I measured the thermal signatures of most military engine generator sets, camouflage arrangements, most military helicopters, cruise missiles, roads, buildings, fields and streams. I have written numerous reports that taken together would be a good library on thermal signatures.

Automobile Parking System

Based on existing designs in Europe for moving cars on platforms, I designed, built and tested, American versions of moving platforms. The design incorporated two new features. One, a diode laser beam was designed around the platform to prevent accidents. Second, an inexpensive communications system was designed so that the electrical wiring of a building could be used

to communicate from an office to the garage. Platforms were built under my direct supervision and tested by me. I designed the entire mechanical system including the strength of materials, power requirements, wheels, metal bending, welding, incorporation of safety devices and even painting. The actual electronic black boxes were designed by electronic engineers. The platforms worked perfectly.

Based on existing designs for vertical storage of cars, I designed an electro-hydraulic vertical lift system. The designed system used simple uncrassenic devices for safety. The design was not constructed completely due to the death of both investors. According to my information, foreign interests involved with the development sold my innovative designs to European manufacturers.

Manufacturing

Since my company, ATC, was the leading company technically in the U.S.A. for acoustical and thermal suppression of engine generator sets, ATC was found qualified by the Government to bid on the production of acoustical suppressors for Military Standard engine generator sets. In response to government requests, I paper designed suppressors and personally constructed the manufacturing drawings. I cost analyzed materials, time, personnel, wages, set-up costs, manufacturing equipment, overhead, schedule, etc. This was my first exposure to the details required for production, where I personally analyzed everything and wrote a detailed management plan.

ATC was awarded a commercial contract to package germanium for the National Stockpile. A production line had to be set up to process \$1.5M per month of material. I set up a small manufacturing facility to build hardwood boxes (similar to furniture); to weigh and measure, to chemically etch, to box and package and deliver the germanium to Chicago. I planned everything, designed and set up the facility and turned the operation over to technicians.

Decoys

I had been a consultant on camouflage to the Brunswick Corporation for over 10 years. Through this work and DOD contracts awarded to ATC, several multispectral decoys were designed and built at ATC. All of Brunswick's thermal decoys were designed by me but built by them. The following multispectral decoys were designed and built (supervised) by me: a target of a T-62 Russian tank, a HUM-VRE vehicle, a 3D 24 ton military truck, a 3D military helicopter. In addition to the decoys actually built, I designed many other decoys that were not built. The constructed decoys were field tested for thermal signatures. Data show that the 3D decoys could not be distinguished from the real target. From a thermal viewpoint, they were totally successful. I performed the field tests, reduced the data and wrote the reports.

Submitted Proposal on Camouflage and Thermal Suppression

The Brunswick Corporation paid me to write a camouflage proposal for a

government RFP. The proposal ended up being a volume on camouflage, thermal suppression, radiation field effects and the connection of these things to electro-optical systems. The Government has offered to make this volume into a camouflage manual.

Electro-Optical Experience

Night Vision Laboratory, Ft. Belvoir, VA

I began a career in electro-optics starting as a supervisor at the Night Vision Laboratory. Initially, I supervised the lab's low light level TV technology. I moved from L³TV to the lab's systems analyst. I then established red team-blue team confrontations on proposed systems for production. I personally supervised one of the teams. During these times, I was exposed to most of night vision technology and began a study of system design and performance. The following programs were defended by my team with most of the technical analyses done by me:

- L³TV vs Thermal Dragon Night Sight - This program basically killed L³TV and moved NVL primarily in the direction of thermal systems for weapons systems.

- TOW Night Sight - This program was a confrontation between serial scan systems vs parallel scan systems. My analysis showed that parallel scan systems would outperform serial scan systems and were a more mature technology. The U.S. Army has fielded the parallel scanned TOW Night Sight.

- Tank Night Sight - This program was a confrontation between parallel and serial scan systems for tank fire control systems. My analysis showed the parallel scan approach was superior. The U.S.A. has fielded both parallel and serial scan systems. The cost of the parallel scan system is less than \$1,000 each. The cost of the serial scan system is more than \$10,000 each.

- The NVL pioneered the concept of building components that were common to all thermal imaging systems. The program was called the Common Module Program. This program was the foundation of the systems now in the field and used in Desert Storm. The program almost did not make it at NVL. Without any doubt whatsoever, I personally defended the program by myself for the director of the lab. Not one supervisor or manager at NVL supported the common module program, except the director. At this time, I was the Deputy Director of Systems Development, but was the lab's expert on thermal imaging systems. Through the will power of the director, now dead, and my technical support, the program was a huge success, as demonstrated by the systems in the field today.

- I was asked by the Director of NVL to form a group that would be on hand to respond to the problems identified by the Director. I set up a "tiger team" concept (borrowed from Texas Instruments) for solving problems. The following problems were solved by "tiger teams" supervised by me:

- A cost analysis group was established and put into operation.

The group's responsibility was to correlate specifications with production costs of NVL systems. I personally set up the group and personally established the costing procedures. This group still exists at NVL.

• A risk analysis group was established by me to help managers make decisions on performance, schedule and cost for production systems. Decisions were made on advanced PERT type computer generated probability curves. A report was published in DOD by me and my co-workers as a new approach to decision making. I was a guest lecturer many times at various government agencies.

• I analyzed completely the specifications for image intensifier systems ready for production. The problem was that I² devices cost too much. The costs were thought to be directly related to over-specifications. There was no hope in reducing costs even with reduced specifications. I therefore formed a tiger team to design a one tube GOGGLE system. The team, under my supervision, said it could not be done. I then planned an extensive field test in Germany to prove that a one tube GOGGLE system had sufficient brightness for good performance. The tests, supervised by me, substantiated my claims, so I directed that a one tube GOGGLE system be developed. One tube GOGGLE systems have been fielded by the U.S. Army.

New Family of Electro-Optical Systems

I have invented and been granted a basic patent related to the transfer of charge from one area to another. I call the transfer mechanism, microdischarge. Using microdischarge, I have designed and analyzed a new thermal imaging device. This new device is an uncooled, thermal, image intensifier. Its predicted performance is better than the Army's TOW Night Sight. I call the new device, the RADICON. This device in large scale production should cost less than \$1,000 each. The design of the RADICON requires a knowledge of materials, ferroelectricity, charge transfer, signal detection, optics, noise factor, choppers, phosphor displays, and all the details required for designing an electro-optical system.

I have invented a new image intensifier (I²) based on microdischarge and reflective photocathodes. A new technology will develop around this invention. Designs and calculations require a knowledge of photocathodes, photodiodes, photoemission, signal detection, noise, charge transfer, optics, displays, etc.

I have invented a new pyroelectric vidicon based on an invention related to a ferroelectric switch. Existing pyroelectric vidicons have very limited performance due to heat transfer problems and signal readout problems. My new vidicon, which I call a Ferroelectric Vidicon, will outperform existing pyroelectric vidicons by over a factor of five. The design and performance of these devices require a knowledge of TV camera operation, scanning electron beams, signal readout, detector materials, heat transfer, unique noise problems, MTF, MNT, etc.

I have invented a large area, flat panel, TV display based on micro-discharge. The design has been developed only to the level for a patent application.

As a defense contractor, I have analysed various electro-optical systems as a contractor and as a consultant. A few of the analyses were on a thermal pointing system, a thermal optical system without germanium, a laser illuminating system, a detection system for detecting rounds penetrating the hull of a tank, a laser countermeasure system and a detection system for detecting spinning reticles.

Medical Devices

I have co-invented and patented two medical devices that are destined to save many lives. One invention is a safe, retracting, hypodermic needle. The other is a safe, retracting blood taking device.

I designed the original devices and generated the initial drawings. My partner in this endeavor supplied innovative improvements and I designed the improvements into patent improvements along with my own improvements. Additionally, I supplied an investor with my manufacturing drawings. Furthermore, I have built several prototypes to demonstrate the retraction process. Both devices will be on the American market and world market in about a year from now.

Random List of Technical Programs

I have performed many analyses under contract or related to my job. Many of the analyses led to the building of hardware and the field testing of the hardware. In most cases, I built the hardware myself (supervision of my technicians). Each of these technical programs were documented in reports written by me.

- Analysis of explosives using Mossbauer spectroscopy (hardware)
- Picture processing of low light level images (hardware)
- Comparison of L³ TV with thermal imagers
- Field comparison of American vs foreign image intensifier devices (hardware)
- Life cycle cost analyses of image intensifiers
- Risk analyses on thermal imaging devices
- Major analyses on serial vs parallel scanned thermal imagers slated for production
- Major analysis on slow scanning TV systems

- Effects of blissing on Modulation Transfer Function (hardware)
- Major analysis on the thermal imager for the M1 tank
- Analysis on cost vs performance for 2nd and 3rd generation image intensifier systems
- Analyses of optical problems of I^2 systems with solutions (hardware)
- Analysis of a one tube COGLES system for development (hardware)
- Invention of a mortar locating system using IR triangulation (hardware)
- Design of thermal pointing system
- Detection of enemy covert signals (hardware)
- Analyses of optical communications in the absorption bands (hardware)
- Analysis of compressed gases for detector cooling (hardware)
- Field test determination of specifications for thermal weapons sights (hardware)
- The use of spectral processing for detection of camouflage and paints (hardware)
- Effects of glint (glare) on camouflage systems
- Complete hiding of an M60 tank from FLIRs (hardware)
- Thermal suppression of tracks on tracked vehicles (hardware)
- Analysis of the efficiency of a fuel cell related to recovery of exhaust
- Thermal suppression of a fuel cell (hardware)
- Analysis of a system for detecting an artillery round piercing a tank's hull
- Building of a T-62 thermal target for gunnery (hardware)
- Thermal suppression of a thermal-electric generator (hardware)
- Thermal suppression of the engine area of an M113 vehicle (hardware)

- Thermal suppression of a Russian tank (hardware)
- Thermal suppression of a truck's tailpipe by air entrainment (hardware)
- Thermal suppression of a variety of engine generator sets (hardware)
- Thermal suppression of a heated tent (hardware)
- Thermal suppression for an individual soldier (hardware)
- Acoustical suppression of a variety of engine generator sets (hardware)
- Analysis of a detector system for reflected radiation off an aircraft
- Design of a remotely controlled device with communications for the recording of the solar heating of painted surfaces (hardware)
- Analysis of a detector system for detecting a spinning reticle
- Laser countermeasure for FLIRs at sea (hardware)
- Optical analysis of substitute materials for germanium in thermal imaging optics
- Invention of decoy to save an M-60 tank from thermal missile
- Design of several multispectral decoys (hardware)
- Design of a vertical lift for automobiles (hardware)
- Design of a city wide detection system for locating the position of vehicles
- Invention of a covert lighting system for military applications
- Invention of a safe medical needle device for the world (hardware)
- Invention of a safe blood taking device
- Invention of a new thermal imaging device
- Invention of a new image intensifier device
- Invention of a large area, flat panel TV display

• Invention of a ferroelectric vidicon

Management Experience

I have been involved with management in one form or another all of my life. Starting with team sports, I have been the team leader. I have taught and coached people from grammar school age to graduate students. I have managed military personnel as an officer in the U.S. Army. At Night Vision Laboratory, I was Deputy Director of Systems Development and a supervisor of many technical projects. Since Area Therm Corporation is a small business, I managed the day to day operations and long term planning.

EDUCATION

Boys Catholic High School, Malden, MA 1953

Boston College, BS Physics 1957

University of Missouri at Rolla, PhD Physics 1964

Numerous military schools and technical schools

Taught advanced Math and Physics courses at various universities

MILITARY

Honorable Discharge from U.S. Army,
Corps of Engineers, rank of Captain, 1966

PATENTS

Thermal Signature Suppression, Pat. No. 4,413,668

Sound Suppression on Engine Noise, Pat. No. 4,516,657

Retractable Needle Syringe, Pat. No. 4,838,869

Safe Needle for Collecting Fluids, Pat. No. 4,838,863

Microdischarge Image Converter, Pat. No. 5,013,092

Patents Pending

A Microdischarge Image Intensifier

A Microdischarge Flat Panel TV Display

A New Ferroelectric Vidicon

A Microdischarge Thermal Imager

REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
UNITED STATES ARMY JOHN F. KENNEDY SPECIAL WARFARE CENTER AND SCHOOL
FORT BRAGG, NORTH CAROLINA 28307-5000



AOJK-JA

1 February 1996

①

MEMORANDUM FOR

[REDACTED] OASD Special
Operations & Low Intensity Conflict Drug
Enforcement Policy & Support, Pentagon,
Room 2E538, Washington, D.C. 20301

SUBJECT: Definition of "SOT"

1. General. This memorandum responds to your question of this afternoon regarding the meaning of the term "SOT."

2. SOT. The term "SOT", as used in this command, refers to an unclassified course taught at the Special Warfare Center to conventional special forces units. The course length is four weeks. Two weeks focus on carbine and pistol marksmanship. The remainder of the course addresses Close Quarters Battle (CQB) and methods of entry (including mechanical, ballistic, and explosive). SOT does not include or refer to any of the methods included in a similar classified course conducted at the school.

3. POC is the undersigned at DSN 239-9979/9241.

②



DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
1600 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-1600



February 14, 1996

The Honorable William H. Zeliff
Chairman, Subcommittee on National Security,
International Affairs and Criminal Justice
Committee on Government Reform and Oversight
U. S. House of Representatives
Washington, DC 20515-2901

Dear Mr. Chairman:

This letter responds to yours of November 16, 1995, addressed to Secretary Perry in which you request a series of documents identified by bates-stamp number. You also state that you believe that many of the documents you requested initially are not in your custody.

First, in regard to your requests for documents identified by bates-stamp number, you should understand the reasons why the numbers were applied to the documents. They were put on for ease of reference. The fact that there are missing numbers does not mean that you are missing any responsive documents.

In responding to the document requests related to the matter of the Branch Davidians near Waco, Texas, the General Counsel sent a series of letters with the various packages of documents delivered to you. Each of them contained the following paragraph, or one much like it:

Each page has been bates-stamped with a number preceded by the letter D, at the request of the Senate Judiciary Committee. The numbers are not necessarily sequential within each component's package because some documents may have been removed for referral to another agency or because they are not responsive to this request. There is only one series of numbers throughout the response; each component's package is not separately numbered.

The numbers you list in your request are missing for the reasons identified in the preceding paragraph: some documents were referred to other agencies, some were not responsive, and in some cases we did not reproduce duplicates of documents already provided to you in earlier responses. Let me give you three examples of the type of non-responsive documents we did not provide to you: some materials related only to the incident at Ruby Ridge in 1992, which some DoD components incorporated in their responses to your request, but which we considered not relevant; copies of our internal memoranda asking DoD components



to search for the documents; and copies of the components' cover memoranda transmitting your request and the documents they were providing in response.

We have provided copies of the responsive documents to you, as the General Counsel said in her letter of September 8, 1995, that completed our response to your request. We believe that we have fully complied with your request for documents. Apart from your comments in the letter of November 16, we have not received any other indication that you have not received a full response. If you continue to be concerned about the completeness of our response, we will be glad to discuss this matter with your staff at their convenience. If they would like to arrange a meeting for this purpose, please contact [REDACTED] at 703-695-6804 or [REDACTED] at 703-695-6710. (1)

(2) Sincerely, (3)

[REDACTED]

[REDACTED] (4)

[REDACTED]

cc: The Honorable Karen L. Thurman



DEPARTMENT OF THE AIR FORCE
WASHINGTON DC

OFFICE OF THE ASSISTANT SECRETARY

20 Feb 1996

MEMORANDUM FOR DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR
DRUG ENFORCEMENT POLICY AND SUPPORT

FROM: Deputy Assistant Secretary of the Air Force for Reserve Affairs

SUBJECT: Draft Response to Request for Information and Documents, Co-Chair of
House Joint Waco Committee

We have reviewed the proposed response from [REDACTED] Assistant Secretary of
Defense for Special Operations and Low Intensity Conflict, to Representative [REDACTED] and
concur without comment.

[REDACTED] 3
[REDACTED]
Deputy Assistant Secretary
Reserve Affairs

***** -COMM. JOURN- ***** DATE FEB-15-1996 TIME 15:18 *** P.01

MODE = MEMORY TRANSMISSION

START=FEB-15 15:13

END=FEB-15 15:18

FILE NO. = 121

NO.	COM	ABBR/NTWK	STATION NAME/ TELEPHONE NO.	PAGES	PRG.NO.	PROGRAM NAME
001	OK	2	992025149149	010/010		

-OSD-DGC

***** -

- ***** -

703 614 6745- *****

FAX TRANSMISSION

DEPARTMENT OF DEFENSE
OFFICE OF THE DEPUTY GENERAL COUNSEL (LEGAL COUNSEL)

(703) 695-6804
Fax: (703) 614-6745

To:

[REDACTED] (1)

Date: February 15, 1996

Fax #: 202-514-9149

From:

[REDACTED] (2)

Pages: 11, including this cover sheet.

Subject: Reply to Chairman McCollum

COMMENTS:

Attached are the letter from Chairman McCollum and our draft reply. The questions that we think refer to you are numbers 7 and 11. I am not sending all of the attachments, just the CS agent info. If you have questions or objections, please let me know.

Z 0018268

***** -COMM. JOURNAL- ***** DATE FEB 15-1996 TIME 16:25 *** P.01

MODE = MEMORY TRANSMISSION

START=FEB-15 16:15

END=FEB-15 16:25

FILE NO. = 123

NO.	COM	ABBR/NTWK	STATION NAME/ TELEPHONE NO.	PAGES	PRG.NO.	PROGRAM NAME
001	OK	S	992026221176	010/010		

-OSD-DGC

***** -

- ***** -

703 614 6745- *****

FAX TRANSMISSION

DEPARTMENT OF DEFENSE
OFFICE OF THE DEPUTY GENERAL COUNSEL (LEGAL COUNSEL)

(703) 695-6804
FAX: (703) 614-6745

To:

[REDACTED] ①

Date:

February 15, 1996

Fax #:

202-622-1176

Pages:

11, including this cover sheet

From:

[REDACTED] ②

Subject: Reply to Chairman McCollum

COMMENTS:

Attached are the letter from Chairman McCollum and our draft reply. The item that we think refers to you is document request number 4. I am not sending all of the attachments, just the CS agent info. If you have questions or objections, please let me know.

Z 0018267

VOUCHER FOR TRANSFERS
BETWEEN APPROPRIATIONS AND/OR FUNDS

VOUCHER NO.
SCHEDULE NO.
BILL NO. B6600210
PAID BY

Department, establishment, bureau, or office receiving funds.

SAF/FMBMB
1130 AIR FORCE PENTAGON
WASHINGTON, DC 20330-1130

Department, establishment, bureau, or office charged.

ASST DIR 1351
FEDERAL BUREAU OF INVESTIGATION
HQTRS (ATTN: MR. LARRY A. POTTS)
WASHINGTON, DC 20535-

BILL DATE: 03/05/96

ORDER NO.	DATE OF DELIVERY	ARTICLE OR SERVICE	QUANTITY	UNIT PRICE		AMOUNT
				COST	PER	DOLLARS AND CENTS
		CLASSIFIED SERVICES RECEIVED (PER ATTACHED BILLING)				\$34,340.48
				TOTAL		\$34,340.48

Advance payment hereof should be sent to -

SAF/FMBMB
1130 AIR FORCE PENTAGON
WASHINGTON, DC 20330-1130

ACCOUNTING CLASSIFICATION -- Office Receiving Funds

\$34,340.48

CERTIFICATE OF OFFICE CHARGED

I certify that the above articles were received and accepted or the services performed as stated and should be charged to the appropriation(s) and/or fund(s) as indicated below; or that the advance payment requested is approved and should be paid as indicated.

(Authorized administrative or certifying officer)

(Date)

(Title)

ACCOUNTING CLASSIFICATION -- Office Charged

by Check No.



DEPARTMENTS OF THE ARMY AND THE AIR FORCE
NATIONAL GUARD BUREAU
2500 ARMY PENTAGON
WASHINGTON, D.C. 20310-2500



NGB-ARC (37-20a)

15 APR 1996

MEMORANDUM FOR [REDACTED], P.O. Box 1695,
Bismarck, ND 58502-1695

SUBJECT: Investigation of Possible Antideficiency Act Violation

1. References:

a. Memorandum, DASA(FO), 21 Mar 96, subject: Alleged Antideficiency Act Violation Case 95-09 (enclosure one).

b. Memorandum, Office of Army General Counsel, 6 Mar 96, subject: Alleged Antideficiency Act (ADA) Violation Case # 95-09 (enclosure two).

2. Reference 1a requests the investigating officer continue the investigation. In addition it states the investigating officer should coordinate his report with the Bureau of Alcohol, Tobacco and Firearms and the Federal Bureau of Investigation and request reimbursement for the support provided by the National Guard Bureau. You should continue your investigation and submit your final coordinated report by 3 May 96.

3. Point of contact for this action is Ms. [REDACTED] NGB-ARC-M, 703-607-7534.

Name 213

2 Encls
as

[REDACTED]
Chief, National Guard Bureau

**STAFF SUMMARY SHEET
MEMORANDUM FOR:**

CHIEF, NGB	X
VICE CHIEF, NGB	
ASST CHIEF, NGB	
DIRECTOR, ARNG	X
DEPUTY DIRECTOR, ARNG	
DIRECTOR, ANG	
DEPUTY DIRECTOR, ANG	

ACTION OFFICE SYMBOL NGB-ARC-MR ①

ACTION OFFICER/TELEPHONE Ms. [REDACTED] 307-7534 Name 212

DATE 03/26/96

SUBJECT Potential Antideficiency Violation - Use of Counterdrug Funds at Waco	
<input type="checkbox"/> INFORMATION	<input type="checkbox"/> DECISION <input checked="" type="checkbox"/> SIGNATURE <input type="checkbox"/> OTHER
SUSPENSE DATE	BY

PURPOSE (Approval/Signature)

To obtain CNGB signature on memo requesting additional work from IO

DISCUSSION (Brief Synopsis of Package)

1. The preliminary report submitted by [REDACTED] ② on the possible antideficiency violation concerning the use of counterdrug funds in support of Operation Trojan Horse at Waco, Texas, has been reviewed by the Army General Counsel. The DASA(FO) and Army General Counsel agree with the investigating officer in that counterdrug funds should not have been used for certain phases of the operation.

2. DASA(FO) has requested the preliminary report be returned to the investigating officer in order to continue his investigation, to coordinate the report with the Bureau of Alcohol, Tobacco and Firearms and the Federal Bureau of Investigation and to request reimbursement from these agencies for the support the National Guard provided. The memo at TAB 1 requests the [REDACTED] ③ comply with DASA(FO) direction.

RECOMMENDATION (Self-explanatory)

The CNGB sign the memo at TAB 1 requesting IO complete the investigation.

APPROVAL	INITIALS	DATE	ACTION TAKEN	ACNGB	DDARNG	DARNG	DDANG	DANG	VCNGB	CNGB
DIVISION/OFFICE CHIEF			CONCUR							
EXECUTIVE, ARNG			APPROVED							
CoS ANG DIR			NOTED							
DACNGB			SEE ME							
EXECUTIVE, VCNGB			BRIEF							
EXECUTIVE, CNGB										
COORDINATION:										

MAIL ROOM: RETURN THIS FORM TO ACTION OFFICE SYMBOL LISTED IN UPPER RIGHT CORNER.

NGB FORM 0207e
1 NOV 92

(Replaces NGB Form 0207 dated 1 Mar 91 which is obsolete)

Z 0000101 (R)

ARMY NATIONAL GUARD READINESS CENTER
111 S. GEORGE MASON DRIVE
ARLINGTON, VA 22204-1382

COMPTROLLER DIRECTORATE
MANAGEMENT DIVISION

ORGANIZATION: [REDACTED] 1
TELEPHONE: 607-7534
FAX: COMM: (703) 607-7585, OR DSN 327-7585
NUMBER OF PAGES: 4 + header

FAX TO: [REDACTED] 2
ORGANIZATION: [REDACTED]
TELEPHONE: 701-223-2711
FAX NUMBER: 701-223-9619
CLASSIFICATION: U

REMARKS:

FYI,

Attached memo is being sent
to [REDACTED] for signature.

4



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
FINANCIAL MANAGEMENT AND COMPTROLLER
109 ARMY PENTAGON
WASHINGTON DC 20310-0109

May 15, 1996



MEMORANDUM FOR COMPTROLLER, ARMY NATIONAL GUARD

SUBJECT: Alleged Antideficiency Act Violation Case 95-09

On 21 March 1996, I requested that you coordinate the investigation results of this ADA case with the Bureau of Alcohol, Tobacco and Firearms and the Federal Bureau of Investigation. Reimbursement from the appropriate agencies would avert a reportable Antideficiency Act violation.

This case was discovered on 14 July 1995. I recognize that this is a complex case, but we must bring this case to closure as soon as possible. Request you provide me the status of this case not later than 21 May. If this case is not closed this month, it will be reported to USD(C) on the next status report.

My point of contact is [REDACTED], who can be reached at (703) 697-0757.

[REDACTED]

Attachment



DEPARTMENTS OF THE ARMY AND THE AIR FORCE
NATIONAL GUARD BUREAU
111 SOUTH GEORGE MASON DRIVE
ARLINGTON, VA 22204-1382



NGB-ARC-M (37-20a)

21 MAY 1996

MEMORANDUM FOR OFFICE OF THE DEPUTY ASSISTANT SECRETARY OF THE
ARMY (FINANCIAL OPERATIONS), ATTN: SAFM-FCL,
109 ARMY PENTAGON, WASH DC 20310-0109

SUBJECT: Alleged Antideficiency Act Violation Case 95-09

1. In response to your request for the status of Case 95-09, the following information is provided:

a. The Investigating Officer has contacted the General Counsel of the Bureau of Alcohol, Tobacco and Firearms (ATF) to coordinate obtaining reimbursement of the funds which were inappropriately used.

b. A copy of the report will be sent to ATF this week. After ATF reviews the report, if they agree and are willing to reimburse the funds, the final report could be submitted by the end of July 1996. I do not foresee this case being closed before you need to report it to USD(C).

2. My point of contact is [REDACTED] who can be reached at (703) 607-7534.

FOR THE CHIEF, NATIONAL GUARD BUREAU:

[REDACTED]

Director, Army Comptroller

DEPARTMENT OF THE ARMY
OFFICE OF THE JUDGE ADVOCATE GENERAL
WASHINGTON, D.C. 20310-2200

DAJA-ZB

19 June 1996

MEMORANDUM FOR [REDACTED]

SUBJECT: Case 95-09 (Waco, TX)

1. I am scheduled to meet with Mr. Steve McHale, General Counsel, ATF, at 1 p.m. on 8 July 1996.
2. I will keep you informed.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Special Assistant to
The Judge Advocate General

cf: [REDACTED]

104TH CONGRESS
2nd Session

HOUSE OF REPRESENTATIVES

REPORT
104-749

INVESTIGATION INTO THE ACTIVITIES OF FEDERAL LAW ENFORCEMENT AGENCIES TOWARD THE BRANCH DAVIDIANS

THIRTEENTH REPORT

BY THE

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

PREPARED IN CONJUNCTION WITH THE

COMMITTEE ON THE JUDICIARY

together with

ADDITIONAL AND DISSENTING VIEWS



AUGUST 2, 1996.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1996

26-167 CC

The standoff between the government and the Branch Davidians began on February 28, 1993, as the cease-fire went into effect following the ATF's failed raid on the Branch Davidian residence. During that time personnel and equipment of the U.S. Armed Forces were present at or near the Branch Davidian residence.

1. Military equipment and personnel provided

a. Active duty personnel and equipment

During the standoff, a limited number of active duty military personnel were present at the Branch Davidian residence providing services to the FBI in support of the FBI's activities during the standoff. Most of these troops were dressed in uniforms which indicated their rank, service, and function. A small number of troops present at the site were assigned to Army Special Forces units. Because the military occupational specialties of these troops are classified, they dressed in civilian clothes while at or near the Branch Davidian residence and did not identify themselves as military personnel. Additionally, one of the two senior Army officers present at the April 14 meeting with the Attorney General also visited the Branch Davidian residence in order to personally view the tactical situation. This officer was present at the Branch Davidian residence for part of 1 day.

The type of support provided by the active duty troops consisted primarily of performing repairs and maintenance on ~~sophisticated~~ observation and electronics equipment²⁰⁰ provided by the Defense Department to the FBI. Active duty, enlisted military personnel set-up the equipment and performed necessary maintenance on it. There is no evidence that military personnel actually operated the equipment. Instead, it appears that FBI agents operated this equipment. In one instance, however, civilian employees of the Department of Defense operated one piece of sophisticated electronics equipment.²⁰¹ In addition, active duty, enlisted military personnel performed repair and maintenance work on the electronics equipment belonging to the FBI. The accounts given by all personnel familiar with this aspect of the operation and who were interviewed by the subcommittees confirm that, with this one exception, only FBI personnel operated the equipment during the standoff.

b. National Guard personnel and equipment

During the standoff, the Texas National Guard provided a number of military vehicles to the FBI. Principal among these were 10 Bradley Fighting Vehicles (Bradleys), 4 M728 Combat Engineering Vehicles (CEVs), 1 M1A1 Abrams tank, and 1 M88 tank retriever. The weapons systems in those

of these vehicles which are normally armed were removed before they were transported to the Branch Davidian residence.²⁰²

During the standoff the Bradleys were used primarily as armored personnel carriers to transport FBI officials to meetings with the Davidians, to transport FBI agents to their observation posts around the Branch Davidian residence, and by FBI agents to guard the perimeter of the operation. During the insertion of the CS agent on April 19, the Bradleys were used by FBI agents to maneuver close enough to the Branch Davidian residence so that the agents could fire Ferret round projectiles containing CS agent into the windows of the residence.

The CEVs were not used until April 19. Attached to each CEV was a long triangular boom-like arm. Attached to the booms of two of the CEVs were mounted devices that sprayed CS agent mixed with carbon dioxide. On April 19, these CEVs were used to ram holes into the Davidians residence. The operators in each CEV then inserted CS agent into the building using the devices affixed to the boom. Insertions of CS agent occurred in four distinct phases throughout the morning of the 19th. At one point, one of the CEVs became damaged and could no longer spray CS agent. As the day progressed, the FBI began to use the CEVs to "deconstruct" the Branch Davidian residence, using them to ram into the corners and sides of the building, creating large openings in the building. At one point, part of the rear roof collapsed after one CEV made multiple entries into the side of the building.

In addition to these vehicles, a number of support vehicles (e.g., Humvees, used to transport personnel, and flatbed trucks, used to haul the Bradleys and CEVs to Waco) were located at or near the Branch Davidian residence. Additionally, Defense Department provided support equipment (e.g., tents, generators, concertina wire) to the FBI.

An unknown number of Texas National Guard personnel were present during the standoff. Most of these personnel performed maintenance on the military vehicles loaned to the FBI or to provide support services for these troops (i.e., National Guard cooks were present to prepare meals for the mechanics). Other National Guard troops provided remedial training to the FBI's HRT members who were to operate the Bradleys and CEVs. Additionally, on April 19, some National Guard troops assisted FBI agents in refilling the CEVs with the CS riot control agent.

c. Reimbursement

The Economy Act²⁰³ requires the Justice Department to reimburse the Department of Defense for the cost of the equipment and personnel sup-

²⁰⁰The electronics equipment was used to block the Davidians' television reception.

²⁰¹Hearings Part 3 at 315 (Statement of Allen Holmes, Assistant Secretary of Defense for Special Operations and Low Intensity Conflict).

²⁰²Id. at 314.

²⁰³31 U.S.C. § 1535.

Tanks were provided by Army from Ft. Hood. 20-25 active duty Army personnel. Trainers / maintainers of equipment.

port provided to it. The subcommittees have been informed that this reimbursement has been made.

2. Advice/consultation provided by military officers

a. Request by Texas Governor

When Texas Governor Ann Richards learned of the failed ATF raid on February 28, she requested to consult with a knowledgeable military officer about the incident. In response to her request, the commander of the U.S. Army's III Corps at Fort Hood, TX, asked the assistant division commander of the First Cavalry Division of the III Corps, also at Fort Hood, to meet with Governor Richards. That officer met with the Governor on the evening of February 28. During the meeting, the officer answered the Governor's questions concerning the types of military equipment the ATF had used during the raid and the types of military equipment which Federal law enforcement officials might use in the future. The Governor also requested that the officer meet with the Texas Adjutant General (the commander of the Texas National Guard), who only recently had been appointed to his position.

b. Visit to the Branch Davidian residence with FBI officials

Two senior Army officers participated in a meeting of Justice Department and FBI officials with the Attorney General on April 14. During the meeting, the participants discussed the FBI's plan to end the standoff. The subcommittees' investigation revealed that one of the Army officers visited the Branch Davidian residence on April 13, accompanied by HRT commander Rogers.

During a briefing of the subcommittees these officers indicated that Rogers had arranged for the officers to be included in the April 14 meeting and had invited one of them to view the Branch Davidian residence to better understand the tactical situation. Rogers met the officer at the Branch Davidian residence and arranged for a helicopter tour of the perimeter of the area. The officer informed the subcommittees that he only observed the FBI's activities there and did not take part in the ongoing operation. The officer and Rogers then left Waco to travel to Washington for the meeting with Attorney General Reno.

The officer further informed the subcommittees that his visit to the Branch Davidian residence was his first visit and that he did not return to the Branch Davidian residence after April 14. The other officer present at the April 14 meeting stated that he did not visit the Branch Davidian residence at any time. The subcommittees' interviews with both FBI and other military personnel present at Waco during the standoff confirmed the statements of the Army officers.

c. April 14, 1993 meeting with Attorney General Reno

On April 14, 1993, a meeting was held in the office of the Director of the FBI with Attorney General Reno and several Justice Department and FBI officials. According to the Justice Department Report, "several military representatives" were also present.³⁰³ The subcommittees' investigation identified the two senior military officers present at the meeting. These two officers briefed the members of the subcommittees in a classified briefing in July of 1995 in conjunction with the subcommittees' public hearings. Additionally, a Defense Department representative testified before the subcommittees in open session generally as to the discussions between the officers and Attorney General Reno on April 14, 1993.

The officers present at the April 14 meeting at the invitation of FBI officials were to answer any questions Attorney General Reno might pose about the FBI's plan to end the standoff. The officers understood they had been selected to attend the meeting because of their special tactical training and experience. Additionally, HRT commander Rogers knew one of the officers personally and had facilitated the request from the Justice Department to Defense Department that the officers attend the meeting.³⁰⁴

The officers informed Attorney General Reno that they could not comment on specific FBI plans to end the standoff.³⁰⁵ One of the officers did inform Attorney General Reno that if the HRT had been a military force under his command, he would recommend pulling it away from the Branch Davidian residence for rest and retraining.³⁰⁶ They also explained to Attorney General Reno that if the military had been called in to end a barricade situation as part of a military operation in a foreign country, it would focus its efforts on "taking out" the leader of the operation.

The officers believed Attorney General Reno understood their comments as an illustration of the tactical principal that a group heavily dependent on a charismatic leader for direction, such as the Davidians, can best be controlled if the leader is removed from control. The officers believe Attorney General Reno understood that their comments were appropriate to a military operation abroad but were not directly applicable to the domestic law enforcement situation facing Attorney General Reno.

3. Foreign military personnel

Foreign military personnel were present at the Branch Davidian residence during the standoff sometime in March. The two persons present were

³⁰³ Justice Department Report at 305.

³⁰⁴ Hearings Part 3 at 304, 314 (statement of Allen Holman, Assistant Secretary of Defense for Special Operations and Low Intensity Conflict).

³⁰⁵ *Id.* at 304.

³⁰⁶ *Id.* at 304, 314.

members of the 22nd Regiment of the British Army's Special Air Service (SAS). This branch possesses special tactical military skills and has a role similar to U.S. Army Special Forces troops. American military personnel present during the standoff informed the subcommittees that the SAS personnel observed the activities of the FBI and took no part in the actions of the military or the FBI. The two SAS representatives were not present on April 19, the date the standoff ended.

Accordingly to the Justice Department's written response to questions submitted by the subcommittees, the SAS personnel were present at Fort Bragg, NC in early 1993 on other business and requested to observe the FBI's HRT command post and forward tactical positions at Waco. FBI officials have informed the subcommittees that the HRT maintains liaison with the military and law enforcement counter-terrorist units of friendly foreign countries, including the United Kingdom, Germany, Italy, Spain, Australia, and Denmark. HRT commanders occasionally invite representatives of these units, as well as the U.S. Army Special Forces, to observe operations in which the HRT is engaged, as each of the organizations has similar skills and performs similar functions. This professional courtesy apparently is extended to FBI officials as well by the U.S. Special Forces and the counter-terrorist units of the countries listed above. The FBI explained the presence of the SAS personnel at the Branch Davidian residence as an example of this type of information-sharing.

The subcommittees' investigation finds no support for the assertions made by some that SAS personnel, or any other foreign persons, took part in the activities of U.S. Government agencies at the Branch Davidian residence. Accordingly, the subcommittees conclude that the two SAS personnel were the only foreign persons present at the Branch Davidian residence³⁰⁰ and that they took no part in the government's activities there.

E. FINDINGS CONCERNING MILITARY INVOLVEMENT IN THE GOVERNMENT OPERATIONS AT WACO

The Posse Comitatus Act was not violated.

a. No violations of the Posse Comitatus Act occurred up to February 28, 1993. The subcommittees conclude that no actual violation of the Posse Comitatus Act occurred as a result of the military support provided to the ATF through February 29, 1993. The subcommittees review of this question was divided into two parts: the support provided by active duty military personnel prior to February 28 and the support provided by Texas National Guard troops up to and on February 28, 1993.

The subcommittees find no violation of the Posse Comitatus Act as a result of the support provided

³⁰⁰ Other than some of the Davidians, several of whom were foreign nationals.

by the active duty military personnel who facilitated the training of ATF agents at Fort Hood, TX in late February 1993. The ATF's initial request to Operation Alliance included a request that military medical personnel actually participate in the raid on the Branch Davidian residence. The ATF also requested that military personnel participate in the formulation of the ATF's overall raid plan against the Davidians' residence. These requests raised the concern of military lawyers due to their Posse Comitatus implications. The subcommittees conclude that these officers were correct to raise these concerns and that their actions helped prevent a violation of the Posse Comitatus Act.

As a result of the concern by these officers as to ATF's request, less support was provided than initially requested. That support was limited to providing and staffing a training area for the ATF at Fort Hood, teaching basic first aid, and providing general advice on communications questions. Because these activities do not rise to the level of direct participation in a law enforcement action, they did not violate the Posse Comitatus Act.

The subcommittees also find no violation of the Posse Comitatus Act as a result of the support provided by the Texas National Guard which participated in the training that the ATF conducted for its agents at Fort Hood, TX in late February 1993 and which flew the helicopters on February 28 that were part of the ATF's raid on the Branch Davidian residence. The Texas National Guard troops who participated in these activities were acting in their "state national guard" status under the command and control of the Governor of Texas, even though the costs of the operation were paid by the Federal Government pursuant to title 32 of the U.S. Code.

The Posse Comitatus Act does not govern the actions of the National Guard when it is acting in a non-Federal (i.e., State) status. Because the Texas National Guard troops participating in the ATF's training and the raid itself were acting in this status, the Posse Comitatus Act did not apply to them. Accordingly, no violation was possible and none, therefore, occurred.

b. No violations of the Posse Comitatus Act occurred after February 28, 1993. The subcommittees conclude that no actual violation of the Posse Comitatus Act occurred as a result of the military support provided to the FBI after February 28, 1993. The subcommittees review of this question involved two issues: the support provided by active duty military personnel prior to February 28 and the support provided by Texas National Guard troops through April 19, 1993.

The subcommittees find no violation of the Posse Comitatus Act as a result of the support provided by the active duty military personnel who were present at the Branch Davidian residence from February 28, 1993 to April 19, 1993. The subcommittees' investigation indicates, and the testimony of the witnesses who testified at the hear-

ings confirmed that no active duty military personnel actively participated in any actions that can be characterized as the exercise of the law. The actions of the enlisted personnel appear to have been limited to setting up equipment and performing maintenance on it, or providing support to other military personnel (e.g., transportation, food service). All of the military personnel interviewed by the subcommittees confirmed that only FBI employees operated the military equipment during the law enforcement activities conducted at the Branch Davidian residence. The subcommittees found no evidence to the contrary.

As discussed above, the Posse Comitatus Act does not govern the actions of the National Guard when it is acting in a non-Federal (i.e., State) status. Accordingly, none of the actions taken by the National Guard during the standoff violated the Posse Comitatus Act. The subcommittees note, however, that it appears that the National Guard's role during the standoff was very limited. The National Guard role generally involved troops transporting to the Branch Davidian residence all of the military vehicles used by the FBI during the standoff and performing routine maintenance on them.

On April 19, National Guard troops assisted the FBI in refilling the CEV's with the CS agent used in the unsuccessful effort to induce the Davidians to leave the residence. Because the National Guard troops are not subject to the Prohibitions of the Posse Comitatus Act when acting in their State status, no violation occurred. The subcommittees note, however, that had the National Guard troops instead been active duty personnel, or acting in a Federal status, their participation in the execution of the CS gas plan would have violated the Posse Comitatus Act.

2. The ATF misled the Defense Department as to the existence of a drug nexus in order to obtain non-reimbursable support from the Defense Department. The subcommittees conclude that the ATF intentionally misled Defense Department and military personnel as to whether the Davidians were operating an illegal drug manufacturing operation at the Davidian residence. It appears that the ATF agents involved in planning the raid knew that they could obtain support from the military at no cost in preparation for their raid. It also appears that the ATF knew that this support would be provided promptly if the presence of a drug manufacturing operation was alleged. While there had been allegations that a drug manufacturing operation was located at the Davidian residence at some point in the mid to late 1980's before Koresh took control of the group, there was no evidence that the drug operation continued into late 1992. The ATF's misrepresentations improperly enabled it to obtain military assistance from forces which otherwise would not have provided it, more quickly than might have been possible, and without having to reimburse

the Defense Department as otherwise would have been required under Federal law.

The subcommittees also conclude that the commander of the military personnel providing the training knew or should have known that the ATF's allegations as to the existence of a drug manufacturing operation at the Davidian residence were, at best, overstated and were probably untrue. His failure to raise this issue with his superiors is troubling. The subcommittees believe this failure should be reviewed by Defense Department authorities.

3. No foreign military personnel or other foreign persons took part in any way in any of the government's actions toward the Branch Davidians. While some foreign military personnel were present in Waco during the government's operations toward the Davidians, there is no evidence that any of these persons took part in the government's operations in any way.

4. Civilian law enforcement's increasing use of militaristic tactics is unacceptable. The FBI's and ATF's reliance on military type tactics greatly concerns the subcommittees. The Waco and Ruby Ridge incidents epitomize civilian law enforcement's growing acceptance and use of military type tactics. The subcommittees find this trend unacceptable.

When ATF faced the option of conducting a regulatory inspection or tactical operation, it chose the tactical operation. When ATF had to decide between arresting Koresh away from the Branch Davidian residence or a direct confrontation, it chose direct confrontation. ATF also decided to conduct a dynamic entry as opposed to a siege.

The subcommittees are not recommending that the use of militaristic tactics should always be precluded. The subcommittees acknowledge that there are certain circumstances in which military type tactics may be necessary. The subcommittees urge all Federal law enforcement agencies to review their policies on military training and tactics and develop appropriate guidelines for when such tactics are acceptable. Military training, especially specialized training in combat tactics, should be highly restricted and the use of military tactics, such as a dynamic entry should be approved at the highest agency levels.

F. RECOMMENDATIONS

1. Congress should consider applying the Posse Comitatus Act to the National Guard with respect to situations where a Federal law enforcement entity serves as the lead agency. The subcommittees acknowledge that the Posse Comitatus Act has been and continues to be a significant protection for the rights of the people. The events in Waco, however, suggest that these protections may not be as strong as most citizens assume.

As discussed above, the Posse Comitatus Act does not apply to the National Guard when it is

acting in its State status. As the events at Waco illustrate, actions taken by National Guard troops can never violate this law, even when those same acts would violate the law were they undertaken by active duty military personnel. The subcommittees question whether this distinction is acceptable to the American people.

The purpose of the Posse Comitatus Act is to prevent the government from using the military against its own citizens. Yet the National Guard and the Reserve exists in part, to augment the active duty military in times of need. National Guard troops receive military training. National Guard units are equipped with military equipment, in some cases the most sophisticated and lethal military equipment in the Defense Department's arsenal, including tanks, fighter and bomber aircraft, and armored personnel carriers. These units, by design, possess many of the same capabilities as active military units. In fact, almost one-half of the U.S. Armed Forces is composed of National Guard and Reserve forces. When activated by the President, the National Guard becomes part of the active duty military.

While Federal law distinguishes between the National Guard in its various "statuses," this distinction is unclear to the vast majority of the public. Many citizens no doubt would be surprised and concerned to learn that components of the same forces the United States used in Operation Desert Storm, Somalia, and Bosnia also can be used against them in the United States as long as the "status" of the troops used fits within the proper category. Given that many National Guard units have force capabilities similar to that of active duty units, it makes little common sense that one unit's activities may be constrained by the Posse Comitatus Act while another's are not. In short, if it is important to prevent military force from being used to enforce the civil laws, it should matter little the "status" of the force used against the citizenry.

The question of applying the Posse Comitatus Act to the National Guard has not been examined recently by the Congress. Accordingly, the subcommittees recommend that Congress hold hearings on this matter to determine whether the Posse Comitatus Act should be broadened to apply to the National Guard and what exceptions to the act's prohibitions, if any, are appropriate to the National Guard in light of its role and mission.

2. The Department of Defense should streamline the approval process for military support so that both Posse Comitatus Act conflicts and drug nexus controversies are avoided in the future. The subcommittees' investigation revealed that Department of Defense procedures for receiving, evaluating, and deciding upon requests for assistance from domestic law enforcement agencies was unclear in early 1993. Generally, requests for military assistance to domestic law enforcement agencies were channeled

through the Director of Military Support (DOMS), an Army two-star general headquartered at the Pentagon who heads a staff that is on-call 24 hours a day. In some cases, commanders of local military bases are authorized to provide support without approval of the DOMS if the requests are limited in scope.

As of 1993, requests for military support relating to counterdrug operations were not required to be submitted to the DOMS for approval but instead were channeled through Operation Alliance, a group representing agencies such as the ATF, the Border Patrol, and other Federal law enforcement agencies together with military representatives. Operation Alliance serves merely as a clearinghouse for requests, tasking actual military organizations to provide the support. In this case, Operation Alliance tasked Joint Task Force-6 and the Texas National Guard, two of the military organizations at its disposal.

Requests for support involving the use of lethal equipment, such as Bradley Fighting Vehicles and tanks, were to be made through the Office of the Secretary of Defense in the Pentagon. Apparently, however, that requirement was not complied with in this case.

The subcommittees believe that authority for approving military support for domestic law enforcement operations should be located within one office within the Office of the Secretary of Defense. Centrally locating this responsibility will help ensure that uniform standards are applied in evaluating all requests for military support and that no agencies can successfully "end-run" the approval process. It also will reduce confusion among law enforcement agencies which, under the process as it existed in 1993, first had to determine without Defense Department guidance the purpose for the support (i.e., counterdrug or not counterdrug) and the type of military assets that might be involved (i.e. lethal assets or strictly non-lethal assets). The subcommittees believe that it is best left to the military, in the first instance, to determine the nature and type of support it is able to provide, in keeping with the Posse Comitatus Act and its own need to fulfill its primary defense mission.

The process for civilian law enforcement agencies receiving military assistance must require that all requests and approvals be in writing, specifying in detail the requested and approved military assistance. Additionally, the Department of Defense needs to establish a clear and concise standard for what constitutes a sufficient drug nexus. Congress should specifically establish criminal and pecuniary penalties for willful violations of the drug nexus standard.

²⁰⁷ As discussed above, however, while some of these vehicles are considered lethal equipment the weapons systems in all of the military vehicles used by the FBI during the standoff had been rendered inoperative prior to the delivery of the vehicles to the Branch Davidian residence. Hearings Part 3 at 314 (statement of Allen Holman, Assistant Secretary of Defense for Special Operations and Low Intensity Conflict).

The subcommittees acknowledged that in May 1995, the Secretary of Defense directed the Under Secretary of Defense for Policy to establish a working group "to conduct a comprehensive review of the current system by which Defense Department evaluates and responds to request for assistance initiated by outside agencies." As a result of the working group's recommendations, the Secretary recently directed that requests for military support are to be channeled through the Office of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict. The subcommittees commend this decision to centralize the approval process for providing this type of support. This policy should be frequently monitored so as to ensure that law enforcement agencies, and field commanders, are complying with it.

3. Congress should review the legal status of memoranda of agreement for the interstate use of National Guard personnel for civilian law enforcement purposes. The subcommittees' investigation revealed that the use of National Guard personnel across State lines for law enforcement purposes is a common practice. This practice is conducted through simple, pro forma memoranda of agreement which rarely take into account State laws governing the use of the National Guard. The subcommittees believe that, in practice, many of these agreements supersede State constitutions and statutes without legal authority. The subcommittees are concerned that these agreements do not comply with Federal laws and may violate the U.S. Constitution.

The subcommittees recommend that Congress, the Department of Defense, and its National Guard Bureau come to an agreement on the proper legal status of these National Guard Memoranda of Agreement. If it is determined these agreements require congressional ratification, procedures to obtain such approval should be established by the National Guard Bureau.

Regardless of whether these memoranda of agreement require congressional ratification, however, the National Guard Bureau should establish a centralized review process for all Memoranda of Agreement involving the interstate use of the National Guard personnel. This review process must include a per case legal determination that pertinent State law is not violated by the agreement.

4. The General Accounting Office should audit the military assistance provided to the ATF and to the FBI in connection with their law enforcement activities toward the Branch Davidians. Given that the subcommittees have been unable to obtain detailed information concerning the value of the military support provided to the ATF and the FBI, the subcommittees recommend that the General Accounting Office conduct an audit of these agencies to ascertain the value of the military support provided to them and to ensure that complete reimbursement has been made by both agencies. If violations of the

Anti-Deficiency Act or other Federal laws are found, the appropriate legal action should occur, including criminal prosecution if permitted under existing law.

5. The General Accounting Office should investigate the activities of Operation Alliance in light of the Waco incident. The subcommittees concluded that Operation Alliance personnel knew or should have known that ATF did not have a sufficient drug nexus to warrant the military support provided to it on a non-reimbursable basis. Senior DEA agents were members of the Operation Alliance board which approved requests for military assistance, yet they voiced no concerns regarding ATF's plan to directly assault an alleged active methamphetamine laboratory. Military officers were present when ATF was presented a paper detailing the potential dangers and special precautions required when dealing with an active methamphetamine laboratory. The purpose of the meeting was to determine whether a drug nexus existed. Even though there was evidence that no drug existed, those military officers present took no action. UPS receipts which allegedly detailed deliveries of precursor chemicals to the Branch Davidian residence and were used to substantiate the drug nexus were nowhere to be found when the subcommittees requested copies.

Additionally, the subcommittees' review of military documents provided at their request and the results of interviews with persons involved in this matter clearly demonstrate that there was a continuing concern from senior military officers that JTF-6 was providing support to non-counterdrug activities, and that the Special Operations Command was attempting to reinforce resistance to this recurring misuse of military counterdrug assets and funds, referred to as "cheating." Given that the military assistance to ATF for Waco under dubious circumstances appears to not have been an anomaly, and the fact that Operation Alliance's jurisdiction has significantly expanded since Waco, the subcommittees recommend that the General Accounting Office investigate the activities of Operation Alliance.

VI. NEGOTIATIONS TO END THE STANDOFF WITH THE DAVIDIANS

Negotiations between the FBI and the Branch Davidians continued for 51 days during which time the negotiators utilized generally accepted negotiation techniques. The FBI was unwilling to engage in a novel approach toward the Davidians.

While American hostage negotiation training, especially FBI training, is thought to be the best in the world, there remains considerable room for reassessment and, based on the Waco record, improvement. The FBI possesses exceptional negotiators, but the Bureau was unwilling to engage outside experts and too eager to ignore the advice given by its own experts. The evolving nature of hostage barricade situations necessitates that in

NGB-ARC-M (37-20a)

S: 13 Aug 96

6 Aug 96

MEMORANDUM FOR THE JUDGE ADVOCATE (NGB-JA)

SUBJECT: Legal Review of Potential Antideficiency Act Violation - Case 95-09

1. At enclosure is a copy of the final report of investigation of Case 95-09. The Investigating Officer has found no violation of the Antideficiency Statutes occurred in this case. Request you review the report for legal sufficiency. Please provide your written comments on the report by 13 Aug 96. Upon receipt of your comments, they will be attached to the report and the entire report will then be forwarded to [REDACTED] for approval/signature and forwarding to ASA(FMC).

2. The point of contact for this action is [REDACTED] NGB-ARC-M, 607-7534.

Encl

[Signature]
Colonel, GS
Director, Army Comptroller



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
FINANCIAL MANAGEMENT
109 ARMY PENTAGON
WASHINGTON DC 20310-0109



22 AUG 1996

MEMORANDUM FOR DEPUTY GENERAL COUNSEL (ETHICS AND FISCAL)

SUBJECT: Alleged Antideficiency Act (ADA) Violation Case #95-09

The purpose of this memorandum is to request your review and legal opinion on the subject case.

This case involves an alleged ADA violation surrounding the National Guard support for the assault on the Branch Davidian Compound, Waco, Texas. On January 4, 1996, my office requested your legal opinion on the preliminary investigation. You responded on March 6, 1996, requesting the report be returned to the investigating officer with instructions to investigate further (Attachment 1). The investigating officer conducted a meeting with personnel from the Bureau of Alcohol, Tobacco, and Firearms, and came to the conclusion that no violation occurred. His report and the legal review by the Army National Guard are enclosed for your consideration (Attachment 2).

My point of contact for this action is [REDACTED] who can be reached at (703) 697-0757 or by e-mail at [REDACTED].Army.mil.

Finance and Accounting
Oversight Division

Attachment



DEPARTMENTS OF THE ARMY AND THE AIR FORCE
NATIONAL GUARD BUREAU
2500 ARMY PENTAGON
WASHINGTON, D.C. 20310-2500



NGB-ARC-M (37-20a)

30 AUG 1996

MEMORANDUM FOR OFFICE OF THE DEPUTY ASSISTANT SECRETARY OF THE
ARMY (FINANCIAL OPERATIONS), ATTN: SAFM-FCL,
109 ARMY PENTAGON, WASH DC 20310-0109

SUBJECT: Alleged Antideficiency Act Violation Case 95-09

1. The National Guard Bureau (NGB) conducted a preliminary review of Case 95-09. The preliminary review found a potential violation had occurred, but could be avoided if the Bureau of Alcohol, Tobacco, and Firearms (BATF) reimbursed the National Guard for funds which had been inappropriately used. When the investigating officer, [REDACTED], met with the BATF General Counsel, they provided him additional information which caused [REDACTED] to determine funds had not been used inappropriately. Therefore, BATF would not need to reimburse NGB. [REDACTED] found no violation of the antideficiency statutes had occurred. The final report is at enclosure one.
2. The final report was reviewed by the National Guard Bureau Judge Advocate and the legal opinion on the report is at enclosure two.
3. The point of contact is [REDACTED] who can be reached at (703) 607-7534.

2 Encls
as

[REDACTED]
Chief, National Guard Bureau



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
FINANCIAL MANAGEMENT
109 ARMY PENTAGON
WASHINGTON DC 20310-0109

October 7, 1996



MEMORANDUM FOR CHIEF, NATIONAL GUARD BUREAU, ATTN: NGB-ARC

SUBJECT: Alleged Antideficiency Act Violation Case 95-09

The Deputy General Counsel (Ethics and Fiscal) (DGC(E&F)) has reviewed the analysis of the investigating officer that was appended to the investigation report regarding the Texas National Guard support of Operation Trojan Horse at Waco, Texas.

The attached DGC(E&F) opinion states that the expenditure of Army National Guard funds in support of this operation violated the purpose statute. Support provided to the Bureau of Alcohol, Tobacco, and Firearms (BATF) should have been on a reimbursable basis. Without such reimbursement, this situation will constitute a violation of the Antideficiency Act, 31 U.S.C. section 1341.

The National Guard Bureau must request reimbursement from the BATF for the total amount of Army National Guard appropriations used in support of this operation. Please copy furnish this office on your written request for this reimbursement. If the BATF is unable to provide these funds, you should revise your report of investigation to reflect the occurrence of the ADA violation, including all reportable items contained in Chapter 29, DFAS-IN Reg. 37-1.

Request you work closely with my point of contact for this case, [REDACTED], who can be reached at (703) 697-5835, to ensure expeditious completion of this case.

[REDACTED]
(Financial Operations)

Attachment



DEPARTMENT OF THE ARMY
OFFICE, ASSISTANT SECRETARY
FINANCIAL MANAGEMENT AND COMPTROLLER
109 ARMY PENTAGON
WASHINGTON DC 20310-0109

7 Oct 96

THRU: [REDACTED] 1

FOR: [REDACTED] 2

SUBJECT: ADA Case 95-09

I received counsel's opinion on the Waco case, and they do not feel that the investigating officer's meeting with Bureau of Alcohol, Tobacco, and Firearms (BATF) provided enough evidence to justify using counterdrug funds for the operation. NGB must therefore request reimbursement, which, if not received, will result in an ADA violation.

4 Attached for your signature is the memo informing the NGB of this opinion. I have spoken with the NGB action officer and with [REDACTED] and [REDACTED] in counsel and will continue to work closely with them to bring this one to closure. When I mentioned this case to [REDACTED] during the update, he did not seem favorably disposed to naming someone in BATF as the responsible individual. I talked to [REDACTED] at OSD about that possibility and he felt at some level Army would get the funds returned, even if OSD had to contact Treasury (BATF's parent), rather than let this go to OMB as a correctable ADA that BATF elected not to correct.

I will keep you informed as developments unfold, or if I need your involvement to request reimbursement.

CASH COLLECTION VOUCHER

DISBURSING OFFICE COLLECTION VOUCHER NUMBER

CS-39

RECEIVING OFFICE COLLECTION VOUCHER NUMBER
C7600031

ACTIVITY (Name and location)

SAF/FMBMB, 1130 AIR FORCE PENTAGON, WASHINGTON, DC 20330-1130

RECEIVED AND FORWARDED BY (Printed name, title and signature)

0317

DATE

09 OCT 1996

ACTIVITY (Name and location)

SAF/FMBMB, 1130 AIR FORCE PENTAGON, WASHINGTON, DC 20330-1130

DISBURSING OFFICER (Printed name)

0664

DISBURSING STATION SYMBOL NUMBER

659900

DATE RECEIVED SUBJECT TO COLLECTION

09 OCT 1996

PERIOD: From

To

DATE RECEIVED	NAME OF REMITTER DESCRIPTION OF REMITTANCE	DETAILED DESCRIPTION OF PURPOSE FOR WHICH COLLECTIONS WERE RECEIVED	AMOUNT	ACCOUNTING CLASSIFICATION
10/07/96	351030067995 \$34,340.48	BILL # B6600210 PAID IN FULL 09/20/96	\$34,340.48	5743080 174 6045 846511 0000 6 59900
TOTAL			\$34,340.48	

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Comptroller General U.S.

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OASD (SO/LIC) TASKING SHEET

CLASSIFICATION

IN 10/29/96

DATE OUT 11/15/96

96/44346

ACTION OFFICEACTION: ☐INFO: ☐

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SUBJECT

PUBLIC RELEASE OF DOD DOCUMENTATION OF 1995 WACO INVESTIGATION

INCOMING**RETURN ACTIONS****REQUIREMENT:**

REPLY DIRECT/INFO FO
ACTION FOR ASD/PD SIGNATURE
REVIEW/COMMENT TO:
APPROPRIATE ACTION

ASD
ASD ASST
DPMI
SR MA
MIL ASST
SP ASST
ADMIN
PDASD
PD SECY
PD SA

ACTION INFO	ASD Has	DATE	ACTION INFO
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FO NOTES:

Lead into ODD

FILE

HIGH-LEVEL CORRESPONDENCEWHITE HOUSE
SECDEFDEPSECDEF
USDP

ASD

ACTION COORD INFO

REVIEWED/DATE

DASD NOTES:

DASD(DEPS)
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ACTION COORD INFO

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DIRECTOR NOTES:

DASD(FR)
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DIR (BE)
ADMIN

ACTION COORD INFO

REVIEWED/DATE

ACTION OFFICER:

DASD(PM)
POL COORD
PD/DIR(SM)
DIR (PP)
DIR (CT/SA)
MIN

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GAO

United States
General Accounting Office
Washington, D.C. 20548

National Security and
International Affairs Division

~~PRIVILEGED~~

October 24, 1996

The Honorable [REDACTED] - 1
The Secretary of Defense

Attention: DOD Office of the Inspector General
Director for GAO Surveys and Reviews

Dear Mr. Secretary:

The General Accounting Office has been asked by the Chairmen of the House Subcommittee on Crime and the Subcommittee on National Security, International Affairs, and Criminal Justice to determine the extent of DOD support to the Bureau of Alcohol, Tobacco, and Firearms (BATF) and the Federal Bureau of Investigation (FBI) in connection with their law enforcement activities toward the Branch Davidians. Our review will be performed under our assignment code 703183.

The objectives of this assignment will be to determine (1) what types of assistance was provided to the BATF and FBI, (2) the rationale for providing this assistance, (3) the cost of providing the assistance, and (4) whether DOD was reimbursed for the assistance provided.

Work on this assignment will begin in November. Notice of visits and the personnel involved will be provided in the usual manner. If you have any questions, please contact [REDACTED] - 2 of my staff. He can be reached at (202) 512-4161.

Sincerely yours,

[REDACTED] - 3
Director, Military Operations
and Capabilities Issues

~~PRIVILEGED~~

Congressional

SAC 2

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SECRETARY OF DEFENSE ROUTING SLIP		ACT COPY	INFO COPY		ACT COPY	INFO COPY
	SECRETARY OF DEFENSE		X	SECRETARY OF THE ARMY		X
	DEPUTY SECRETARY OF DEFENSE		X	SECRETARY OF THE NAVY		
	THE SPECIAL ASSISTANT		X	SECRETARY OF THE AIR FORCE		
	EXECUTIVE SECRETARY		X			
	UNDER SEC FOR ACQUISITION & TECHNOLOGY			CHAIRMAN, JOINT CHIEFS OF STAFF		
	Director, Defense Research & Engineering			Director, Joint Staff		X
	ASD (Economic Security)					
	ATSD (Atomic Energy)			ADVANCED RESEARCH PROJECTS AGENCY		
1	UNDER SECRETARY FOR POLICY	X		BALLISTIC MISSILE DEFENSE ORGANIZATION		
	ASD (International Security Affairs)			CENTRAL IMAGERY OFFICE		
	ASD (International Security Policy)			DEFENSE COMMISSARY AGENCY		
	ASD (Special Operations/LIC)		X	DEFENSE CONTRACT AUDIT AGENCY		
	ASD (Strategy & Requirements)			DEFENSE FINANCE & ACCOUNTING SERVICE		
	UNDER SECRETARY (COMPTROLLER)		X	DEFENSE INFORMATION SYSTEMS AGENCY		
	Director, Program Analysis and Evaluation			DEFENSE INTELLIGENCE AGENCY		
	UNDER SEC FOR PERSONNEL & READINESS			DEFENSE INVESTIGATIVE SERVICE		
	ASD (Force Management Policy)			DEFENSE LEGAL SERVICES AGENCY		
	ASD (Health Affairs)			DEFENSE LOGISTICS AGENCY		
	ASD (Reserve Affairs)			DEFENSE MAPPING AGENCY		
	ASD (C3I)			DEFENSE NUCLEAR AGENCY		
	ASD (Legislative Affairs)		X	DEFENSE SECURITY ASSISTANCE AGENCY		
	GENERAL COUNSEL		X	NSA/CENTRAL SECURITY SERVICE		
	INSPECTOR GENERAL			ON-SITE INSPECTION AGENCY		
	DIR, OPERATIONAL TEST & EVALUATION					
	DIR, ADMINISTRATION & MANAGEMENT					
	ATSD (Public Affairs)		X			
TYPE OF ACTION REQUIRED						
	PREPARE REPLY FOR SEC OF DEF SIGNATURE			COMMENTS AND/OR RECOMMENDATIONS		
	PREPARE REPLY FOR DEP SEC OF DEF SIGNATURE			INFORMATION AND RETENTION		
1	REPLY DIRECT (Forward copy of reply to CCD, Room 3A948)		X	COORDINATE REPLY WITH LA GC		
	APPROPRIATE ACTION					
Remarks: REFERENCE U15329-96 AND U34324/95.						
ACTION DUE DATE (YYMMDD) 961104		ROUTING DATE (YYMMDD) 961023		OSD CONTROL NUMBER U15335-96		61004836

SD FORM 14, AUG 95

PREVIOUS EDITIONS ARE OBSOLETE.

Designed using Perform Pro, WHS/DIOR, Aug 95
Overprint approved by OSD/WHIS/DIOR, Aug 95

Z 0023365



DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
1600 DEFENSE PENTAGON
WASHINGTON, DC 20301-1600



December 2, 1996

The Honorable Bill McCollum
Chairman, Subcommittee on Crime
Committee on the Judiciary
U. S. House of Representatives
Washington, DC 20515-0908

The Honorable William H. Zeliff
Chairman, Subcommittee on National Security,
International Affairs and Criminal Justice
Committee on Government Reform and Oversight
U. S. House of Representatives
Washington, DC 20515-2901

Dear Mr. Chairman:

This letter responds to your request dated October 22, 1996, for permission to release to the public documents you cite in the footnotes of your Subcommittees' report dated August 2, 1996. Your staff has provided copies of the documents you intend to release, and they have been reviewed by the Department of Defense. A list of the documents referred to us appears at Tab A.

We have no objection to the publication of most of these documents. We do object, however, to the publication of all or part of the following documents, identified by the number on the list at Tab A:

- 4) This document is classified. We have provided to your staff a redacted version approved for release under the Freedom of Information Act (FOIA). We have no objection to the release of the redacted version.
- 7) We object to the publication of [REDACTED] social security number. The copy of this document provided by your staff contains certain redactions. We believe that the document has been approved for release under the FOIA without these redactions (other than the social security number). We will provide a copy of the unredacted version to you as soon as we locate it.
- 12) This document contains privileged information. We attach at Tab B a redacted version approved for release under the FOIA. We have no objection to the release of the redacted version.



4-15604-96

Z 0010597

18) This document contains privileged attorney-client communications. It is a draft legal opinion which has never been adopted; it does not represent the position of the National Guard Bureau or the Department of Defense.

We note, in addition, that two other documents provided by your staff -- Numbers 8 and 11 -- have been approved for release under the FOIA without redactions which appear on the staff copies. We have attached unredacted versions of those documents at Tab B.

If you have any questions, please contact [REDACTED] ⁽¹⁾ at (703) 695-6804.

Sincerely,

[REDACTED]

[REDACTED] ⁽²⁾

(Legal Counsel)

Attachments:
As stated

LIST OF DOCUMENTS

#	<u>Bates range</u>	<u>Description</u>
1	109-116	Secretary of Defense memorandum dated 26/1/95
2	2344-	Texas ANG Report
3	none	Army SFC(A) letter dated 24 November 1993
4	1116A-1119	SOF Assistance memorandum, dated 15 May 1993
5	none	3rd SFG(A) memorandum dated 21 September 1992
6	none	Army SFC(A) letter dated 23 February 1993
7	1147	Statement of [REDACTED] (1)
8	1168-1172	Memorandum for Record of [REDACTED] (2) dated 3 February 1993
9	none	Secretary of Defense memorandum dated 17 May 1995
10	none	SOCOM fax cover dated 17 February 1993
11	1167	Memorandum of [REDACTED] (3) dated 9 September 1993
12	1166	Memorandum of [REDACTED] (4) dated 9 September 1993
13	1363	Handwritten note, undated
14	1155-1158	Handwritten memorandum dated 5 March 1993
15	1353	RSU fact sheet
16	574-585	Operations order dated 172145Z February 1993
17	587-594	Order and chronology
18	none	Draft legal memorandum prepared of National Guard Bureau Counsel's office
19	Treasury	Joint Task Force Six Operational Support Planning Guide
20	Treasury	Letter of Operation Alliance dated February 2, 1993

- 18) This document contains privileged attorney-client communications. It is a draft legal opinion which has never been adopted; it does not represent the position of the National Guard Bureau or the Department of Defense.

We note, in addition, that two other documents provided by your staff -- Numbers 8 and 11 -- have been approved for release under the FOIA without redactions which appear on the staff copies. We have attached unredacted versions of those documents at Tab B.

If you have any questions, please contact [REDACTED] at (703) 695-6804.

Sincerely,

[REDACTED]
(Legal Counsel)

Attachments:
As stated

LA [REDACTED] 2 Dec 96

SECRETARY OF DEFENSE CORRESPONDENCE ACTION REPORT This form must be completed and delivered to the Correspondence Control Division (CCD), WHS Room 3A948, not later than (YYMMDD)		1. DATE (YYMMDD) 961203
2. ACTION TAKEN (X one) <input type="checkbox"/> a. ACTION HAS BEEN COMPLETED (Copy attached) <input checked="" type="checkbox"/> b. REQUEST CANCELLATION RECEIVED OF SUSPENSE DATE XXXXXXXXXXXXXXXXXXXXXXXXXXXX (Justify below) <input type="checkbox"/> c. INTERIM REPLY HAS BEEN SENT (Copy attached)		
3. JUSTIFICATION Action Completed. Letter to Chairmen McCollum and Zeliff sent 12/2/96 (attached). (Coordination from LA also attached)		
4. REPORTING AGENCY		
a. ACTION AGENCY OGC/Legal Counsel	c. TELEPHONE NO. 703-695-5804	e. APPROVING MILITARY / EXECUTIVE ASSISTANT (Service Secretary / Under Secretary / ASD Level) Signature
b. NAME OF ACTION OFFICER [REDACTED]	d. DATE (YYMMDD) 961203	Date Signed
5. CCD CONTROL NUMBER U15604-96	6. ACTION TAKEN (For Correspondence Control Division Use Only) a. EXTENSION / CANCELLATION <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved b. OTHER (Specify)	

SD FORM 391, AUG 87 (EG)

Previous editions are obsolete.

Designed using Perform Pro, WHS/DIQR, May 95

1. Client		2. Date	3. Suspense	4. OGC Control#
OSD / HOUSE GOV REFORM & OVERSIGHT COMM		10/29/1996	11/04/1996	9610290012
5. Subject PUBLIC RELEASE OF DOD DOCUMENTATION PROVIDED TO SUBCOMMITTEES PURSUANT TO DOCUMENT REQUESTS DURING THEIR 1995 WACO INVESTIGATION				
6. PDGC/GC Review	7. Action Office LC	8. OSD Number U15604-96	9. Suspense to PDGC/GC 11	
10. Instructions 11/12/96: TO LEGAL COUNSEL, PLEASE SUBMIT A 391 EXTENSION REQUEST FOR [REDACTED] SIGNATURE. THIS ACTION IS ON A LIST SENT TO HIM FROM OSD CCD OF OVERDUE SUSPENSES. REPLY DIRECT COORDINATE REPLY WITH LA				
11. Action Attorney Comments [REDACTED] (2) 11/05/96: LC NOTIFIED EXT RQST RQRD.				12. Date 11/12/1996
13. DGC Clearance/Comments				14. Date / /
15. PDGC/GC Clearance/Comments				16. Date / /
17. Further Action				18. Date / /
19. Final Disposition				20. Date / /

Waco

***** -COMM. JOURNAL- ***** DATE DEC-03-1996 TIME 17:23 *** P.01

MODE = MEMORY TRANSMISSION

START=DEC-03 17:17

END=DEC-03 17:23

FILE NO. = 196

NO.	COM	ABBR/NTWK	STATION NAME/ TELEPHONE NO.	PAGES	PRG.NO.	PROGRAM NAME
001	OK		6934170	011/011		

-OSD-DGC

- *****

703 614 6745- *****



DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
1600 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-1600



TELECOPIER MEMORANDUM

DATE: 12/3/96

To: [REDACTED] ⁽¹⁾ FAX: 693-4170

FROM: [REDACTED] ⁽²⁾

We are submitting 11 pages, including this Telecopier Memorandum.

If you do not receive all pages, please call [REDACTED] ⁽³⁾
at (703) 695-6710 or (703) 697-2714.

REMARKS:

***** -COMM. JOURNAL- ***** DATE DEC-03-1996 TIME 17:27 *** P.01

MODE = MEMORY TRANSMISSION

START=DEC-03 17:23

END=DEC-03 17:27

FILE NO. = 197

NO.	COM	ABBR/NTWK	STATION NAME/ TELEPHONE NO.	PAGES	PRG.NO.	PROGRAM NAME
001	OK	S	9918138283629	009/009		

-OSD-DGC

- ***** -

703 614 6745- *****



DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
1600 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-1600



TELECOPIER MEMORANDUM

DATE: 12/3/96

To: [REDACTED] ^① FAX: 813-828-3629

FROM: [REDACTED] ^②

We are submitting 11 pages, including this Telecopier Memorandum.

If you do not receive all pages, please call [REDACTED] ^③
at (703) 695-6710 or (703) 697-2714.

REMARKS:



OCT-24-1996 17:16

DOD-OIG

703 69-0207 P.02/02

GAO

United States
General Accounting Office
Washington, D.C. 20548

National Security and
International Affairs Division

October 24, 1996

Attention: DOD Office of the Inspector General
Director for GAO Surveys and Reviews

Dear Mr. Secretary:

The General Accounting Office has been asked by the Chairmen of the House Subcommittee on Crime and the Subcommittee on National Security, International Affairs, and Criminal Justice to determine the extent of DOD support to the Bureau of Alcohol, Tobacco, and Firearms (BATF) and the Federal Bureau of Investigation (FBI) in connection with their law enforcement activities toward the Branch Davidians. Our review will be performed under our assignment code 703183.

The objectives of this assignment will be to determine (1) what types of assistance was provided to the BATF and FBI, (2) the rationale for providing this assistance, (3) the cost of providing the assistance, and (4) whether DOD was reimbursed for the assistance provided.

Work on this assignment will begin in November. Notice of visits and the personnel involved will be provided in the usual manner. If you have any questions, please contact Robert Lane of my staff. He can be reached at (202) 512-4161.

Sincerely yours,

Mark E. Gebicke

Mark E. Gebicke
Director, Military Operations
and Capabilities Issues

TOTAL P.02

Z 0014534

OFFICE OF GENERAL COUNSEL -- CORRESPONDENCE ROUTING AND ACTION

1. Client OSD / HOUSE GOV REFORM & OVERSIGHT COMM		2. Date 10/29/1996	3. Suspense 11/04/1996	4. OGC Control# 9610290012
5. Subject PUBLIC RELEASE OF DOD DOCUMENTATION PROVIDED TO SUBCOMMITTEES PURSUANT TO DOCUMENT REQUESTS DURING THEIR 1995 WACO INVESTIGATION				
6. PDGC/GC Review	7. Action Office LC [REDACTED] 10/29 (1)	8. OSD Number U15604-96	9. Suspense to PDGC/GC / /	
10. Instructions REPLY DIRECT COORDINATE REPLY WITH LA				
11. Action Attorney Comments TBD [REDACTED] (2)				12. Date 10/29/1996
13. DGC Clearance/Comments				14. Date / /
15. PDGC/GC Clearance/Comments				16. Date / /
17. Further Action				18. Date / /
19. Final Disposition 12/5/96				20. Date / /

Client: OSD / HOUSE GOV REFORM & OVERSIGHT COMM

Subject: PUBLIC RELEASE OF DOD DOCUMENTATION PROVIDED

its requirements for modification kits, (2) tracks which aircraft and vehicles have been modified, and (3) adjusts the requirements for spare and repair parts that are being replaced by the modifications. A DoD entrance conference is currently being arranged. The Office of the Under Secretary of Defense for Acquisition and Technology is the primary DoD action office.

(1) [REDACTED] 604-9624)

4. Announcement: "DoD Support to the Bureau of Alcohol, Tobacco, and Firearms (BATF) and the Federal Bureau of Investigation (FBI) Law Enforcement Activities Toward the Branch Dividians" (Code 703183).

The Chairmen of the House Subcommittee on Crime and the Subcommittee on National Security, International Affairs, and Criminal Justice to determine the extent of DoD support to the Bureau of Alcohol, Tobacco, and Firearms (BATF) and the Federal Bureau of investigation (FBI) in connection with their law enforcement activities toward the Branch Dividians. The objectives of this assignment will be to determine (1) what types of assistance was provided to the BATF and FBI, (2) the rationale for providing this assistance, (3) the cost of providing the assistance, and (4) whether DoD was reimbursed for the assistance provided. The Office of the Under Secretary of Defense for Policy is the DoD primary action office. [REDACTED] 604-9620) (2)

5. Announcement: "FY 1998 DoD Funding for Procurement and Research, Development, Test, and Evaluation (RDT&E) Programs" (Code 707214).

The GAO National Security and International Affairs Division (Defense Acquisitions Issues Group) is initiating a review of the procurement and research, development, test, and evaluation (RDT&E) programs of the Office of the Secretary of Defense, Military Services, and Defense Agencies. The GAO plans to (1) determine coverage and approaches for review of the FY 1998 budget request, once it is released, and (2) continue to identify and use automated data bases to facilitate the budget review. The GAO will also assess the FY 1998 funding request and the continued need for prior year unobligated funds. The Office of the Under Secretary of Defense for Comptroller is the primary DoD action office. [REDACTED] 604-9630) (3)

6. Announcement: "Navy Ship Maintenance Infrastructure" (Code 709206).

The GAO self-initiated effort is a continuation of work previously conducted by the GAO under Code 709042. Under code 709206, the GAO will determine (1) the extent the implementation of base realignment and closure and other initiatives eliminated excess capacity; (2) how maintenance infrastructure requirements

UNCLASSIFIED DATA ONLY



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202
FAX (703) 604-9608

FACSIMILE TRANSMISSION COVER SHEET

DATE: 10/29/96	TIME: 9 AM	Total No. of Pages: 2
FROM: Department of Defense Inspector General	TO: Telecopier Phone No. 697-9481	
NAME: [REDACTED]	NAME: [REDACTED]	
DIV: [REDACTED]	PHONE: (703) 604-9620	AGENCY/CODE: DGC(F) PHONE: [REDACTED]

SPECIAL INSTRUCTIONS

URGENT HAND DELIVER TO: PHONE:

MESSAGE:

Subject: New KAO Code 703183

Gom:

I have been advised that General Counsel should take the lead on this matter. According to my info, [REDACTED] (sp?) of GC was instrumental in gathering info for a prior DoD testimony on this matter. Please advise. The KAO has indicated the Chairmen want a "quick reply." That may be just a GAO wish.



UNCLASSIFIED DATA ONLY



DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
1600 DEFENSE PENTAGON
WASHINGTON, DC 20301-1600



October 31, 1996

MEMORANDUM FOR CHIEF COUNSEL, NATIONAL GUARD BUREAU

SUBJECT: Request for Release of Documents

Attached is a letter from Chairman Zelliff and Chairman McCollum and a copy of the report drafted by their subcommittees on their investigation of Federal law enforcement activities toward the Branch Davidians. This report has been published, and the committees now intend to publish an appendix including all documents mentioned in the footnotes. The letter asks for any objections the Defense Department may have to the release of these documents.

I request that you review this report and provide any comments you may have to my office. In particular, notes 172 and 227 to 230 refer to a report drafted by the Texas National Guard, and several notes refer to statements made by National Guard members included in Treasury Department materials: 107, 121, 186, 194, 196, 236, 237, and 238. Note 239 cites a document called "NGB 500-2" which we have not been able to identify. Also, note 167 refers to a draft National Guard legal memorandum which we do not have. Please provide a copy of the NGB 500-2 and the draft legal memorandum to us as soon as possible.

Our suspense for submitting objections is Monday.

① The attorney responsible for this matter in my office is [REDACTED]. You can reach him at (703) 695-6804, fax 703-614-6745.

② [REDACTED]

③ [REDACTED]

Deputy General Counsel
(Legal Counsel)

Attachments
As stated

NGB-JH

ID:703-693-4170

NOV 04'96

17:15

16:15

TRANSMIT CONFIRMATION REPORT

NO.	:	003	
RECEIVER	:		202 225 2373
TRANSMITTER	:	NGB-JA	
DATE	:	NOV 04'96	17:15 16:15
DURATION	:	01'11	
MODE	:	STD	
PAGES	:	02	
RESULT	:	OK	

NGB-JH

ID:703-693-4170

NOV 04'96 17:19

TRANSMIT CONFIRMATION REPORT

NO.	:	004	
RECEIVER	:		703 614 6745
TRANSMITTER	:	NGB-JA	
DATE	:	NOV 04'96	17:19
DURATION	:	01'11	
MODE	:	STD	
PAGES	:	02	
RESULT	:	OK	

Z 0014613

FAX TRANSMISSION

DEPARTMENT OF DEFENSE
OFFICE OF THE DEPUTY GENERAL COUNSEL (LEGAL COUNSEL)

(703) 695-6804
FAX: (703) 614-6745

To: [REDACTED] - ①

Date: November 4, 1996

Fax #: 693-4170

Pages: 2, including this cover sheet.

From: [REDACTED] - ②

Subject: Waco documents

COMMENTS:

① ② ③

To: [REDACTED]
Cc: [REDACTED] @JA@NGBP [REDACTED] @CD@AHS2 ⑤
Bcc: ④ [REDACTED] ⑥ [REDACTED]
From: N=[REDACTED]/GQ=LTC/C=US/A=NATLGUARD/P=NGB/O=CCMAIL/ARNGRC
Subject: Request for Information RE: The Waco Incident
Date: Tuesday, November 5, 1996 15:10:00 EST
Attach:
Certify: N
Forwarded by:

Message Type: Interpersonal Message
Delivered: Tue Nov 5 15:21:35 1996

----- [X.400 Text Follows] -----

- ⑦ [REDACTED]:
- ⑧ [REDACTED]
- ⑨ [REDACTED]
- ⑩ [REDACTED]
1. Per [REDACTED], we need to set up a meeting with [REDACTED] NGB-JA as soon as possible to discuss the request from Congress for information on the Guard's role in support to federal authorities at Waco and the 15-6 report prepared by [REDACTED]. Please contact LTC Rich at 693-3815 and set up meeting. I will also attend.
 2. Check with ⑪ [REDACTED] at NGB-CD to determine if he received the same FAX information that ARO-O recieved (copy to you).
 3. Need you to gather all documents/memos/E:MAILs etc pertaining to this incident so we can provide to NGB-JA and to discuss this case with them.

⑫ [REDACTED]

NGB-JA

ID:703-693-4170

NOV 05'96 10:18

TRANSMIT CONFIRMATION REPORT

NO.	:	002	
RECEIVER	:	996810808	
TRANSMITTER	:	NGB-JA	
DATE	:	NOV 05'96	10:18
DURATION	:	02'39	
MODE	:	STD	
PAGES	:	05	
RESULT	:	OK	

Deliver Immediately to [REDACTED]

Thank You!

**BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
OFFICE OF CHIEF COUNSEL
WASHINGTON, DC 20226
PHONE: (202) 927-8217
FAX: (202) 927-8673
FAX COVER SHEET**

DATE: November 5, 1996

TO: [REDACTED] ②

FAX NUMBER: (703) 614-6745

FROM: Pat Milgram

NUMBER OF PAGES including cover sheet: 20

COMMENTS: Pages for Coordination

Here are copies of certain Treasury documents that the Subcommittees intend to publish in the appendix to their Report.

DOD Documents

Treasury bates-stamp 00876-008833 is a Joint Task Force Six manual. The entire manual will be published but I am faxing the cover page only. (see , e.g., footnote 148, page 31))

Treasury bates-stamp 005551 is a letter dated 2/2/93 from Operation Alliance to Texas National Guard. (see footnote 318, page 46)

Treasury bates-stamp pages 005723, 005730 and 005731 are statements of National Guard pilots (see footnote 128, page 27). These are factual in nature. We would recommend that the pilots names be redacted before publication.

Treasury Documents

The following are Treasury documents containing military-related information. Let me know if you have any concerns before we make our recommendations:

Treasury bates-stamp pages 005368, 005370, 5371, and 005376 are handwritten notes of interviews of National Guard pilots by the Treasury Review Team (see, e.g. footnote 127, page 25). These are factual in nature.

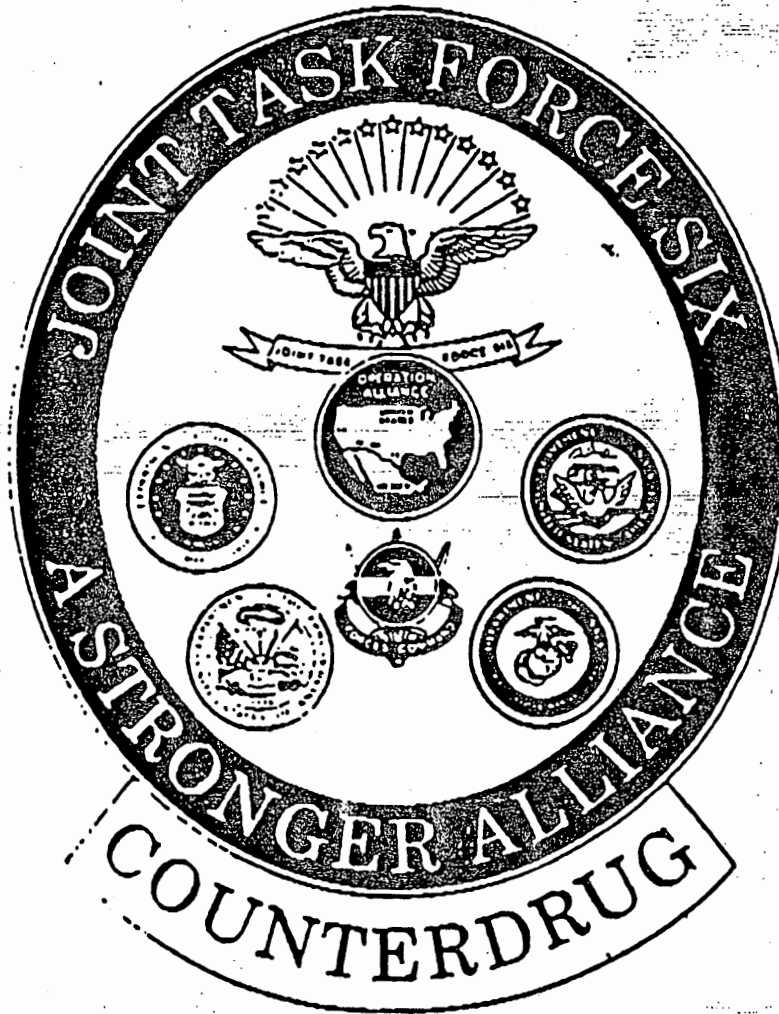
Treasury bates-stamp nos. 004589-004594 (see, e.g., footnote 195, page 36). This is a portion of a memo on military support prepared by members of the Treasury Review Team. Factual.

Treasury bates-stamp pages 005397 and 005399 (see footnote 220, page 38). These are two pages from a longer memo prepared by the Treasury Review Team on military support. Factual and duplicates some of the information in bates-stamp pages 004589-004594.

Treasury bates-stamp pages 8300 (see, e.g., footnote 240, page 39). This is a page from a longer memo prepared by the Treasury Review Team on National Guard support.

Please call me at (202) 927-8217 after you have a chance to review these pages.

JOINT TASK FORCE SIX



OPERATIONAL SUPPORT PLANNING GUIDE

00009786

T

112

April 30, 1993

On the morning of February 28, 1993, I was pilot in command of a OH-60L helicopter assigned the task to act as a diversion while ATF personnel approached the Mount Carmel compound outside of Waco, Texas. At approximately 0945 we approached the compound from the Northeast following two OH-60L helicopters. We began to receive gunfire on the approach but at no time returned the fire. My helicopter was not armed nor did any of the crewmembers carry weapons. The ATF agents we were transporting carried side arms but at no time did they discharge said weapons while on board the aircraft. The aircraft, SN 81-26319, carried external fuel pods and flew with all doors closed making it impossible to discharge weapons from the passenger compartment. I submit that these statements are true and correct.

1 [REDACTED]

003723

24-604 1172

7

113

SWORN STATEMENT			
The use of this form and all attached and separate exhibits is subject to the Rules of the House of Representatives.			
1	2	3	4
LOCATION AARSA	TX 79725	DATE 20 APR 93	TIME 1530
NAME, TITLE, GRADE, BRANCH, & DUTY NHC, RVN BDE		SECURITY L3	OFFICIAL USE
SUBJECT AUSTIN, TX 79725			
5			
<p>ON FEB 28, 1993 AT APPROX. 0945 I WAS FLYING AN OH-6E (70-15246) AS PILOT IN COMMAND WHILE SUPPORTING ATF DURING OPERATION "TROJAN WARE". OUR MISSION WAS TO CREATE A DIVERSION TO ENABLE ATF AGENTS TO SEIZE A WARRANT AT A LOCATION APPROX. 5 MILES SOUTHEAST OF WACO, TX.</p> <p>WE APPROXIMATED THE LOCATION FROM THE NORTH AND WHEN WE WERE APPROX. 300 METERS FROM THE TARGET, WE RECEIVED SMALL ARMS FIRE SUSTAINING A HIT IN THE TAIL OF THE AIRCRAFT. THE TWO OTHER AIRCRAFT IN THE FLIGHT ALSO RECEIVED GUNFIRE DAMAGE FROM THE TARGET LOCATION. ALL AIRCRAFT IMMEDIATELY TURNED AWAY FROM THE SOURCE OF FIRE AND FLEW NORTH.</p> <p>THERE WERE NO WEAPONS ON BOARD MY AIRCRAFT AND THERE WAS NO WEAPONS FIRE FROM ANY OF THE AIRCRAFT IN THE FLIGHT.</p> <p>Nothing follows</p>			
6			
<p>ADDITIONAL PAGES MUST CONTAIN THE FOLLOWING: "STATEMENT OF [NAME] AS [RATED] CONTINUED."</p> <p>THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT AND BE INITIALED AS "PAGE [OF] PAGES." IF ADDITIONAL PAGES ARE UTILIZED, THE BACK OF PAGE 1 WILL BE LINED OUT, AND THE STATEMENT WILL BE CONCLUDED ON THE REVERSE SIDE OF ANOTHER COPY OF THE FORM.</p>			

DA Form 2823

Approved for Public Release, 1 and 20, October 1993, by NSA

665730

24-909 1972

7

114

1 3

2

4

SWORN STATEMENT			
For use of the FBI, and all other law enforcement agencies in the United States of America			
DATE	TIME	PAGE NUMBER	
2-4-71	11:30		
NAME	ADDRESS	CITY/STATE/ZIP	
[REDACTED]	[REDACTED]	[REDACTED]	
DECLARATION OF TRUTH			
[REDACTED]			
PART TO MAKE THE FOLLOWING STATEMENT UNDER OATH			
<p>On 28 Feb 71, I was pilot in command of the lead aircraft of a flight of three, an Operation Trojan Horse Air Unit, TX. Our mission was to provide a diversion to the North of the objective with the noise of the aircraft. We were also a command and control aircraft with Phil Lyons, of the ATF, on board to observe the timing of the mission. While approaching the objective, our aircraft received gunfire, turned away from the objective, and departed the area. My aircraft, 12302, was carrying myself, a National Guard member, Lee Bush, also a National Guard member and the ATF agent had aboard. Neither myself or Lee Bush had a weapon. The aircraft had no weapons. The ATF agent on board had his sidearm with him, but it was not fired. All of the above were on the aircraft and received a weapon from being fired.</p> <p>----- nothing follows -----</p>			
LEADER	IDENTITY OF PERSON MAKING STATEMENT		PAGE 1 OF 1
ADDITIONAL PAGES MUST CONTAIN THE FOLLOWING STATEMENT OF TAKEN AT DATES CONTINUED - THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT AND BE INITIALED AS TO THE OF PAGES. IF ADDITIONAL PAGES ARE UTILIZED, THE PAGE OF PAGE 1 WILL BE LINED OUT, AND THE STATEMENT WILL BE COMPLETED ON THE REVERSE SIDE OF ANOTHER COPY OF THIS FORM.			
DA. 2823			

005731

24-409 1174

T



DEPARTMENTS OF THE ARMY AND THE AIR FORCE
NATIONAL GUARD BUREAU
111 SOUTH GEORGE MASON DRIVE
ARLINGTON, VA 22204-1382

October 17, 1996

Army Comptroller Directorate

General Counsel
Bureau of Alcohol, Tobacco and Firearms
650 Massachusetts Avenue
Room 6100
Washington, DC 20226

Dear Sir:

The Army General Counsel has reviewed the final report of investigation of the potential Antideficiency Act violation concerning the National Guard Bureau's support of the Bureau of Alcohol, Tobacco and Firearms (BATF) and the Federal Bureau of Investigation (FBI) at Waco, Texas in late 1992 and early 1993. The legal review found the investigating officer's conclusion erroneous and not supported by a reasonable interpretation of the facts set forth in the report.

The Army General Counsel found that BATF activities involving the Branch Davidian compound at Waco in 1992 and 1993 did not involve any significant drug interdiction or counter-drug objectives. He further stated that 32 U.S.C. Section 112, the purported authority for supporting that operation on a nonreimbursable basis, was inapplicable. As a result, the expenditure of Army National Guard appropriations in furtherance of the activity at Waco violated 31 U.S.C. Section 1301(a) and, absent reimbursement from BATF, the Antideficiency Act, 31 U.S.C. Section 1341.

(2) A copy of the final report of investigation as well as a copy of the Army General Counsel's opinion on the report were faxed to [REDACTED] of your office on October 11, 1996. Request you review this report and either provide written comments or call [REDACTED] at (703) 607-7704 to schedule a meeting with the Army General Counsel to discuss the report.

Sincerely,

(3)

[REDACTED]
Colonel, U.S. Army
Director, Army Comptroller

NGB RESPONSE TO CONGRESSIONAL
REQUEST DATED 22 OCTOBER 1996

INDEX

1. **Congressional Request for Records and Information Relating to the Matter of the Branch Davidians near Waco, Texas**
(General Counsel of the Department of Defense dated 16 Jun 95)
2. **Executive Summary - Branch Davidian Operation** (NGB-ZA dated 19 Jul 95)
3. **BOOK 1 of 6 - Congressional Request for Records and Information Relating to the Matter of the Branch Davidians near Waco, Texas**
prepared by the Texas National Guard.

TAB A Response of the Adjutant General of Texas to the Congressional Request for Records and Information Relating to the Matter of the Branch Davidians near Waco, Texas.

TAB B Chronological Summary of Texas National Guard Support

1. Events Prior to February 28, 1993
2. Events of February 28, 1993
3. Statement of events - Helicopter Pilots

TAB C Texas National Guard Personnel Involved in the Matter of the Branch Davidians

1. Alphabetical Roster, with addresses
2. Roster by Operational Role
3. Roster by Operational Start Date

TAB D National Guard Support Requests

1. Bureau of Alcohol, Tobacco and Firearms
2. Operation Alliance

TAB E Mission Documents relating to Aerial Photography support missions

1. C-26 Crew Notes/Photo Interpreter Notes
2. Maps of Photo Locations
3. Copies of nine pictures (All film and photos property of ATF)

TAB F Emergency Operations Center Log - Camp Mabry, Austin,
Texas

TAB G Command Post Log - Texas State Technical College, Waco,
Texas

TAB H AGTX-CD Operations Reports

TAB I AGTX-CD FY93 Drug Interdiction and Counterdrug Support
Plan

TAB J After Action Report of Texas National Guard Counterdrug
Support in Waco, Texas

TAB K Texas National Guard FY93 Drug Interdiction and Counterdrug
Support Plan

TAB L Freedom of Information Act Requests

TAB M Bureau of Alcohol, Tobacco, and Firearms support by the Texas
National Guard (TXNG) Focal Group

TAB N Request for interviews of Texas National Guard personnel
regarding the Secretary of the Treasury and the Attorney
General investigation

**4. BOOK 2 of 6 - Congressional Request for Records and Information
Relating to the Matter of the Branch Davidians near Waco, Texas
prepared by the Texas National Guard**

TAB O Texas National Guard Operation Cost Summary

TAB P Aviation Records

1. UC-26
2. Helicopters - Flight Records
3. Helicopters - Aircraft Inspection Records

TAB Q Loan of Equipment to the Federal Bureau of Investigation and
the Bureau of Alcohol, Tobacco and Firearms

TAB R Memorandum of Instruction (MOI) for Mt Carmel Recovery Plan

TAB S Equipment Inspection and Maintenance Records

TAB T Fuel Usage Documents

TAB U Reimbursement of Expenses by the Federal Bureau of Investigation and the Bureau of Alcohol, Tobacco, and Firearms

TAB V Report of Surveys

**5. BOOK 3 of 6 - Congressional Request for Records and Information Relating to the Matter of the Branch Davidians near Waco, Texas
PERTINENT REGULATIONS (prepared by the Texas National Guard)**

TAB 1 National Guard Regulation (AR) 500-2/ (AF) 55-6
dated 1 Oct 92
National Guard Counterdrug Support to Law Enforcement Agencies

TAB 2 National Guard Regulation (AR) 500-2/ (AF) 55-6
dated 1 Mar 93 National Guard Counterdrug Support to
Law Enforcement Agencies

TAB 3 National Guard Counterdrug Coordinator's Handbook
dated 1 Oct 92

TAB 4 Army Regulation 500-50 dated 21 Apr 72
Emergency Employment of Army and other Resources
Civil Disturbances

TAB 5 National Guard Regulation (AR) 500-1/ (AF) 55-5
Employment of Army and other Resources Military Support
to Civil Authorities

TAB 6 Texas National Guard Counterdrug Program Handbook

TAB 7 Texas Army National Guard Regulation 350-3 dated 1 Aug 92
Training for Control of Civil Disturbance

TAB 8 Chapter 3 Military Assistance to Civil Authorities

TAB 9 Adjutant General's Department Oplan dated 13 Jul 92
Military Support to Civil Authorities

**6. BOOK 4 of 6 - Congressional Request for Records and Information
Relating to the Matter of the Branch Davidians near Waco, Texas
PERTINENT REGULATIONS** (prepared by the Texas National
Guard)

TAB 1 Field Manual 19-15 dated Nov 85 - Civil Disturbances

TAB 2 Field Manual 100-19/Fleet Marine Force Manual 7-10
dated 1 Jul 93 - Domestic Support Operations

**7. BOOK 5 of 6 - Congressional Request for Records and Information
Relating to the Matter of the Branch Davidians near Waco, Texas
PERSONNEL DOCUMENTS** (prepared by the Texas National
Guard)

This book contains copies of tour orders, travel orders, and
submitted travel documents of all personnel operating in the
area of the Branch Davidian compound near Waco, Texas
for the period of 28 February 93 through 19 April 93. A roster
of personnel is enclosed in Book 1, Tab c.

**8. BOOK 6 of 6 - Congressional Request for Records and Information
Relating to the Matter of the Branch Davidians near Waco, Texas
PERSONNEL DOCUMENTS** (prepared by the Texas National
Guard)

This book contains copies of tour orders, travel orders, and
submitted travel documents of all personnel operating in the
area of the Branch Davidian compound near Waco, Texas
for the period of 28 February 93 through 19 April 93. A roster

of personnel is enclosed in Book 1, Tab C.

9. **After Action Report of Texas National Guard Counterdrug Support in Waco, Texas** (memorandum to Chief, NGB from Adjutant General's Department, signed by [REDACTED] Task Force Commander, dated 29 April 1993) (1)

10. **National Guard Bureau Input, Branch Davidian Operation** (memorandum to Deputy Chief of Staff for Operations ATTN: DAMO-ODS from NGB-ZA signed by [REDACTED], dated 14 Jul 1995) (2)

11. **Counterdrug Support for Waco** (memorandum to NGB-CD from NGB-JA signed by [REDACTED], dated 13 Apr 1993) (3)

12. **Treasury Department Interviews** (memorandum to Chief, NGB, ATTN: NGB-CD from Adjutant General's Department, Austin, Texas, signed by [REDACTED], dated 11 Jun 1993). (4)

13. **Appropriation 2060 Counterdrug Funds Transfer** (memorandum to Adjutant General, Texas ATTN: USP&FO from NGB-CD signed by [REDACTED], dated 16 Mar 93) (5)

14. **Funding Request for Waco** (memorandum to NGB-CD from NGB-JAS signed by [REDACTED], dated 15 Mar) (6)

15. **After Action Report - Texas National Guard Support in Waco, Texas** (memorandum to NGB-JA from NGB-CD signed by [REDACTED], dated 17 May 93) (7)

16. **After Action Report of Texas National Guard Counterdrug Support in Waco, Texas** (memorandum to Chief NGB from Adjutant General's Department, Austin, Texas signed by [REDACTED], dated 29 Apr 93) (8)

17. **Congressional Request for Information Relating to the Matter of the Branch Davidians near Waco, Texas** (memorandum to NGB ZA, NGB-CF, NGB-ARZ, and NGB-CD from NGB-PO signed by [REDACTED], dated 20 Jun 95) (9)

(1)

18. **Appointment of AR 15-6/Investigating Officer** (memorandum to [REDACTED] with enclosures from NGB-ZA signed by [REDACTED] dated 15 Aug 95)

(2)

19. **Supplemental Funding FY93 Counterdrug Support Program** (memorandum to Director Counterdrug Task Force from Adjutant General's Department signed by [REDACTED] dated 8 Mar 93)

(3)

(4)

20. **Focal Group Report on the Texas National Guard Support to the Bureau of Alcohol, Tobacco and Firearms** containing two memos **Summary of the Focal Group Review of the Waco Incident to Director, Counterdrug Task Force from NGB-CD-DEA**, signed by [REDACTED] dated 27 Apr 93 and **Results of the Focal Group Review of the Texas National Guard Support to the Bureau of Alcohol, Tobacco, and Firearms (BATF) to Director, Counterdrug Task Force from NGB-CD-DEA** signed by [REDACTED] dated 28 Apr 93)

(5)

21. **Focal Group Report on the Texas National Guard Support to the Texas National Guard Support to the Bureau of Alcohol, Tobacco and Firearms** containing two memos **Summary of the Focal Group Review of the Waco Incident to Director, Counterdrug Task Force from NGB-CD-DEA**, signed by [REDACTED] dated 27 Apr 93 and **Results of the Focal Group Review of the Texas National Guard Support to the Bureau of Alcohol, Tobacco, and Firearms (BATF) including tabs to Director, Counterdrug Task Force**, signed [REDACTED] dated 28 Apr 93)

(6)

Tab 1 - **Bureau of Alcohol, Tobacco, and Firearms (BATF) Support by the Texas National Guard (TXNG) Focal Group to SEE DISTRIBUTION from NGB-CD** signed by [REDACTED] dated 18 Mar 93

Tab 2 - **ATF Mission/Trojan Horse (Encl Two)** (two pages)

Tab 3 - **ARNG Support in Waco, Texas (Encl Three)** dated 29 Mar 93

- (1)
Tab 4 - Letter to [REDACTED] from Department of the Treasury
Bureau of Alcohol Tobacco and Firearms signed by
(12) [REDACTED] dated 14 Dec 92
- (13)
Tab 5 - Letter to [REDACTED] from Department of the Treasury
Bureau of Alcohol Tobacco and Firearms signed by
(14) [REDACTED] dated 18 Dec 92
- (15)
Tab 6 - Letter to [REDACTED] from Department of the
Treasury, Bureau of Alcohol, Tobacco and Firearms
signed by [REDACTED] dated 22 Jan 93
- (16)
Tab 7 - Operation Alliance Support Request Form dated 1-22-93
- Tab 8 - Letter to the Office of the Adjutant General, Austin, Texas
from Operation Alliance, El Paso, Texas signed by [REDACTED] (7)
[REDACTED] dated 2 Feb 93
- (8)
Tab 9 - Letter to [REDACTED] from Department of the
Treasury, Bureau of Alcohol, Tobacco and Firearms, signed
(9) by [REDACTED] dated 24 Feb 93
23. Law Enforcement Support, Waco, Texas (ATF-FBI) copies of slides
with attachments
- (10)
24. Letter to The Honorable [REDACTED], Secretary of Defense,
from GAO signed by [REDACTED] dated 25 Oct 96
- (11)
25. Executive Summary (Unclassified) dated 28 Oct 96
26. Report of The Department of the Treasury on the Bureau of Alcohol,
Tobacco, and Firearms Investigation of Vernon Wayne Howell also
known as David Koresh (Part Two, Section Eight: National Guard
Support) daated Sept 93
27. Letter with attachments (same as item 21, Tab 5)
- (12)
28. Letter to General Counsel, ATF from NGB signed by [REDACTED]
[REDACTED], dated 17 Oct 96

29. **Legal Review of Potential Antideficiency Act Violation - Case 95-09**
from NGB-ARC-M to NGB-JA signed by [REDACTED] (1)
dated 13 Aug 96

30. **Case 95-09 (Waco, TX)** memorandum to [REDACTED] (2) NGB-ARC-M
from DAJA-ZB signed by [REDACTED] (3) dated 19 Jun 96

31. **Alleged Antideficiency Act Violation Case 95-09** to Office of the
Deputy Assistant Secretary of the Army (Financial Operations)
ATTN: SAFM-FCL from NGB-ARC-M signed by [REDACTED] (4)
dated 21 May 96

32. **Alleged Antideficiency Act Violation Case 95-09** to Comptroller,
Army National Guard from Comptroller, Army National Guard, signed
(5) by [REDACTED] dated 15 May 96

33. **Investigation of Possible Antideficiency Act Violation** to [REDACTED] (6)
[REDACTED] General Counsel, ATF, from DAJA-ZB signed by [REDACTED] (7)
[REDACTED], dated 21 May 96

34. **Investigation of Possible Antideficiency Act Violation** to [REDACTED] (8)
[REDACTED] from NGB-ARC signed by [REDACTED] (9) dated
15 Apr 96

35. **Alleged Antideficiency Act Violation Case 95-09** to Chief, NGB from
(10) [REDACTED], dated 21 Mar 96 with attached memorandum
Alleged Antideficiency Act (ADA) Violation Case #95-09 to Chief,
Finance and Accounting Oversight Division signed by [REDACTED] (11)
dated 6 Mar 96

36. **NGB Form 0207e, Potential Antideficiency Violation - Use of
Counterdrug Funds at Waco** from NGB-ARC-MR with attached
memorandum **Investigation of Possible Antideficiency Act**
Violation from NGB-ARC to [REDACTED] (12) dated
15 Apr 96

37. **Preliminary Report on Case #95-09** memorandum to Asst Secretary of the Army Financial Management and Comptroller ATTN: SAFM-FO from NGB-ARC signed by [REDACTED] (1) [REDACTED] dated 22 Dec 95 (2 Incls - Summary Results of Preliminary Review Potential Antideficiency Act Violation and Preliminary Findings, 39 pages)
38. **Report of Preliminary Investigation of Antideficiency Act Violation (Case #95-09)** Waco, TX, from NGB-JAX to NGB-ARC signed by [REDACTED] Chief, Contract Law, NGB-JA, dated 7 Dec 95 (2)
39. **AR 15-6 Investigation (Case No. 95-09)** to [REDACTED] NGB-ARC-MR from DAJA-ZB, signed by [REDACTED] (3) [REDACTED] dated 12 Dec 95 (4)
40. **NGB Form 0207e Potential Antideficiency Violation - Use of Counterdrug Funds at Waco** from NGB-ARC-MR dated 12 Dec 95 (5)
41. **Executive Summary** from [REDACTED] NGB-ARC-MR dated 5 Dec 95
42. **Review of Report of Preliminary Investigation of Antideficiency Act Violation** from NGB-ARC-M signed by [REDACTED] (6) [REDACTED] dated 28 Nov 95
43. **Waco Investigation, Preliminary AR 15-6 Investigation Report** from DAJA-ZB to NGB-ARC-M signed by [REDACTED] dated 19 Nov 95 and **Preliminary AR 15-6 Investigation Report** from DAJA-ZB to [REDACTED] signed by [REDACTED] (7) [REDACTED] no date (8)
44. **Potential Antideficiency Act Violation - Case No. 95-09** from [REDACTED] (9) [REDACTED] Deputy Asst Secretary of the Army (Financial Operations) to Director, Army Comptroller, Army National Guard signed by [REDACTED] (10) [REDACTED] dated 26 Oct 95

45. **Potential Antideficiency Act Violation - Case No. 95-09** to Principal Deputy Asst Secretary of the Army (Financial Management and Comptroller), ATTN: SAFM-FO from NGB-ARC signed by

(1) [REDACTED], dated 13 Oct 95

46. **Alleged Antideficiency Violation - Case No 95-09** to [REDACTED]

[REDACTED] NGB-ZPF from DAJA-ZB signed by [REDACTED]
[REDACTED] dated 31 Aug 95

47. **Executive Summary (Unclassified)** dated 23 Aug 95 [REDACTED] SAFM-FCL

48. **Potential Antideficiency Act Violation, Case No. 95-09** to SAFM-FCL

(5) [REDACTED] from NGB-ARC signed by [REDACTED]
[REDACTED] dated 21 Aug 95

49. **Flash Report of Potential Antideficiency Act Violation**, memorandum to Director, Army National Guard, ATTN: NGB-ARC, from Asst Secretary Financial Management signed by [REDACTED] dated 1 Aug 95

50. **Week of 21 August**, memorandum from to [REDACTED]
NGB-ARC-M, from DAJA-ZB signed by [REDACTED]
dated 19 Aug 95

51. **Informal AR 15-6 Investigation Concerning Counterdrug Operation TX-0502-VAR-14 (Plus Up)** at Waco, TX, memo to [REDACTED]

[REDACTED] from NGB-ARC-M signed by [REDACTED]
dated 18 Aug 95

52. **Informal AR 15-6 Investigation Concerning Counterdrug Operation TX-0502-VAR-14 (Plus Up)** at Waco, TX, memo to [REDACTED]

[REDACTED] NGB-ARC-M from DAJA-ZB, signed by [REDACTED]
[REDACTED] dated 17 Aug 95

53. **Investigation of Possible Antideficiency Violation**, memo to [REDACTED]

(15) [REDACTED] NGB-ARC-M, from DAJA-ZB signed by [REDACTED]
[REDACTED] dated 16 Aug 95

54. **Request for Assistance - Investigation of Possible Antideficiency Violation**, memorandum to Adjutant General North Dakota, from NGB-ZA, signed by [REDACTED] dated 15 Aug 95 (2 copies) (1)

(12) 55. **Appointment of AR 15-6 Investigating Officer**, memorandum to [REDACTED] from NGB-ZA signed by [REDACTED] Baca, dated 15 Aug 95 (3)

56. **Flash Report, Potential Violation of AR 37-1**, memorandum to SFFM-FCL, from NGB-ARC, signed by [REDACTED] no date. (4)

57. Same as Item 55.

58. **Memorandum for Chief, NGB**, no subject, from NGB-ARC, signed by [REDACTED], dated 28 Jul 95 (5)

59. **National Guard Bureau Input, Branch Davidian Operation**, memo to DAMO-ODS, from NGB-ZA signed by [REDACTED] dated 14 Jul 95 (6)

60. **Supplemental Funding FY93 Counterdrug Support Program**, memo to NGB-CD, from AGTX-CD, signed by [REDACTED] dated 8 Mar 93 (7)

(18) 61. **Alleged Antideficiency Act Violation Case 95-09**, to NGB-ARC, from Deputy Assistant Secretary of the Army (Financial Operations) signed by [REDACTED] 7 Oct 96, with attached memo **Alleged Antideficiency Act (ADA) Violation Case #95-09** signed by [REDACTED] [REDACTED] dated 4 Oct 96. (9)

(10) 62. **Preliminary Report on Case #95-09**, memo to SAFM-FO, from NGB-ARC, signed by [REDACTED] dated 22 Dec 95, (no 2 incls attached)

63. **Final Report**, no date, 42 pages

64. DA Form 1574, Report of Proceedings by Investigating Officer/Board of Officers

65. Appointment of 15-6 Investigating Officer, memo to [REDACTED] from NGB-ZA, signed by [REDACTED] dated 15 Aug 95

66. Flash Report, Potential Violation of AR 37-1, memo to SFFM-FCL, from NGB-ARC, signed by [REDACTED] no date.

67. Privacy Act Statement, dated 27 Nov 95, signed by [REDACTED]

68. Privacy Act Statement, dated 20 Nov 95, signed by [REDACTED]

69. Privacy Act Statement, dated 21 Nov 95, signed by [REDACTED]

70. Privacy Act Statement, no date, unsigned, for signature of [REDACTED]

71. Privacy Act Statement, no date, unsigned, for signature of [REDACTED]

72. EXHIBITS (see attached list of exhibits nos. 1 thru 64)

73. Report of Preliminary Investigation of Antideficiency Act

Violation (Case #95-09, Waco, TX, to NGB-ARC, by [REDACTED] NGB-JA, dated 7 Dec 95 (follows Exhibit No. 64).

74. Supplemental Funding FY93 Counterdrug Support Program

memo from AGTX-CD, to Director NGB-CD signed by [REDACTED] dated 12 Jan 93

SECRETARY OF DEFENSE

1996 OCT 28 PM 3:09 OFFICE OF THE
ONE HUNDRED FOURTH CONGRESS SECRETARY OF DEFENSE

Congress of the United States: 09
House of Representatives

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

October 22, 1996

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BERNARD SANDERS, VERMONT
INDEPENDENT

MAJORITY-(202) 225-6074
MINORITY-(202) 225-6051

(1) The Honorable [REDACTED]
Secretary of Defense
The Pentagon
Washington, D.C. 20515-6415

(2) Dear Secretary [REDACTED]

The Government Reform and Oversight Subcommittee on National Security, International Affairs, and Criminal Justice and the Judiciary Subcommittee on Crime pursuant to our agreement with the Department of Defense hereby provide notice that the Subcommittees will be publicly releasing DoD documentation provided to the Subcommittees pursuant to document requests during their 1995 Waco investigation.

Those documents referenced in footnotes of the Subcommittees' Report entitled, "Investigation into the Activities of Federal Law Enforcement Agencies Toward the Branch Davidians" will be released as an appendix to the Report. Enclosed is a copy of the Report for your reference.

Please provide the Subcommittees with any objections or concerns to the release of such material by November 4, 1996. The Subcommittees request that any objection or concern be specifically stated in writing for each document scheduled for public release. If you have any questions you may contact [REDACTED] Special Counsel to the Subcommittee on National Security, International Affairs, and Criminal Justice, at (202) 225-2577 or [REDACTED] Counsel to the Subcommittee on Crime, at (202) 225-3926.

Thank you for your continued assistance in this matter.

Sincerely,

[REDACTED] (5)
Chairman
Subcommittee on National Security,
International Affairs, and Criminal Justice

[REDACTED] (6)
Chairman
Subcommittee on Crime

U15604 /96



DEPARTMENT OF THE ARMY
U.S. ARMY AUDIT AGENCY
Policy, Follow-up and Training
3101 Park Center Drive
Alexandria, Virginia 22302-1596



SAAG-PMF-E (36-2a)

6 November 1996

MEMORANDUM FOR DEPUTY CHIEF OF STAFF FOR OPERATIONS AND PLANS

SUBJECT: Extent of DOD Support to the Bureau of Alcohol, Tobacco, and Firearms (BATF) and the Federal Bureau of Investigation (FBI) in Connection with Their Law Enforcement Activities Toward the Branch Davidians (GAO CODE 703183)
--ANNOUNCEMENT OF GAO REVIEW

1. You have been designated as the HQDA principal official responsible for the GAO review addressed in the enclosed IG, DOD memorandum. You are required to assign a project officer, known as a Collateral Action Officer (CAO) to: (1) arrange contacts with personnel familiar with matters being audited; (2) arrange for release of documents requested by GAO; (3) attend all meetings associated with the audits; (4) comply with reporting requirements in Section IV, Chapter 4 of AR 36-2; (5) monitor actions taken to correct deficiencies/unsatisfactory conditions which are identified by the auditors during the course of the audit and in the audit reports; and (6) Keep SAAG-PMF-E informed of the status of the audit and any areas of concern which may arise. Please provide the name, office symbols, telephone number and fax number of the CAO to SAAG-PMF-E within 2 days. (1)

2. The Primary Action Officer (PAO) is [REDACTED], (703) 693-5220, Office of the Assistant Secretary of Defense (Special Operations/Low-Intensity Conflict). The CAO should remain in contact with the PAO during the course of the audit and can contact the PAO for additional guidance.

3. When auditors wish to visit Army commands during the course of their audits, the point of contact should advise them to report through the Internal Review Offices of those commands.

4. The GAO and IG, DOD will schedule an entrance meeting on Wednesday, 13 November 1996, 10:30 a.m., room 2B540, Pentagon. Contact the PAO for additional information. If you have questions, please contact [REDACTED] commercial (703) 697-4220 or DSN 227-4220 (e-mail address, holmest@hqaaa.army.mil). (2)

"Fifty Years of Excellence: 1946 - 1996"

NOV 13 1996 FAX 10442300

Z 0019749

SAAG-PMF-E

SUBJECT: Extent of DOD Support to the Bureau of Alcohol, Tobacco, and Firearms (BATF) and the Federal Bureau of Investigation (FBI) in Connection with Their Law Enforcement Activities Toward the Branch Davidians (GAO CODE 703183)
--ANNOUNCEMENT OF GAO REVIEW

5. The year was 1946. World War II was over. Dwight D. Eisenhower was Chief of Staff. The Army Audit Agency was established on 12 November by General Order No. 135, "to perform auditing service on an Armywide basis within the zone of the interior for the Military Establishment."

FOR THE DEPUTY AUDITOR GENERAL:

(1) —

Encl

Program Director
Policy, Followup and Training

CF (w/encl):
SALL
SAMR
SAUS (IA)
DACS-DM
DAJA-ZX
DAMO-ZXS
DAMI-ZR
CIDC (CICG-IR)

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29-07 JUL 13-03 FAX 1044613868

Z 0019750



ADJUTANT GENERAL'S DEPARTMENT

Post Office Box 5218
Austin, Texas 78763-5218
612-465-5001

AGTX-CD

7 November 1996

MEMORANDUM FOR Chief, National Guard Bureau, ATTN: NGB-JA [REDACTED] (1)
2500 Army Pentagon, Washington, D.C. 20310-2500

SUBJECT: Branch Davidian Investigation

1. The Texas National Guard participated in the operation involving David Koresh and the Branch Davidians in Waco, Texas during fiscal year 1993. As a result of that operation, there have been no changes in Texas National Guard Counterdrug Support Policy.

2. POC is the undersigned at DSN 954-5516, COMM (512)465-5516.

[REDACTED] (2)

COL, TXANG
Counterdrug Coordinator

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL

of pages 1

3	[REDACTED]	From	[REDACTED] (4)
	Dept./Agency	Phone #	
	Fax #	Fax #	

NSN 7540-01-217-7000 0039-101 GENERAL SERVICES ADMINISTRATION

Z 0014606

NGB-CD (500)

7 November 1996

MEMORANDUM FOR NGB-JA, ATTN: [REDACTED] ⁽¹⁾

SUBJECT: Memorandum for Record

1. There have been no changes in NGB-CD policy nor NGR (AR) 500-2 resulting from the involvement of counterdrug program assets in support of federal agencies during the late 1992 and early 1993 incident at the Branch Davidian Compound near Waco, Texas.

2. Questions may be directed to [REDACTED] at 703-681-0800.

⁽²⁾

[REDACTED]

⁽³⁾

Colonel, USAF
Director, Counterdrug Directorate

***** -CUMM.JOURNAL- ***** DATE NOV-07-1996 ***** TIME 17:55 *** P.01

MODE = MEMORY TRANSMISSION

START=NOV-07 17:50

END=NOV-07 17:55

FILE NO.= 159

NO.	COM	ABBR/NTWK	STATION NAME/ TELEPHONE NO.	PAGES	PRG.NO.	PROGRAM NAME
001	OK	*	6978176	011/011		

-OSD-DGC

***** -

- ***** -

703 614 6745- *****

FAX TRANSMISSION

(LEGAL COUNSEL)

(703) 695-6804
FAX: (703) 614-6745

To: (1)

Date: November 7, 1996

Fax #: 697-8176

Pages: 12, including this cover sheet.

From: (2)

Subject: Waco letter

COMMENTS:

I have sent most of the documents to SOCOM; that's where they came from.

I seem to have lost the draft NGB memo; would you send me another copy, please?

Thanks

(3)

FAX TRANSMISSION

(LEGAL COUNSEL)

(703) 695-6804
FAX: (703) 614-6745

To: [REDACTED] ①

Date: November 7, 1996

Fax #: 697-8176

Pages: 12, including this cover sheet.

From: [REDACTED] ②

Subject: Waco letter

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I have sent most of the documents to SOCOM; that's where they came from.

I seem to have lost the draft NGB memo; would you send me another copy, please?

Thanks,

③



DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
1600 DEFENSE PENTAGON
WASHINGTON, DC 20301-1600



November 7, 1996

MEMORANDUM FOR LEGAL POLICY COORDINATOR, OASD(SOLIC)

SUBJECT: Release of Documents for Publication

Attached is a request for objections to the release of documents cited in the Report of the House Government Reform and Oversight Committee. The Committee has provided copies of documents they intend to release.

I have attached two documents for your review. Please advise me of any objections to their release.

①

Associate Deputy General Counsel
(Legal Counsel)

Attachment
As stated



***** -COMM.JOU- ***** DATE NOV-07-1996 *** TIME 18:37 *** P.01

MODE = MEMORY TRANSMISSION

START=NOV-07 18:36

END=NOV-07 18:37

FILE NO. = 161

NO.	COM	ABBR/NTWK	STATION NAME/ TELEPHONE NO.	PAGES	PRG.NO.	PROGRAM NAME
001	OK	*	992029278673	002/002		

-OSD-DGC

***** -

- ***** -

703 614 6745- *****

FAX TRANSMISSION

OFFICE OF THE DEPUTY GENERAL COUNSEL (LEGAL COUNSEL)
DEPARTMENT OF DEFENSE

(703) 695-6804
Fax: (703) 614-6745

To:

[REDACTED] ①

Date:

November 7, 1996

Fax #:

202-927-8673

Pages:

2, including this cover sheet.

From:

[REDACTED] ②

Subject: Coordination on Documents

COMMENTS:

FAX TRANSMISSION

OFFICE OF THE DEPUTY GENERAL COUNSEL (LEGAL COUNSEL)
DEPARTMENT OF DEFENSE

(703) 695-6804
Fax: (703) 614-6745

To:

[REDACTED] ①

Date:

November 7, 1996

Fax #:

202-927-8673

Pages:

2, including this cover sheet.

From:

[REDACTED] ②

Subject:

Coordination on Documents

COMMENTS:

***** -CUM JOURNAL- ***** DATE NOV-07-1996 ***** TIME 17:36 *** P.01

MODE = MEMORY TRANSMISSION

START=NOV-07 17:28

END=NOV-07 17:36

FILE NO. = 155

NO.	COM	ABBR/NTWK	STATION NAME/ TELEPHONE NO.	PAGES	PRG.NO.	PROGRAM NAME
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-OSD-DGC

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- ***** -

703 614 6745- *****

FAX TRANSMISSION

DEPARTMENT OF DEFENSE
OFFICE OF THE DEPUTY GENERAL COUNSEL (LEGAL COUNSEL)

(703) 695-6804
FAX: (703) 614-6745

To:

Fax #: 693-4170

From:

Subject: Waco documents

Date: November 7, 1996

Pages: 16, including this cover sheet.

COMMENTS:

FAX TRANSMISSION

DEPARTMENT OF DEFENSE
OFFICE OF THE DEPUTY GENERAL COUNSEL (LEGAL COUNSEL)

(703) 695-6804
Fax: (703) 614-6745

To:

[REDACTED] ①

Date:

November 7, 1996

Fax #:

693-4170

Pages:

16, including this cover sheet.

From:

[REDACTED] ②

Subject: Waco documents

COMMENTS:



DEPARTMENTS OF THE ARMY AND THE AIR FORCE
NATIONAL GUARD BUREAU
111 SOUTH GEORGE MASON DRIVE
ARLINGTON, VA 22204-1882

NGB-ARC (27)

0 8 NOV 1996

MEMORANDUM FOR THE JUDGE ADVOCATE (NGB-JA)

SUBJECT: Request from Congress for Information Regarding the Waco Incident

1. Reference memorandum, NGB-JA, 5 Nov 96, SAB.
2. In response to your request for information on any changes made in Army Comptroller procedures, policies or regulations as a result of the Waco incident, NGB-ARC submits a negative report. The Army Comptroller Directorate has issued no changes to policies or procedures, nor received any changes from other offices. We will readily enforce any legally sufficient changes to policies and procedures provided by the Counterdrug Task Force (NGB-CD) or the Operations, Training and Readiness Directorate (NGB-ARO-OM) if they should be made in the future.
3. My point of contact for this action is [REDACTED] 607-7704.

[REDACTED]
Colonel, GS
Director, Army Comptroller

Fax Cover Sheet

Army National Guard Readiness Center
111 South George Mason Drive
Arlington, Virginia 22204-1382

DATE: 8 Nov 96

TIME: 3:00

TO:

[REDACTED] (1)

PHONE: 693-3815

FAX: 693-4170

FROM:

[REDACTED] (2)

PHONE: 607-7544

FAX: 607-7586

RE:

Number of pages:

Message:

Please pass this information to

[REDACTED] (3), per [REDACTED] (4)

Shank [REDACTED] (5)

NGB-ARO-O (27)

12 November 1996

MEMORANDUM FOR NGB-JA (1A)

SUBJECT: Response to Congressional Response Regarding Waco

1. Reference NGB-ZA memorandum, same subject, 6 November 1996.
2. All documents related to the Waco Incident, whether generated by the Texas National Guard or the National Guard Bureau, were turned over to the Congressional subcommittees based on the two previous requests.
3. There have been no changes in regulations, policies or procedures as a result of the Waco incident.

(1B)
[Redacted]
(2)
Colonel, GS
Chief, Operations Division

CF:
NGB-ZA (3)
[Redacted]



NATIONAL GUARD BUREAU
ARMY NATIONAL GUARD
OPERATIONS AND EXERCISE DIVISION
(NGB-ARO-O)



ROOM 2W260
ARNGRC

PHONE (703) 607-7350

DATE 12 NOV

[REDACTED] (1)

You & I will attend a
Mtg with RAO on 13 NOV / 1030
Room 2B540. [REDACTED] (2) + [REDACTED] (3)

[REDACTED] will be there.

[REDACTED] (4)

Staff Action Tracking System
Army Directorate, National Guard Bureau
ARNG Readiness Center, Arlington, VA 22204

Document: 10030	Docket Number: 96ARZ-03238	Dated:	Received: 96/11/08	Due 96/11/13
Agency: DIR, ARNG		Originator: [REDACTED] (1)		
Action: Take Appropriate Action		Organization: [REDACTED]		
State: [REDACTED]		Subject: GAO REVIEW		

ASSIGNED	DATE	REASON	B.F.	RETURNED
-ARO	96/11/08	LEAD assist		
-ARC	96/11/08	ASSIST		
-JA		Lead		

Comments:

Action: ATTACH 13 NOV/1030 GAO Mtg RM 2 B540

(2)
 REVIEWED BY: [REDACTED] / Brown 96



NATIONAL GUARD BUREAU
Secretariat of the General Staff (NGB-ZAS)

Rm 2E361, Pentagon - Ph: 703-695-1481/82; Fax: 703-693-6296

Document Number: 2198 - ZAS96 - H

Agency: ZA

Date Recv'd: 11/07/96

Author: [REDACTED] ①

Suspense Date:

Date Due:

DEP DIR FOR GAO AFFAIRS

Cross-Reference:

DOD IG

SUBJECT:

GAO NOTIFICATION LTR, DTD OCTOBER 24, 1996, "EXTENT OF DOD SUPPORT TO THE BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS (BATF) AND THE FBI IN CONNECTION WITH THEIR LAW ENFORCEMENT ACTIVITIES TOWARD THE BRANCH DAVIDIANS" (GAO CODE 703183)

ACTION:

APPROPRIATE ACTION

ASSIGNMENT SUB-TABLE:

ASSIGNED	DATE	ACTION TO BE PERFORMED
IG	11/07/96	APPROPRIATE ACTION 2
ARZ	11/07/96	APPROPRIATE ACTION 2

Comments/Recommendations:

Contact The ORIGINATING OFFICE To Extend Suspense/Due Dates, Notify NGB-ZAS Of Changes



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-2884

NOV 5 1996



MEMORANDUM FOR UNDER SECRETARY OF DEFENSE (POLICY)

SUBJECT: General Accounting Office Notification Letter,
Dated October 24, 1996, "Extent of DoD Support
to the Bureau of Alcohol, Tobacco, and Firearms
(BATF) and the Federal Bureau of Investigation
(FBI) in Connection with Their Law Enforcement
Activities Toward the Branch Davidians," (GAO
Code 703183): NOTIFICATION OF GAO REVIEW

On October 25, 1996, the Department of Defense
(DoD) received the enclosed General Accounting Office (GAO)
notification letter.

At the request of Chairman Bill Zeliff, Subcommittee
on National Security, International Affairs, and Criminal
Justice, House Committee on Government Reform and Oversight,
and Chairman Bill McCollum, Subcommittee on Crime, House
Committee on Judiciary, the GAO will determine the extent
of DoD support to the BATF and the FBI in connection with
their law enforcement activities toward the Branch Davidians.
Specifically, the GAO will determine (1) what types of
assistance was provided to the BATF and the FBI, (2) the
rationale for providing this assistance, (3) the cost of
providing the assistance, and (4) whether the DoD was
reimbursed for the assistance provided.

The GAO will hold an entrance meeting on November 13,
10:30 a.m., room 2B540 at the Pentagon, to discuss the
review. The entrance meeting will provide the Department
the opportunity to inquire about the review and provide
information to assist the GAO.

The DoD Directive 7650.2 designates this office as
the central DoD liaison for GAO activities. The enclosed
Information Sheet describes the specific DoD procedures for
processing, monitoring, and managing GAO survey and reviews,
and the DoD Primary Action Office (PAO) responsibilities.

Your audit liaison officer, [REDACTED] ①
703-693-5220, is in the process of identifying your primary
action officer. [REDACTED] ② is located in the Office of
the Assistant Secretary of Defense (Special Operations/Low-
Intensity Conflict). The collateral action offices (CAOs)
are requested to provide our office with the name, phone
number, fax number, and mailing address of their action
officers, if they have not already done so.

Staying informed on GAO survey/review activity depends on the PAO, the DoD components, and this office working closely together. Your full support is requested in these efforts to prevent surprises related to the GAO audit and to make certain the DoD obtains the maximum benefits from the GAO work.

If you have any questions, please contact [redacted] (1)
[redacted] 703-604-9620. If he is not available, please contact
[redacted] 703-604-9636.

(2)

[redacted]

(3)

Deputy Director for GAO Affairs

Enclosures

CAO Copies: SEC ARMY
SEC AIR FORCE
USD(C)
GC
CH, NGB

Info Copies: USD(C)
ASD(LA)
ASD(PA)
DGC(F)
AIG-AUD/APTS

INFORMATION SHEET
(Revised 12/95)

DoD PROCEDURES FOR PROCESSING, MONITORING, AND MANAGING
GENERAL ACCOUNTING OFFICE (GAO) SURVEYS AND REVIEWS
(References: DoD Directives 7650.1, 7650.2)

1. GAO Notification Letters of Surveys and Reviews

Before contacting DoD officials to initiate new survey/review work, the GAO has agreed to issue a notification letter to the Secretary of Defense, attention OIG, DoD, Deputy Director for GAO Affairs. The notification letter includes the objectives of the planned work and a six digit GAO assignment code. When the GAO staffs contact DoD personnel, they should be asked if they have properly announced their work with a notification letter through the OIG, DoD. The GAO staffs should be prepared to provide a copy of the notification letter on request. The DoD personnel should verify that the GAO work has been announced within the Department. They can contact the appropriate component audit liaison, collateral action office, or this office. If the GAO work has been announced, this office can telefax a copy of the GAO notification letter along with the DoD official announcement. Meetings should not be scheduled nor information released until the GAO work is properly announced. All questions or special arrangements on GAO surveys and reviews should be coordinated with the Deputy Director for GAO Affairs--the address, phone number and telefax number is as follows:

Office of the Inspector General, DoD
Deputy Director for GAO Affairs
400 Army Navy Drive, Room 539
Arlington, VA 22202-2884

Commercial:	703-604-9637	DSN: 664-9637
Telefax:	703-604-9608	DSN: 664-9608

2. GAO Notices of Visit and Security Clearances

Besides the GAO notification letter, the GAO should notify appropriate agency officials about 10 days before any proposed visit using the "Notice of GAO Visit" form. The GAO should provide a copy of that form to the Deputy Director for GAO Affairs. In cases of unusual urgency, the GAO should make arrangements with the agency officials by phone. The responsibility for assuring that a GAO representative has the proper clearance to review/receive classified information rests with the DoD individual providing the information.

If a GAO representative does not provide the notice of visit or if the DoD contact needs additional information, the assigned GAO Affairs action officer should be contacted for assistance.

3. Tasking of GAO Surveys and Reviews

On receipt of a GAO notification letter, the Deputy Director for GAO Affairs identifies the primary action office (PAO) and a PAO point of contact through discussions with DoD component audit liaison offices and DoD officials. For most surveys/reviews, the PAO is at the Office of the Secretary of Defense (OSD) staff level. The OIG issues a tasking memorandum assigning responsibility for the GAO effort to the PAO with copies to identified collateral action offices (CAO).

The DoD component audit liaisons receive action or information copies of the Deputy Director for GAO Affairs tasking memorandum for further distribution to the appropriate offices. The memorandum is given wide distribution to help identify action offices and inform them of the GAO review. This is important so that the correct DoD components attend the GAO entrance, interim status, and exit meetings.

4. GAO Entrance, Interim Status, and Exit Meetings

The Deputy Director for GAO Affairs will work with the PAO and the CAO to arrange a joint, headquarters level entrance meeting. The purpose of the entrance meeting is to provide the PAO, CAOs and other DoD components with details about the GAO review. It is an opportunity to ask questions, and to give the GAO the names of DoD points of contact.

Before any interim status or exit meeting at the headquarters level, the GAO usually holds separate meetings at the field activity level. Action officers at the field level should advise the PAO of such meetings through the component CAO or the component audit liaison.

The PAO, CAO, and Deputy Director for GAO Affairs should work together to make sure that (1) the GAO holds appropriate interim status and exit meetings, (2) the PAO, CAO, and OIG action officers attend such meetings, and (3) the meetings include all key DoD offices. The PAO and CAO action officers, through their ongoing contacts with the GAO, should be alert to the need for interim status and exit meetings, and should advise the Deputy Director for GAO Affairs in advance so that he/she can arrange the meeting.

The purpose of interim status and exit meetings with the GAO is to provide the DoD an opportunity to discuss the accuracy and completeness of the GAO work results and to avoid surprises to the DoD. The Deputy Director for GAO Affairs will ask for an interim status meeting with the GAO before any GAO congressional briefing or testimony, and a exit meeting before the GAO issues a draft or final report.

DATE
NO

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①

~~Handwritten scribbles~~

RECEIVED BY	
DATE	

②

[Redacted text]

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***** -COMM. JOUR- ***** DATE NOV-13-1996 *** TIME 18:37 *** P.01

MODE = MEMORY TRANSMISSION

START=NOV-13 18:30

END=NOV-13 18:37

FILE NO. = 217

NO.	COM	ABBR/NTWK	STATION NAME/ TELEPHONE NO.	PAGES	PRG.NO.	PROGRAM NAME
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-OSD-DGC

- ***** -

703 614 6745- *****



DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
1600 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-1600



TELECOPIER MEMORANDUM

DATE: 13 Nov

To: [REDACTED] ①

FAX: 813 828 3629

FROM: [REDACTED] ②

We are submitting 50 pages, including this Telecopier Memorandum.

If you do not receive all pages, please call _____
at (703) 695-6710 or (703) 697-2714.

REMARKS:

In 2 Parts
3





DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
1600 DEFENSE PENTAGON
WASHINGTON, DC 20301-1600



December 2, 1996

The Honorable Bill McCollum
Chairman, Subcommittee on Crime
Committee on the Judiciary
U. S. House of Representatives
Washington, DC 20515-0908

The Honorable William H. Zeliff
Chairman, Subcommittee on National Security,
International Affairs and Criminal Justice
Committee on Government Reform and Oversight
U. S. House of Representatives
Washington, DC 20515-2901

Dear Mr. Chairman:

This letter responds to your request dated October 22, 1996, for permission to release to the public documents you cite in the footnotes of your Subcommittees' report dated August 2, 1996. Your staff has provided copies of the documents you intend to release, and they have been reviewed by the Department of Defense. A list of the documents referred to us appears at Tab A.

We have no objection to the publication of most of these documents. We do object, however, to the publication of all or part of the following documents, identified by the number on the list at Tab A:

- 4) This document is classified. We have provided to your staff a redacted version approved for release under the Freedom of Information Act (FOIA). We have no objection to the release of the redacted version.
- 7) We object to the publication of Major [redacted] social security number. The copy of this document provided by your staff contains certain redactions. We believe that the document has been approved for release under the FOIA without these redactions (other than the social security number). We will provide a copy of the unredacted version to you as soon as we locate it.
- 12) This document contains privileged information. We attach at Tab B a redacted version approved for release under the FOIA. We have no objection to the release of the redacted version.

4-15604-96

- 18) This document contains privileged attorney-client communications. It is a draft legal opinion which has never been adopted; it does not represent the position of the National Guard Bureau or the Department of Defense.

We note, in addition, that two other documents provided by your staff -- Numbers 8 and 11 -- have been approved for release under the FOIA without redactions which appear on the staff copies. We have attached unredacted versions of those documents at Tab E.

If you have any questions, please contact [REDACTED] at (703) 695-6304. ①

Sincerely,

[REDACTED] ②
[REDACTED]
Deputy General Counsel
(Legal Counsel)

Attachments:
As stated

LIST OF DOCUMENTS

#	Bates range	Description
1	109-116	Secretary of Defense memorandum dated 26/1/95
2	2344-	Texas ANG Report
3	none	Army SFC(A) letter dated 24 November 1993
4	1116A-1119	SOF Assistance memorandum, dated 15 May 1993
5	none	3rd SFG(A) memorandum dated 21 September 1993
6	none	Army SFC(A) letter dated 23 February 1993
7	1147	Statement of [REDACTED] <i>Name #12</i> (1)
8	1168-1172	Memorandum for Record of Major [REDACTED] <i>Name #13</i> (2) dated 3 February 1993
9	none	Secretary of Defense memorandum dated 17 May 1995
10	none	SOCOM fax cover dated 17 February 1993
11	1167	Memorandum of [REDACTED] <i>Name #14</i> (3) dated 9 September 1993
12	1166	Memorandum of [REDACTED] <i>Name #15</i> (4) dated 9 September 1993
13	1363	Handwritten note, undated
14	1155-1156	Handwritten memorandum dated 5 March 1993
15	1353	RSU fact sheet
16	574-585	Operations order dated 172145Z February 1993
17	587-594	Order and chronology
18	none	Draft legal memorandum prepared of National Guard Bureau Counsel's office
19	Treasury	Joint Task Force Six Operational Support Planning Guide
20	Treasury	Letter of Operation Alliance dated February 2, 1993

A

STAFF SUMMARY SHEET
MEMORANDUM FOR:

CHIEF, NGB	✓
VICE CHIEF, NGB	✓
ASST CHIEF, NGB	✓
DEP ASST CHIEF, NGB	
DIRECTOR, ARNG	✓
DEPUTY DIRECTOR, ARNG	
DIRECTOR, ANG	✓
DEPUTY DIRECTOR, ANG	

ACTION OFFICE SYMBOL

NGB-IR-C

ACTION OFFICER/TELEPHONE

703681-5988

DATE

4-November-1996

SUBJECT GAO REVIEW: DoD Support to FBI & BATF in Connection with Law Enforcement Activities at WACO



INFORMATION



DECISION



SIGNATURE



OTHER

SUSPENSE DATE

BY

PURPOSE (Approval/Signature) To provide information pertaining to an audit being started by the General Accounting Office (GAO)

DISCUSSION (Brief Synopsis of Package) GAO has been asked by the Chairman of the House Subcommittee on Crime and the Subcommittee on National Security, International Affairs, and Criminal Justice to determine the extent of DoD support to the Bureau Alcohol, Tobacco and Firearms (BATF) and the FBI in connection with their law enforcement activities toward the Branch Davidians.

--Objectives: To determine (1) what types of assistance was provided to the BATF and FBI, (2) the rationale for providing this assistance, (3) the cost of providing the assistance, and (4) whether DoD was reimbursed for the assistance provided.

--START DATE: Early November 1996

-- BACKGROUND INFORMATION (per NGB-ARC ADA COORDINATOR) The ARNG conducted an AR 15-6 Antideficiency Act (ADA) Violation investigation of the ARNG's support of the FBI & BATF. The investigating officer found no ADA violation had occurred. The Army's General Counsel did not agree with the report. NGB-ARC is currently working with ASAIFM&CJ to arrange a meeting between BATF and the Army's General Counsel to discuss the report. In addition, NGB has received a Congressional request for copies of the AR 15-6 report; the report don by [redacted] in Apr 93; and all notes in connection with the case.

RECOMMENDATION (Self-explanatory)

APPROVAL	INITIALS	DATE	ACTION TAKEN	DDANG	DANG	DDARNG	DARNG	DACNGB	ACNGB	VCNGB	CNGB
DIVISION/OFFICE CHIEF	[redacted]	5 Nov 96	CONCUR								
CoFS, ARNGRC			APPROVED								
CHIEF, AIR DIR STAFF			NOTED								
EXECUTIVE, ARNG			SEE ME								
DACNGB			BRIEF								
EXECUTIVE, VCNGB											
EXECUTIVE, CNGB											

COORDINATION : NGB-ARC; NGB-CD; NGB-JA AND NGB-JG

MAIL ROOM: RETURN THIS FORM TO ACTION OFFICE SYMBOL LISTED IN UPPER RIGHT CORNER

FORM
NGB 1 NOV 93 0207

(Replac NGB Form 0207 dated 1 Nov 92 which is obsolete)

Z 0014599

105 NOV 1996

MEMORANDUM FOR NGB-CD (1)

SUBJECT: Request from Congress for information regarding the Waco incident

1. We have been coordinating the response of NGB to the request by Congress for information regarding the Waco incident. In this regard, (2) of your office has been most helpful. We are nearing completion of this task but need to ensure that the request of Congress, directed to (3) is fully complied with.

2. The needs of the Congressional committee were somewhat clarified in a telephone conversation between (4) of the DoD General Counsel's Office, (5) of my office, and Ms. Lang, Special Counsel to the Committee. I am enclosing a copy of the Memorandum from (6) to us regarding that conversation. Please note the details of the second paragraph. The "Focal Group" report is what is known as the (7) "Report," which we have already received. We also have the (8)

3. However, we need to ensure that we have all information relating to "the National Guard's implementation of any changes or recommendations resulting from the Waco incident." We understand that the new version of NGR 500-2 contains some changes as a result of Waco, and we still have not received a copy of it. We also need to know where this new regulation is in the promulgation and coordination process. Finally, we need written assurances from your office that, other than NGR 500-2 and other information you may provide to us, to your knowledge there are no other changes or recommendations made as a result of Waco.

4. As you can tell from (9) memorandum, and our original suspense from Congress of 4 October (we are also enclosing another copy of Congress's original request) time is of the essence in the response. Therefore, we need your input as soon as possible.

5. Thank you for your cooperation. If you have any questions, you may call me at 693-3814 or my POC, (10) at 693-3815.

Encl
as

(11)
Chief Counsel
National Guard Bureau

TRANSMIT CONFIRMATION REPORT

NO.	:	002	
RECEIVER	:	996810808	
TRANSMITTER	:	NGB-JA	
DATE	:	NOV 05'96	10:18
DURATION	:	02'39	
MODE	:	STD	
PAGES	:	05	
RESULT	:	OK	



DEPARTMENTS OF THE ARMY AND THE AIR FORCE
NATIONAL GUARD BUREAU
2500 ARMY PENTAGON
WASHINGTON, D.C. 20310-2500



OFFICE OF THE CHIEF COUNSEL

DATAFAX TRANSMITTAL COVER SHEET

TO: [REDACTED] ①
[REDACTED] ②
DATE: 5 Nov 96
DATAFAX NUMBER: 681-0808
VOICE NUMBER: 681-0800

REMARKS: WABO

FROM: [REDACTED] ③ Sender's Telephone:

NGB-JA
2500 Army Pentagon
Washington DC 20310-2500

FAX: (703) 693-4170
DSN 223-4170

(703) 693-3815
☒ DSN 223-3815

Rooms 2E425 and 2D419, The Pentagon

(703) 614-6230
____ DSN 223-6230

4 Pages and this cover sheet have been transmitted

This facsimile transmission and/or the documents accompanying it may contain confidential information belonging to the sender which is protected by the attorney-client privilege. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or the taking of any action in reliance on the contents of this transmission is strictly prohibited. If you have received this transmission in error please return it by mail to the address shown above.



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
600 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-2804



NOV 5 1996

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE (POLICY)

SUBJECT: General Accounting Office Notification Letter,
Dated October 24, 1996, "Extent of DoD Support
to the Bureau of Alcohol, Tobacco, and Firearms
(BATF) and the Federal Bureau of Investigation
(FBI) in Connection with Their Law Enforcement
Activities Toward the Branch Davidians," (GAO
Code 703183): NOTIFICATION OF GAO REVIEW

On October 25, 1996, the Department of Defense
(DoD) received the enclosed General Accounting Office (GAO)
notification letter.

At the request of Chairman Bill Zeliff, Subcommittee
on National Security, International Affairs, and Criminal
Justice, House Committee on Government Reform and Oversight,
and Chairman Bill McCollum, Subcommittee on Crime, House
Committee on Judiciary, the GAO will determine the extent
of DoD support to the BATF and the FBI in connection with
their law enforcement activities toward the Branch Davidians.
Specifically, the GAO will determine (1) what types of
assistance was provided to the BATF and the FBI, (2) the
rationale for providing this assistance, (3) the cost of
providing the assistance, and (4) whether the DoD was
reimbursed for the assistance provided.

The GAO will hold an entrance meeting on November 13,
10:30 a.m., room 2B540 at the Pentagon, to discuss the
review. The entrance meeting will provide the Department
the opportunity to inquire about the review and provide
information to assist the GAO.

The DoD Directive 7650.2 designates this office as
the central DoD liaison for GAO activities. The enclosed
Information Sheet describes the specific DoD procedures for
processing, monitoring, and managing GAO survey and reviews,
and the DoD Primary Action Office (PAO) responsibilities.

Your audit liaison officer, [REDACTED] 1
703-693-5220, is in the process of identifying your primary
action officer. [REDACTED] 2 is located in the Office of
the Assistant Secretary of Defense (Special Operations/Low-
Intensity Conflict). The collateral action offices (CAOs)
are requested to provide our office with the name, phone
number, fax number, and mailing address of their action
officers, if they have not already done so.

Staying informed on GAO survey/review activity depends on the PAO, the DoD components, and this office working closely together. Your full support is requested in these efforts to prevent surprises related to the GAO audit and to make certain the DoD obtains the maximum benefits from the GAO work.

If you have any questions, please contact [REDACTED] (1)
[REDACTED] 703-604-9620. If he is not available, please contact
[REDACTED], 703-604-9636.

(2)

(3)

Deputy Director for GAO Affairs

Enclosures

CAO Copies: SEC ARMY
SEC AIR FORCE
USD(C)
GC
CH, NGB

Info Copies: USD(C)
ASD(LA)
ASD(PA)
DGC(F)
AIG-AUD/APTS

ARMY NATIONAL GUARD

FAX

UNCLASSIFIED

Date: 5 Nov 96

Number of pages including cover sheet: 5

To:

Phone:

Fax phone: 607-9881

From:

ARMY NATIONAL GUARD

ATTN: NGB-ARO

2500 ARMY PENTAGON

WASHINGTON, DC 20310-2500

Phone: (703) 695-0708 DSN 225-0708

Fax phone: (703) 695-3818 DSN 225-3818

Sent by:

REMARKS:

☐ Urgent

☐ For your review

☐ Reply ASAP

☐ Please comment

PER

HAND CARRY - IMMEDIATELY

Thanks!

4

NGB-ZA (27)

06 November 1996

MEMORANDUM FOR

NGB-ARO-O [REDACTED]

NGB-CD [REDACTED]

NGB-ARC [REDACTED]

SUBJECT: Response to Congressional Request Regarding Waco

1. Two Congressional subcommittees requested [REDACTED] to produce certain documents related to the Waco incident. [REDACTED] has designated [REDACTED] NGB Chief Counsel, as the NGB point of contact to prepare the response.

2. You have previously been informed of the Congressional inquiry and request, which focuses upon any changes in regulation, policy, or procedures as a result of the Waco incident. Written responses, even if negative, are required.

3. Request your comments or negative reply to NGB-JA by COB, 9 November. Thank you for your assistance.

[REDACTED]
Col, USAF
Executive Officer

CF: [REDACTED]



DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
1600 DEFENSE PENTAGON
WASHINGTON, DC 20301-1600



[REDACTED]

November 7, 1996

MEMORANDUM FOR LEGAL POLICY COORDINATOR, OASD(SOLIC)

SUBJECT: Release of Documents for Publication

Attached is a request for objections to the release of documents cited in the Report of the House Government Reform and Oversight Committee. The Committee has provided copies of documents they intend to release.

I have attached two documents for your review. Please advise me of any objections to their release.

[REDACTED]

Associate Deputy General Counsel
(Legal Counsel)

Attachment
As stated

5-05-1997 2:15PM

FROM NO3*IR 7036815999

P.1

TRAVEL VOUCHER

BUREAU VOU NO

D O VOUCHER NO

440437

PAYMENT FOR

TDY SETTLEMENT

PAID BY

FT S

23/04/93

5086

PAYMENT

PAYEE (LAST NAME, FIRST, MI)

RANK OR GRADE

SOCIAL SECURITY NUMBER

ORGANIZATION AND STATION

TRAVEL ORDER

06514400 SYSTEM GEN

05/04/93

CHECK NUMBER CHECK DATE
08841782

AMOUNT PAID

DATE PAID

RECEIVED IN CASH

\$259.06 23/04/93

REMARKS

93113082727IATS

ACCOUNTING CLASSIFICATION(S)

2132060.0000 00 0000 P

211J 041292

3AHU00 003AHU \$

259.06

DOC-REF-NO: ARG98T30651440

AMOUNT PAID

\$259.06

DD 1351

Z 0015782



DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
1600 DEFENSE PENTAGON
WASHINGTON, DC 20301-1600



December 2, 1996

The Honorable Bill McCollum
Chairman, Subcommittee on Crime
Committee on the Judiciary
U. S. House of Representatives
Washington, DC 20515-0908

The Honorable William H. Zeff
Chairman, Subcommittee on National Security,
International Affairs and Criminal Justice
Committee on Government Reform and Oversight
U. S. House of Representatives
Washington, DC 20515-2901

Dear Mr. Chairman:

This letter responds to your request dated October 22, 1996, for permission to release to the public documents you cite in the footnotes of your Subcommittees' report dated August 2, 1996. Your staff has provided copies of the documents you intend to release, and they have been reviewed by the Department of Defense. A list of the documents referred to us appears at Tab A.

We have no objection to the publication of most of these documents. We do object, however, to the publication of all or part of the following documents, identified by the number on the list at Tab A:

- 4) This document is classified. We have provided to your staff a redacted version approved for release under the Freedom of Information Act (FOIA). We have no objection to the release of the redacted version.
- 7) We object to the publication of [REDACTED] social security number. The copy of this document provided by your staff contains certain redactions. We believe that the document has been approved for release under the FOIA without these redactions (other than the social security number). We will provide a copy of the unredacted version to you as soon as we locate it.
- 12) This document contains privileged information. We attach at Tab B a redacted version approved for release under the FOIA. We have no objection to the release of the redacted version.



115604-96

Z 0010733

- 18) This document contains privileged attorney-client communications. It is a draft legal opinion which has never been adopted; it does not represent the position of the National Guard Bureau or the Department of Defense.

We note, in addition, that two other documents provided by your staff -- Numbers 8 and 11 -- have been approved for release under the FOIA without redactions which appear on the staff copies. We have attached unredacted versions of those documents at Tab B.

If you have any questions, please contact [REDACTED] at (703) 695-6804.

Sincerely,



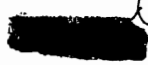

[REDACTED]
Deputy General Counsel
(Legal Counsel)

Attachments:
As stated

LIST OF DOCUMENTS

#	<u>Bates range</u>	<u>Description</u>
1	109-116	Secretary of Defense memorandum dated 26/1/95
2	2344-	Texas ANG Report
3	none	Army SFC(A) letter dated 24 November 1993
4	1116A-1119	SOF Assistance memorandum, dated 15 May 1993
5	none	3rd SFG(A) memorandum dated 21 September 1992
6	none	Army SFC(A) letter dated 23 February 1993
7	1147	Statement of [REDACTED] (1)
8	1168-1172	Memorandum for Record of [REDACTED] (2) dated 3 February 1993
9	none	Secretary of Defense memorandum dated 17 May 1995
10	none	SOCOM fax cover dated 17 February 1993
11	1167	Memorandum of [REDACTED] (3) dated 9 September 1993
12	1166	Memorandum of [REDACTED] (4) dated 9 September 1993
13	1363	Handwritten note, undated
14	1155-1158	Handwritten memorandum dated 5 March 1993
15	1353	RSU fact sheet
16	574-585	Operations order dated 172145Z February 1993
17	587-594	Order and chronology
18	none	Draft legal memorandum prepared of National Guard Bureau Counsel's office
19	Treasury	Joint Task Force Six Operational Support Planning Guide
20	Treasury	Letter of Operation Alliance dated February 2, 1993

STUPID DOCUMENT REQUEST MATRIX

#	Bates range	Description	Status
1	109-116	SECDEF Memo dtd 26/1/95	SOLIC review
2	2344-	Texas ANG Report	NGB approved
3	none	Army SFC(A) letter 24/11/39	SOCOM review
4	1116A-1119	SOF Assistance memo	Unclass copy provided; FOIA release version
5	none	3SFG(A) memo dtd 21/9/92	SOCOM review
6	none	Army SFC(A) letter 23/2/39	SOCOM review
7	1147	 statement	SOCOM review
8	1168-1172	 memo	Already released under FOIA; approve
9	none	SECDEF Memo dtd 17/5/95	SOLIC review
10	none	SOCOM fax cover	SOCOM review
11	1167	 memo	Already released under FOIA; approve
12	1166	 memo	SOCOM review; released in redacted form under FOIA; approve same release
13	1363	Handwritten note	SOCOM review
14	1155-1158	SJA memo	SOCOM review
15	1353	RSU fact sheet	SOCOM review
16	574-585	Oporder	SOCOM review
17	587-594	Order and chronology	SOCOM review
18	none	NGB draft legal memo	object

None #24

Congressional

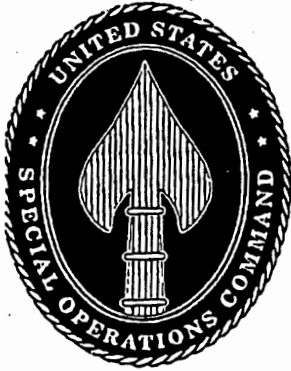
SECRETARY OF DEFENSE ROUTING SLIP		ACT COPY	INFO COPY	ACT COPY	INFO COPY
SECRETARY OF DEFENSE			X	SECRETARY OF THE ARMY	
DEPUTY SECRETARY OF DEFENSE			X	SECRETARY OF THE NAVY	
THE SPECIAL ASSISTANT			X	SECRETARY OF THE AIR FORCE	
EXECUTIVE SECRETARY			X		
UNDER SEC FOR ACQUISITION & TECHNOLOGY				CHAIRMAN, JOINT CHIEFS OF STAFF	
Director, Defense Research & Engineering				Director, Joint Staff	
ASD (Economic Security)					
ATSD (Atomic Energy)				ADVANCED RESEARCH PROJECTS AGENCY	
UNDER SECRETARY FOR POLICY			X	BALLISTIC MISSILE DEFENSE ORGANIZATION	
ASD (International Security Affairs)			X	CENTRAL IMAGERY OFFICE	
ASD (International Security Policy)				DEFENSE COMMISSARY AGENCY	
ASD (Special Operations/LIC)				DEFENSE CONTRACT AUDIT AGENCY	
ASD (Strategy & Requirements)				DEFENSE FINANCE & ACCOUNTING SERVICE	
UNDER SECRETARY (COMPTROLLER)				DEFENSE INFORMATION SYSTEMS AGENCY	
Director, Program Analysis and Evaluation				DEFENSE INTELLIGENCE AGENCY	
UNDER SEC FOR PERSONNEL & READINESS				DEFENSE INVESTIGATIVE SERVICE	
ASD (Force Management Policy)				DEFENSE LEGAL SERVICES AGENCY	
ASD (Health Affairs)				DEFENSE LOGISTICS AGENCY	
ASD (Reserve Affairs)				DEFENSE MAPPING AGENCY	
ASD (C3D)				DEFENSE NUCLEAR AGENCY	
ASD (Legislative Affairs)			X	DEFENSE SECURITY ASSISTANCE AGENCY	
1 GENERAL COUNSEL		X		NSA/CENTRAL SECURITY SERVICE	
INSPECTOR GENERAL				ON-SITE INSPECTION AGENCY	
DIR, OPERATIONAL TEST & EVALUATION					
DIR, ADMINISTRATION & MANAGEMENT					
ATSD (Public Affairs)					
TYPE OF ACTION REQUIRED					
PREPARE REPLY FOR SEC OF DEF SIGNATURE			COMMENTS AND/OR RECOMMENDATIONS		
PREPARE REPLY FOR DEP SEC OF DEF SIGNATURE			INFORMATION AND RETENTION		
1	REPLY DIRECT (Forward copy of reply to CCD, Room 3A948)		X	COORDINATE REPLY WITH LA	
APPROPRIATE ACTION					
Remarks:					
ACTION DUE DATE (YYMMDD) 961104		ROUTING DATE (YYMMDD) 961028		OSD CONTROL NUMBER U15604-96	

SD FORM 14, AUG 95

PREVIOUS EDITIONS ARE OBSOLETE.

Designed using Perform Pro, WHS/DIOR, Aug 95
Overprint approved by OSD/WHSDIOR, Aug 95

Z 0002547



UNITED STATES SPECIAL OPERATIONS COMMAND

7701 Tampa Point Blvd.
MacDill Air Force Base, Florida 33621-5323

Office of the Staff Judge Advocate



Voice: (813) 828-3253

DSN: 968-3253

Fax: (813) 828-3629

DSN: 968-3629

FACSIMILE TRANSMITTAL HEADER SHEET

COMMAND	NAME OFFICE SYMBOL	TELEPHONE NUMBER	
From: USSOCOM	[REDACTED] (1)	(813) 828-3252	
	SOJA		
To: DOD Office of General Counsel	[REDACTED] (2)	DSN 224-6745	
CLASSIFICATION	# PAGES Including Header	PRECEDENCE	DATE
U	2		2 December 1996
REMARKS: [REDACTED] (3) [REDACTED] (4) enclosed is a memo you requested re objections to release certain "Waco" documents. Regards, [REDACTED] (5)			



FAX TRANSMISSION

UNITED STATES SPECIAL OPERATIONS COMMAND
OFFICE OF THE STAFF JUDGE ADVOCATE
7701 TAMPA POINT BOULEVARD
MACDILL AFB, FL 33621-5323



(813)828-3253 OR DSN 968-3253
FAX: (813)828-3629 OR DSN 968-3629

To: [REDACTED] (1)

Date: 3
Dec 96

Fax #:
DSN 224-
6745

Pages: 2
(incl
header)

From: [REDACTED] (2)

Subject: Petree statement (3)

(4)
[REDACTED]: (5) (6)
Attached is [REDACTED] statement that was released under FOIA on 23 May 1995. I obtained this from SOCOM's FOIA office. Regards, [REDACTED] (7)



DEPARTMENTS OF THE ARMY AND THE AIR FORCE

NATIONAL GUARD BUREAU
2500 ARMY PENTAGON
WASHINGTON, D.C. 20310-2500

December 12, 1996



Office of the Chief Counsel

Mr. William H. Zelif, Jr.
Chairman
Subcommittee on National Security, International Affairs, and Criminal Justice

Mr. Bill McCollum
Chairman
Subcommittee on Crime

Congress of the United States - House of Representatives
Committee on Government Reform and Oversight
2157 Rayburn House Office Building
Washington, DC 20515-6143

Dear Sirs:

① I am writing in further response to your request dated October 22, 1996 in which you requested [REDACTED] to provide certain documents and information regarding National Guard involvement in the Waco incident. In our letter to you dated November 4, 1996, we stated that we were coordinating our response with the Office of the General Counsel, Department of Defense. [REDACTED] of that office has been in contact with committee counsel regarding our response. We now respond to your request as follows. ②

We first enclose an index of the documents in our possession, along with an index of the exhibits listed in the report by [REDACTED]. You will note that there is some duplication of various documents, because we on occasion received the same documents from different sources or by different means. To ensure completeness, we have not eliminated the duplicates from the document list. ③

We are informed by [REDACTED] ④ that the documents listed as numbers 3-8 in the Index have been previously provided or made available to the committee. We therefore have not provided another copy to you. If, however, you see something on the list which you cannot locate or believe you have not received, we will be happy to provide you with a copy.

Your request asks for information regarding the focal group chaired by [REDACTED] ⑤ [REDACTED] that information can be found at our index number 21 as well as exhibit num-

ber 36 of index number 72. Included in the report is a listing of the personnel involved. We are sending you items identified as index numbers 9-27, which include that report. Please note that index number 20 is a duplicate of number 21 without the tabs. We are also enclosing index numbers 1 and 2.

Your request also specifies documents relating to the review conducted by [REDACTED] (1) [REDACTED] Documents related to that report are listed as numbers 28-74.

(2) Based upon discussions with [REDACTED] we are providing all of those documents except for those which are not part of the actual report and deal with reimbursement issues which are still pending. Those items are our index numbers 28, 29, 30, 31, and 61. In addition, exhibit number 60 of index number 72 is not provided. [REDACTED] (3) informed us that the information contained therein was part of a classified document prepared by ASD-SOLIC which has previously been provided to the committee. You should direct questions regarding these particular documents to [REDACTED] (4)

Finally, you have asked for any changes in National Guard regulation, policy or guidance which occurred as a result of National Guard involvement in Waco. We posed this question to the relevant program managers in the National Guard Bureau: NGB-CD (Counterdrug Directorate), NGB-ARC (Army National Guard Comptroller), and NGB-ARO-O (Army National Guard Operations, which oversees our military support to civil authorities). In addition, we asked the Texas National Guard Counterdrug Coordinator to respond. All provided a negative response. We have all of these responses in writing and can furnish copies if you so desire.

Our presentation of these documents to you should not be interpreted as a consent to their release. They are presented in an unredacted form, and should be handled accordingly. Redaction of Privacy Act information is required prior to release.

We will continue to coordinate our responses with the Office of the General Counsel, Department of Defense. If you should have any questions about our response, or we can provide additional assistance, please feel free to contact me at (703) 693-3814 or [REDACTED] at (703) 693-3815.

(5) Sincerely,

Encl
as

CF:
DoD GC [REDACTED] (7)

(6) [REDACTED]
Chief Counsel
National Guard Bureau



DEPARTMENT OF THE ARMY
OFFICE OF THE JUDGE ADVOCATE GENERAL
WASHINGTON, DC 20310-2200


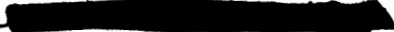


REPLY TO
ATTENTION OF

May 21, 1996

DAJA-ZB

Subject: Investigation of Possible Antideficiency Act Violation

 (1)
Bureau of Alcohol, Tobacco and Firearms
ATTN: 
650 Massachusetts Avenue
Room 6100
Washington, DC 20226

The Chief of the National Guard Bureau has directed me to contact the Bureau of Alcohol, Tobacco and Firearms (BATF) and the Federal Bureau of Investigation (FBI) concerning my investigation of a possible Antideficiency Act violation.

The Chief of the National Guard Bureau appointed me, in August 1995, to investigate a possible Antideficiency Act violation concerning the National Guard Bureau's support of the BATF and the FBI at Waco in late 1992 and early 1993. My preliminary November 21, 1995, report (which was primarily based on information obtained within the National Guard Bureau and public sources) concluded:

1. There was no violation of either the Purpose Statute or the Antideficiency Act during the investigation phase of the operations (December 11, 1992, through February 24, 1993).

2. When the BATF failed to properly advise the Texas National Guard (TXNG) about the nature of the "dynamic entry" on February 28, 1993, the BATF caused the TXNG believe that the service of the search warrant was a continuation of the "ongoing firearms and drug case" and, therefore, caused the TXNG to use fenced counterdrug funds for an unauthorized purpose in violation of the Purpose Statute.

3. The TXNG personnel entered the hostage rescue operation believing that the BATF was searching for a methamphetamine laboratory and that the siege would soon end so that the DEA could

seize the lab. However, their beliefs were tainted by BATF's failure to correctly inform the TXNG about the search warrant and the related "dynamic entry." Therefore, the TXNG, because of the continuing belief that there was still a drug nexus, continued to use fenced counterdrug funds for an unauthorized purpose in violation of the Purpose Statute after February 28, 1993.

The preliminary report further concluded that the Antideficiency Act would be violated if the counterdrug account is not reimbursed from an appropriate source (e.g., from the BATF or the FBI from FY 93 funds pursuant to the Economy Act, 31 U.S.C. § 1535).

The preliminary report also concluded that Special Agent in Charge [REDACTED], BATF, was the highest ranking official page 21 who knew about the TXNG counterdrug support to the BATF for the search warrant, who could have taken appropriate corrective action, and who was the responsible person for the violation of the Purpose Statute or who may be responsible for a violation of the Antideficiency Act.

The preliminary report determined that the following amounts from the TXNG counterdrug account were improperly expended in support of the BATF and the FBI at Waco:

Pay and Allowances	\$122,464
Travel and Per Diem	<u>\$48,849</u>
Total	\$171,313

The preliminary report was submitted to the General Counsel for the Department of the Army. The Deputy General Counsel determined, on March 6, 1996:

The IO [Investigating Officer]...must coordinate his report with the other federal agencies involved in this matter, and include in his final report a statement describing this coordination. See OMB Circular No. A-34, section 32.3(8). This statement should list and explain any reimbursements received from the Bureau of Alcohol, Tobacco and Firearms (BATF) and the Federal Bureau of Investigation. Receipt of proper reimbursements for the support provided to these agencies during co-called "Phases II and III" of the Waco incident would avoid a reportable Antideficiency Act violation.

Under 31 U.S.C. § 1351, the responsibility for reporting Antideficiency Act violations resides with the head of the agency who officer or employee violated the Act. Accordingly, the statement of coordination with outside agencies should explain measures that the IO took in coordinating with BATF the designation of a BATF employee as the official responsible for violating the Antideficiency Act during "Phase II" of this incident.

The Chief of the National Guard Bureau subsequently directed me to continue my investigation and submit a final report to him.

Accordingly, I am initially contacting the BATF through the Office of the General Counsel concerning this delicate matter. Please advise how I should formally submit a request to the BATF and the FBI for reimbursement to the appropriate counterdrug account or, if there will not be a reimbursement, please provide a contact person within the BATF with whom I can discuss the Antideficiency Act issues raised in the memorandum from the Deputy General Counsel, Department of the Army.

I am currently the Army National Guard Special Assistant to The Judge Advocate General of the Army. When not on military duty, I practice law in Bismarck, ND. My address and telephone/fax numbers are:

[REDACTED] (1)

1A

[REDACTED]

A copy of the preliminary report is enclosed. You may contact [REDACTED] National Guard Bureau, for copies of any of the exhibits related to the report. Her address and telephone/fax numbers are: name 24

[REDACTED] (3)

NGB-ARC-M
Army National Guard Readiness Center
111 S. George Mason Drive
Arlington, VA 22204-1382
Telephone: 703-607-7534
Fax: 703-607-7585

name 22

Although I live and work in [REDACTED] I will meet with representatives of BATF and the FBI in Washington, D.C., to discuss this matter.

Sincerely,

[REDACTED] (4)

Special Assistant to the Judge
Advocate General of the Army

Enclosure



DEPARTMENTS OF THE ARMY AND THE AIR FORCE

NATIONAL GUARD BUREAU
2500 ARMY PENTAGON
WASHINGTON, D.C. 20310-2500



October 4, 1996

Office of the Chief Counsel

6. [REDACTED]
Special Counsel to the Subcommittee on National Security, International Affairs and
Criminal Justice
Congress of the United States - House of Representatives
Committee on Government Reform and Oversight
2157 Rayburn House Office Building
Washington, DC 20515-6143

7. [REDACTED]

This letter is to confirm our understanding on the response to your letter dated October 22, 1996 in which you requested [REDACTED], Chief of the National Guard Bureau, to provide certain documents and information regarding National Guard involvement in the Waco incident. The suspense date therefor is today.

2. Based upon a telephone conversation at about 3:15 p.m. today between you, [REDACTED]
[REDACTED], Department of Defense, and [REDACTED]
3. [REDACTED] of my office, it is our understanding that you have agreed that
the National Guard Bureau's response may be delayed pending coordination with the
Department of Defense. It is our further understanding that you will be in contact with
4. [REDACTED] in the near future regarding this and related matters.

Based upon this understanding, we are not filing our response today. If you believe us to be mistaken in this regard, please call me immediately at (703) 693-3814. Thank you very much for your consideration.

Sincerely,

5. [REDACTED]
National Guard Bureau



DEPARTMENTS OF THE ARMY AND THE AIR FORCE
NATIONAL GUARD BUREAU
111 SOUTH GEORGE MASON DRIVE
ARLINGTON, VA 22204-1382

October 17, 1996

Army Comptroller Directorate

General Counsel
Bureau of Alcohol, Tobacco and Firearms
650 Massachusetts Avenue
Room 6100
Washington, DC 20226

Dear Sir:

The Army General Counsel has reviewed the final report of investigation of the potential Antideficiency Act violation concerning the National Guard Bureau's support of the Bureau of Alcohol, Tobacco and Firearms (BATF) and the Federal Bureau of Investigation (FBI) at Waco, Texas in late 1992 and early 1993. The legal review found the investigating officer's conclusion erroneous and not supported by a reasonable interpretation of the facts set forth in the report.

The Army General Counsel found that BATF activities involving the Branch Davidian compound at Waco in 1992 and 1993 did not involve any significant drug interdiction or counter-drug objectives. He further stated that 32 U.S.C. Section 112, the purported authority for supporting that operation on a nonreimbursable basis, was inapplicable. As a result, the expenditure of Army National Guard appropriations in furtherance of the activity at Waco violated 31 U.S.C. Section 1301(a) and, absent reimbursement from BATF, the Antideficiency Act, 31 U.S.C. Section 1341.

4.

A copy of the final report of investigation as well as a copy of the Army General Counsel's opinion on the report were faxed to [REDACTED] of your office on October 11, 1996. Request you review this report and either provide written comments or call [REDACTED] at (703) 607-7704 to schedule a meeting with the Army General Counsel to discuss the report.

Sincerely,

2

[REDACTED]

Director, Army Comptroller

SECRET

1996 OCT 23 AM 10:50

WILLIAM F. CLAY, JR., PENNSYLVANIA
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ROBERT L. ENRICH, JR., MARYLAND

ONE HUNDRED FOURTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

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BILL A. BRIDGES, OKLAHOMA
TIM HOLDEN, PENNSYLVANIA

BERNARD SANDERS, VERMONT
INDEPENDENT

MAJORITY - (202) 225-5074
MINORITY - (202) 225-5074

October 22, 1996

[REDACTED] (1)
The Pentagon
Washington, D.C. 20515-6415

Dear [REDACTED] (2)

Pursuant to our 1995 Congressional hearings on Waco, the Government Reform and Oversight Subcommittee on National Security, International Affairs, and Criminal Justice and the Judiciary Subcommittee on Crime made a number of document requests. In response to those document requests, the Subcommittees received a May 17, 1996 Secretary of Defense memorandum directing the establishment of a working group "to conduct a comprehensive review of the current system by which DoD evaluates and responds to requests for assistance initiated by outside agencies" (see attached copy). According to the memorandum, the working group was to report to you its findings and recommendations within three weeks of its establishment.

The Subcommittees believe there has been adequate time for the working group to report its findings and its recommendations to be implemented. In order for the Subcommittees to complete their review of the process for which the military provides assistance to law enforcement agencies, we request that you provide to the Subcommittees copies of the following:

- (1) Names and titles of all individuals who comprised the working group or any other group established as a result of the May 17, 1995, memorandum or the work of the original working group;
- (2) Any and all correspondence, reports, memoranda, papers, legal opinions or notes relating to the working group(s) referred to in question number 1;
- (3) Any and all findings and recommendations made as a result of the above referenced review;

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1

Page Two

(4) Any and all Departmental policies or written guidance currently governing military assistance to law enforcement agencies; and

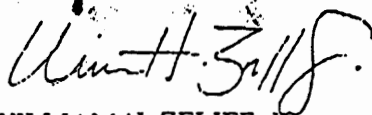
(5) Any and all changes in Departmental policies or written guidance resulting from the work of the group(s).

The requested information should be produced no later than the close of business on November 4, 1996. If you have any questions regarding this request, please contact [REDACTED]

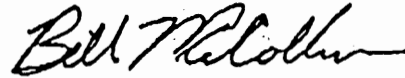
[REDACTED] Special Counsel to the Subcommittee on National Security, International Affairs, and Criminal Justice at (202) 225-2577. 2.

Thank you for your continued assistance.

Sincerely,



WILLIAM H. ZELIFF, JR.
Chairman
Subcommittee on National Security,
International Affairs, and Criminal Justice



BILL McCOLLUM
Chairman
Subcommittee on Crime

WILLIAM F. ZELIFF, JR., PENNSYLVANIA
CHAIRMAN

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ONE HUNDRED FOURTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

October 22, 1996

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DERMARIO SANDERS, VERMONT
INDEPENDENT

MAJORITY--(202) 225-6074
MINORITY--(202) 225-6051

[REDACTED] ①
The Pentagon
Washington, D.C. 20515-6415

Dear [REDACTED] ②

The Government Reform and Oversight Subcommittee on National Security, International Affairs, and Criminal Justice and the Judiciary Subcommittee on Crime pursuant to our agreement with the Department of Defense hereby provide notice that the Subcommittees will be publicly releasing DoD documentation provided to the Subcommittees pursuant to document requests during their 1995 Waco investigation.

Those documents referenced in footnotes of the Subcommittees' Report entitled, "Investigation into the Activities of Federal Law Enforcement Agencies Toward the Branch Davidians" will be released as an appendix to the Report. Enclosed is a copy of the Report for your reference.

Please provide the Subcommittees with any objections or concerns to the release of such material by November 4, 1996. The Subcommittees request that any objection or concern be specifically stated in writing for each document scheduled for public release. If you have any questions you may contact [REDACTED] Special Counsel to the Subcommittee on National Security, International Affairs, and Criminal Justice, at (202) 225-2577 or [REDACTED] 4. Counsel to the Subcommittee on Crime, at (202) 225-3926. 3.

Thank you for your continued assistance in this matter.

Sincerely,

William H. Zeff, Jr.
WILLIAM H. ZELIFF, JR.
Chairman
Subcommittee on National Security,
International Affairs, and Criminal Justice

Bill McCollum
BILL MCCOLLUM
Chairman
Subcommittee on Crime

U15329 / 96

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Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

2157 RAYBURN HOUSE OFFICE BUILDING

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INDEPENDENT

MAJORITY - (207) 225-6276
MINORITY - (207) 275-6261

October 22, 1996

Chief, National Guard Bureau
The Pentagon
Washington, D.C. 20515-6415

Dear [REDACTED]

Pursuant to our 1995 Congressional hearings on Waco, the Government Reform and Oversight Subcommittee on National Security, International Affairs, and Criminal Justice and the Judiciary Subcommittee on Crime became aware of a number of reviews conducted by the National Guard Bureau regarding the Waco incident.

One of those reviews was a focus group, lead by [REDACTED] of the National Guard Bureau, shortly after the February 28, 1993 incident. Although there were several references to this focus group in Department of the Treasury documents, no documentation of this review was provided to the Subcommittees by the Department of Defense or the National Guard. Additionally, the Subcommittees were informed in November 1995 of a review being conducted by [REDACTED] Army National Guard Special Assistant to the Judge Advocate General of the Army. It is our understanding that this review has also been completed.

The Subcommittees request that you provide the following information:

- (1) Names and titles of all individuals who comprised the focus group or any other group established as a result of the 1993 Waco incident;
- (2) Any and all correspondence, reports, memoranda, papers, legal opinions or notes relating to the group(s) referred to in question number 1;
- (3) Any and all findings and recommendations made as a result of the above referenced review(s); (Please identify which recommendations or changes were implemented as a result of these reviews.) and

Page Two

(4) Any and all changes to National Guard policies or written guidance resulting from the work of the group(s).

The requested information should be produced no later than the close of business on November 4, 1996. If you have any questions regarding this request, please contact [REDACTED] 2.

[REDACTED] Special Counsel to the Subcommittee on National Security, International Affairs, and Criminal Justice, at (202) 225-2577.

Thank you for your continued assistance.

Sincerely,

William H. Zeff, Jr.

WILLIAM H. ZELIFF, JR.
Chairman
Subcommittee on National Security,
International Affairs, and Criminal Justice

Bill McCollum

BILL McCOLLUM
Chairman
Subcommittee on Crime



DEPARTMENTS OF THE ARMY AND THE AIR FORCE
NATIONAL GUARD BUREAU
2500 ARMY PENTAGON
WASHINGTON, D.C. 20310-2500



OFFICE OF THE CHIEF COUNSEL

DATAFAX TRANSMITTAL COVER SHEET

②
TO: [REDACTED] DATE: 4 Nov 96
Special COUNSEL to Subcommander DATAFAX
on National Security, Int'l Affairs, NUMBER: (202) 225-2373
& Criminal Justice, VOICE
NUMBER: (202) 225-2577

REMARKS: _____

FROM: [REDACTED] ① Sender's Telephone:
NGB-JA FAX: (703) 693-4170 (703) 693-3815
2500 Army Pentagon DSN 223-4170 ☒ DSN 223-3815
Washington DC 20310-2500

Rooms 2E425 and 2D419, The Pentagon (703) 614-6230
____ DSN 223-6230

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DEPARTMENTS OF THE ARMY AND THE AIR FORCE
NATIONAL GUARD BUREAU
2500 ARMY PENTAGON
WASHINGTON, D.C. 20310-2500



OFFICE OF THE CHIEF COUNSEL

DATAFAX TRANSMITTAL COVER SHEET

TO: ^① [REDACTED] DATE: 4 Nov.
OFFICE OF THE CHIEF COUNSEL
DATAFAX NUMBER: 614-6745
VOICE NUMBER: 695-6804

REMARKS: ^③ Faxed to [REDACTED] 1/620

FROM: ^② [REDACTED]

Sender's Telephone:

NGB-JA
2500 Army Pentagon
Washington DC 20310-2500

FAX: (703) 693-4170
DSN 223-4170

(703) 693-3815
✓ DSN 223-3815

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DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
1600 DEFENSE PENTAGON
WASHINGTON, DC 20301-1600



November 4, 1996

MEMORANDUM FOR CHIEF COUNSEL, NATIONAL GUARD BUREAU

SUBJECT: Request for Release of Documents

This memorandum memorializes and confirms my discussions today with [REDACTED] of your office, and a telephone conversation with Michele Lang of the House Government Operations and Reform Committee staff. We discussed the request from two subcommittees of this Committee directed to the National Guard Bureau.

⑤ [REDACTED] in the telephone conversation mentioned above, clarified the scope of their request and stated that the documents did not have to be delivered on the date specified for delivery, today. The clarification limits the request to three categories: the "Focal Point Group" report, the report prepared by [REDACTED], and the National Guard's implementation of any changes or recommendations resulting from the Waco incident.

It is my understanding that [REDACTED] will consult with various officials in the Guard Bureau to assess the effect of this clarification. I expect to confer with him tomorrow and then discuss with [REDACTED] the new delivery date for the responsive documents. ⑥

④ [REDACTED]
Associate Deputy General Counsel
(Legal Counsel)





DEPARTMENT OF THE ARMY AND THE AIR FORCE

NATIONAL GUARD BUREAU
2500 ARMY PENTAGON
WASHINGTON, D.C. 20310-2500



November 4, 1996

Office of the Chief Counsel

Ms. [REDACTED] ⁽⁷⁾
Special Counsel to the Subcommittee on National Security, International Affairs and
Criminal Justice
Congress of the United States - House of Representatives
Committee on Government Reform and Oversight
2157 Rayburn House Office Building
Washington, DC 20515-6143

Dear [REDACTED] ⁽⁶⁾

This letter is to confirm our understanding on the response to your letter dated
October 22, 1996 in which you requested [REDACTED] ⁽¹⁾ Chief of the Na-
tional Guard Bureau, to provide certain documents and information regarding National
Guard involvement in the Waco incident. The suspense date therefor is today.

Based upon a telephone conversation at about 3:15 p.m. today between you, Mr.
⁽²⁾ [REDACTED] of the Office of the General Counsel, Department of Defense, and ⁽³⁾ [REDACTED]
of my office, it is our understanding that you have agreed that
the National Guard Bureau's response may be delayed pending coordination with the
Department of Defense. It is our further understanding that you will be in contact with
⁽⁴⁾ [REDACTED] in the near future regarding this and related matters.

Based upon this understanding, we are not filing our response today. If you be-
lieve us to be mistaken in this regard, please call me immediately at (703) 693-3814.
Thank you very much for your consideration.

Sincerely,

⁽⁵⁾ [REDACTED]
Chief Counsel
National Guard Bureau



DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
1600 DEFENSE PENTAGON
WASHINGTON, DC 20301-1600



[REDACTED]

November 7, 1996

MEMORANDUM FOR LEGAL POLICY COORDINATOR, OASD(SOLIC)

SUBJECT: Release of Documents for Publication

Attached is a request for objections to the release of documents cited in the Report of the House Government Reform and Oversight Committee. The Committee has provided copies of documents they intend to release.

I have attached two documents for your review. Please advise me of any objections to their release.

[REDACTED] (2)

(Legal Counsel)

Attachment
As stated



[REDACTED] (1)



DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
1600 DEFENSE PENTAGON
WASHINGTON, DC 20301-1600



November 13, 1996

MEMORANDUM FOR STAFF JUDGE ADVOCATE, USSOCOM

(1) (ATTN [REDACTED])

SUBJECT: Request concerning Waco documents

Attached is a request from the two House committees which conducted an investigation into the matter of the Branch Davidians last summer for review of documents noted in their report. Fourteen of these documents are also attached.

I request you advise me of any objections your command may have to the publication of these documents.

(2) [REDACTED]

Associate Deputy General Counsel
(Legal Counsel)



***** -COMM. JOURNAL- ***** DATE DEC-02-1996 ***** TIME 16:58 *** P.01

MODE = MEMORY TRANSMISSION

START=DEC-02 16:50

END=DEC-02 16:58

FILE NO.= 183

NO.	COM	ABBR/NTWK	STATION NAME/ TELEPHONE NO.	PAGES	PRG.NO.	PROGRAM NAME
001	OK	S	992022252373	012/012		

-OSD-DGC

***** -

- ***** -

703 614 6745- *****

FAX TRANSMISSION

DEPARTMENT OF DEFENSE
OFFICE OF THE DEPUTY GENERAL COUNSEL (LEGAL COUNSEL)

(703) 695-6804
FAX: (703) 614-6745

To:

② [REDACTED]
③ [REDACTED]

Date: December 2, 1996

Fax #:

202-225-3737
202-225-2373

Pages: 11, including this cover sheet.

From:

[REDACTED] ①

Subject: Response to request for objections to publication of documents

COMMENTS:

FAX TRANSMISSION

DEPARTMENT OF DEFENSE
OFFICE OF THE DEPUTY GENERAL COUNSEL (LEGAL COUNSEL)

(703) 695-6804
FAX: (703) 614-6745

To:

(4) [REDACTED]
(5) [REDACTED]

Date: December 3, 1996

Fax #: 202-225-3737
202-225-2373

Pages: 2, including this cover sheet.

From:

[REDACTED] (1)

Subject:

[REDACTED] statement - (2)

COMMENTS:

(3)
↓

Attached is a copy of the [REDACTED] statement released under the FOIA. Please use this for the Appendix you publish.

***** -COMM. JOURNAL- ***** DATE DEC-03-1996 ***** TIME 15:44 *** P.01

MODE = MEMORY TRANSMISSION

START=DEC-03 15:43

END=DEC-03 15:44

FILE NO.= 189

NO.	COM	ABBR/NTWK	STATION NAME/ TELEPHONE NO.	PAGES	PRG.NO.	PROGRAM NAME
001	OK	S	992022252373	002/002		

-OSD-DGC

- *****

703 614 6745- *****

FAX TRANSMISSION

DEPARTMENT OF DEFENSE
OFFICE OF THE DEPUTY GENERAL COUNSEL (LEGAL COUNSEL)

(703) 695-6804
FAX: (703) 614-6745

To:

④
⑤ [REDACTED]

Date: December 3, 1996

Fax #:

202-225-3737
202-225-2373

Pages: 2, including this cover sheet.

From:

[REDACTED] ①

Subject:

[REDACTED] ②

COMMENTS:

③

Attached is a copy of the [REDACTED] statement released under the FOIA. Please use this for the Appendix you publish.