

NLWJC- Kagan

Counsel - Box 013 - Folder 001

[Waco-file and reports] [3]

Withdrawal/Redaction Sheet

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| DOCUMENT NO. AND TYPE | SUBJECT/TITLE | DATE | RESTRICTION |
|--------------------------|---|------------|-------------|
| 001. memo | from Jonathan Yarowsky and Cheryl Mills to Judge Mikva re White House Documents on Waco (3 pages) | 07/17/1995 | P5 |
| 002. list | DOB and Phone Number (Partial) (1 page) | nd | P6/b(6) |

COLLECTION:

Clinton Presidential Records
 Counsel's Office
 Elena Kagan
 OA/Box Number: 8284

FOLDER TITLE:

[Waco - File and Reports] [3]

2009-1006-F

kc138

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

U.S. House of Representatives
Committee on the Judiciary

Washington, DC 20515-6216
One Hundred Fourth Congress

FAX TRANSMISSION

TO:

CHERYL MILLS / WH / COUNSEL

FAX: _____

456-7964

FROM

TOM DIAZ

U.S HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY
CRIME SUBCOMMITTEE

No. of Pages Following: _____

7

Phone (202) 225-7087
FAX (202) 225-1845

Tentative Witness List for Waco Hearings

FIRST DAY

Opening Panel: An Introduction to the Critical Issues

Dick Reavis An investigative journalist with excellent credentials who has written a book on Waco published by Simon and Schuster

Stuart Wright Editor/author of new book on Waco published by University of Chicago Press containing views of 18 scholars

Yahn(s)

First General Inquiry: Investigation and Warrants

Panel A

Gerald Goldstein President of National Association of Criminal Defense Lawyers

Jim Jeffries An attorney familiar with firearms laws who can speak to the accuracy of the language in the search warrants

Henry McMahon Firearms dealer who did business with Koresh

David Tibbedeux Non-Davidian resident at Mt. Carmel during investigation, raid and fire. (Currently has a scheduling conflict)

Olympic Arms Manufacturer of firearms identified in ATF affidavit

legal expert (Henry Hudson?) *Bob Miller*

Panel B

Davy Aguilera ATF Special Agent

Chuck Sarabyn Former ATF ASAC in Houston

Earl Dunagan Former ATF Acting SAC in Austin

Bill Johnson Assistant United States Attorney

Dan Hartnett Former ATF Deputy Director for Enforcement

ATF firearms expert who advised Davy Aguilera

Ed Owen

Treasurer

Markette?

1st. Gene Barber - Sheriff Dept

Serveaker - neighbor who heard automatic fire

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SECOND DAY

Second General Inquiry: Planning the Raid and the Military

Panel A

- Robert Sanders Former ATF Deputy Director for Enforcement
- COL James Smyser Military Expert on Posse Comitatus Act
- LTC Richard Rosen Military Expert on Posse Comitatus Act
- John C. Coonce DEA expert on Methamphetamine Labs
- Lt. Col Lindley JAG Officer (wrote memorandum questioning the legality of DOD activities)
- Military Expert Expert on Military Assistance to LEAs
- Military Expert Expert on Military Assistance to LEAs on counter-drug matters

Panel B - Tactical Planning of "Dynamic Entry"

- Phillip Chalnacki Former ATF SAC in Houston
- Chuck Sarabyn Former ATF ASAC in Houston
- Major Petree Army officer in charge of SF soldiers who trained ATF agents
- General Pickler Commander in charge of decision to do ATF training mission
- William Buford ATF RAC in Little Rock
- SSG Robert Moreland Special Forces Trainer
- SFC Dunn Special Forces Trainer

* Certain Military Individuals with Classified Names

Separate Planning & Military

Military Panel
Capt Clyde Moore

ATF
reviewer
IS 11/10/10

Marketh

Panel C - ATF and Treasury Approval of "Dynamic Entry"

Steve Higgins Former Director of the ATF

John Simpson Former Acting Assistant Secretary at Treasury

Christopher Cuyler ATF Liasion for Ass't Secretary

Robert Altman Former Deputy Secretary of the Treasury

Michael Langan Former Acting Deputy Ass't Secretary

THIRD DAY

Third General Inquiry: The Raid

Panel A

Ira Glasser Executive Director of the ACLU

Joyce Sparks Texas Department of Child Protective Services

George Morrison LAPD special ops officer who reviewed the
Treasury Report

~~Danny Coulson~~ ~~Founder of FBI Hostage-Rescue Team~~ >

Tim Evans Defense attorney who represented Davidians

What Davidians thought was happening that day

Panel B

Robert Rodriguez ATF undercover agent

Chuck Sarabyn

Phillip Chalnacki

Sharon Wheeler ATF special agent who was in charge of media
relations

Dan Hartnett

*Treasury reviewer
Merlette*

FOURTH DAY

The Treasury Department Response

Ronald K. Noble Undersecretary for Law Enforcement

John McGaw Director of ATF

FIFTH DAY

Fourth General Inquiry: Negotiations

Panel A

Dick DeGuerin and Jack Zimmerman Lawyers for Koresh and Schneider

Panel B

Dr. Phillip Arnold Reunion Institute, Houston

Dr. James Tabor Associate Professor of Religious Studies, University of North Carolina
at Charlotte and author of the book Why Waco, published by the
University of California Press

Dr. Bill Austin - Baylor → K a messianic psychologist

Panel C

Maurice Cook Captain of the Texas Rangers

David Burns Captain in the Texas Rangers

J. Brantly Foster Retired from Texas Rangers

Panel D

Pete Smerick Former Criminal Investigative Analyst with the Investigative Support
Unit of the National Center for the Analysis of Violent Crime at the
FBI Academy in Quantico

Jim Cavanaugh ATF Special Agent who served as the initial negotiator

Byron Sage FBI ASAC in Austin

Gary Noesner Chief Negotiator

Jeffrey Jamar FBI Tactical Coordinator

Paula Dietz

SIXTH DAY

Fifth General Inquiry: The CS Gas Plan -- Planning and Approval

Panel A

George Uhlig Scientist

Dr. Harry Stone Harvard University

Aldrich Chemical Producer of CS gas

William Marcus Toxicologist

DOD Chemical Warfare Corps

* Additional CS gas experts

British experts
Dr. David Upshaw
Dr. Paul Rice

Panel B - Formation of the Gas Insertion Plan

Floyd Clark Former FBI Deputy Director

Larry Potts FBI Deputy Director

Anthony Betz FBI CS Gas Expert

Dick Rogers Former head of HRT

Jeffrey Jamar

Byron Sage

*Ronald
McCarthy
one*

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4:00 - call
Chicago 27

Justice Report
235 - 78
file of WH

Panel C - Approval of the Gas Insertion Plan

Floyd Clark

Webb Hubbell Former Associate Attorney General

Bernard Nussbaum Former Counsel to the President

Bruce Lindsay

Dr. Harry Salem Defense Department Toxicologist

*Mark
Richard*

SEVENTH DAY

Sixth General Inquiry: The Gas Insertion and the Fire

Panel A

Rick Sherrow Fire expert

Clive Doyle Former Davidian

* Additional Fire Experts

Panel B

Paul Gray Houston Fire Department, Leader of Fire Review Team

HRT Members

Jeffery Jamar

Larry Potts

*James D. Fink
P.O. used
personally*

EIGHTH DAY

Justice Department Response

Janet Reno - Attorney General of the United States

**Oversight Hearings on Federal Law Enforcement Actions
in Relation to the Branch Davidian Compound in Waco, Texas**

Tentative Witness List

SECOND DAY

Second General Inquiry: Planning the Raid and Department of Defense Involvement

Panel A

Robert Sanders Former ATF Deputy Director for Enforcement
Wade Ishimoto Sandia National Laboratories
George Morrison Los Angeles Police Department
John Koonce Drug Enforcement Administration
Donald A. Bassett Former FBI Crisis Management Specialist

Panel B - Department of Defense Assistance

Amb. H. Allen Holmes Assistant Secretary of Defense for SOLIC
MG John M. Pickler, USA Commander, Joint Task Force - 6
BG Michael Huffman, USA Assistant Judge Advocate General for Civil Law
Mr. Chris Crane Special Forces Group
LTC Philip Lindley, USA Former Deputy Staff Judge Advocate for U.S. Army
Special Forces Command
MAJ Mark Petree, USA Formerly of 3/3d Special Forces Group
SSG Steve Fitts, USA Formerly of 3/3d Special Forces Group
SSG Robert W. Moreland, USA Formerly of 3/3d Special Forces Group

SFC Chris Dunn, USA

Formerly of 3/3d Special Forces Group

Panel C - Tactical Planning of "Dynamic Entry"

Phillip Chojnacki Former ATF SAC in Houston

Chuck Sarabyn

William Buford ATF RAC in Little Rock

Lewis Merletti Deputy Director of Treasury Department Review Team

Panel D - ATF and Treasury Approval of "Dynamic Entry"

Steve Higgins Former Director of the ATF

John Simpson Former Acting Assistant Secretary at Treasury

Christopher Cuyler ATF Liason for Assistant Secretary

Roger Altman Former Deputy Secretary of the Treasury

Michael Langan Former Acting Deputy Assistant Secretary at Treasury

Lloyd M. Bentsen Former Secretary of the Treasury

THIRD DAY

Third General Inquiry: Execution of the Raid

Panel A

Ira Glasser Executive Director of the American Civil Liberties Union
Joyce Sparks Texas Department of Child Protective Services
George Morrison
Tim Evans Attorney
John Kolman Formerly with Los Angeles County Sheriff's Department

Panel B

Robert Rodriguez ATF Special Agent
Chuck Sarabyn
Phillip Chojnacki
Sharon Wheeler ATF Special Agent
Dan Hartnett
Daniel Black ATF Personnel Office
Lewis C. Merletti
ATF Special Agents To Be Determined
James Cadigan FBI Firearms Expert

Oversight Hearings on Federal Law Enforcement Actions
in Relation to the Branch Davidian Compound in Waco, Texas

Tentative Witness List

7/19

FIRST DAY

Opening Panel: An Introduction to the Critical Issues

- Dick Reavis Author of Ashes of Waco, published by Simon and Schuster
- Stuart Wright Edited and contributed to Armageddon in Waco, published by University of Chicago Press
- Ray Jahn Assistant U.S. Attorney who prosecuted Branch Davidians

[Ed Dennis]

First General Inquiry: Investigation and Warrants

Panel A

- Gerald Goldstein President of National Association of Criminal Defense Lawyers
- Legal Expert To Be Determined by Minority [Dusty DeSchaemper]
- Firearms Law Expert To Be Determined by Majority
- Henry McMahon Firearms Dealer
- David Tibbedeux Resident at Mt. Carmel
- Lt. Gene Barber Formerly with the McLennan County Sheriff's Office *SBH*

Panel B

| | |
|---------------------------------|--|
| Davy Agullera | ATF Special Agent |
| Chuck Sarabyn | Former ATF ASAC in Houston |
| Earl Dunagan | Former ATF Acting SAC in Austin |
| Bill Johnston | Assistant United States Attorney |
| Dan Hartnett | Former ATF Deputy Director for Enforcement |
| Ed Owen | ATF Firearms Expert |
| James Cadigan | FBI Firearms Expert |
| H. Geoffrey Moulton, Jr. | Project Director of Treasury Department Review Team |
| Dr. Bruce Perry | Baylor Medical College |

SECOND DAY 7/20

Second General Inquiry: Planning the Raid and Department of Defense Involvement

Panel A

Robert Sanders Former ATF Deputy Director for Enforcement

Wade Ishimoto Sandia National Laboratories

George Morrison Los Angeles Police Department

John Koonce Drug Enforcement Administration

Panel B - Department of Defense Assistance

Amb. _____ Holmes Assistant Sec. of Defense for SOLIC

BG Michael Huffner, U.S. Army Army JAG Corps

LTC Bruce Lindley, U.S. Army Former Special Forces JAG

MAJ _____ Petree, U.S. Army

SGT _____ Letts, U.S. Army

Panel C - Tactical Planning of "Dynamic Entry"

Phillip Chohnacki Former ATF SAC in Houston

Chuck Sarabyn

William Buford ATF RAC in Little Rock

Lewis Merletti Deputy Director of Treasury Department Review Team

Panel D - ATF and Treasury Approval of "Dynamic Entry"

| | |
|---------------------------|--|
| Steve Higgins | Former Director of the ATF |
| John Simpson | Former Acting Assistant Secretary at Treasury |
| Christopher Cuyler | ATF Liaison for Assistant Secretary |
| Roger Altman | Former Deputy Secretary of the Treasury |
| Michael Langan | Former Acting Deputy Assistant Secretary |
| Lloyd M. Bentsen | Former Secretary of the Treasury |

THIRD DAY 7/21

Third General Inquiry: Execution of the Raid

Panel A

Ira Glasser Executive Director of the American Civil Liberties Union

Joyce Sparks Texas Department of Child Protective Services

George Morrison

Tim Evans Attorney

John Kolman Formerly with Los Angeles County Sheriff's Department

Kiri Jewell (my father)

Panel B

Robert Rodriguez ATF Special Agent

Chuck Sarabyu

Phillip Chohnacki

Sharon Wheeler ATF Special Agent

Dan Hartnett

Daniel Black ATF Personnel Office

Lewis C. Merletti

ATF Special Agents To Be Determined

FOURTH DAY 7/27

The Treasury Department Response

Ronald K. Noble Undersecretary for Law Enforcement

John Magaw Director of the Bureau of Alcohol, Tobacco and Firearms

FIFTH DAY 7/25

Fourth General Inquiry: Negotiations

Panel A

Dick DeGuerin Attorney

Jack Zimmerman Attorney

Panel B

Dr. Phillip Arnold Reunion Institute, Houston

Dr. James Tabor Associate Professor of Religious Studies, University of North Carolina at Charlotte, and author of Why Waco, published by the University of California Press

Captain Maurice Cook Senior Texas Ranger

Captain David Burns Texas Ranger

J. Brantly Foster Former Texas Ranger

Glen Hilburn Baylor University

Negotiations Expert To Be Determined by Minority

Panel C

Pete Smerick Former Criminal Investigative Analyst with the Investigative Support Unit of the National Center for the Analysis of Violent Crime at the FBI Academy

Jim Cavanaugh ATF Special Agent

Byron Sage FBI SSRA in Austin

Gary Noesner

Jeffrey Jamar

Former FBI SAC in San Antonio

~~Dr. Park Dietz~~

SIXTH DAY 7/26

Fifth General Inquiry: The CS Gas Plan -- Planning and Approval

Panel A

Dr. Alan Stone Harvard University

William Marcus Toxicologist, Environmental Protection Agency

Additional Witnesses To Be Determined

Panel B - Formation of the Gas Insertion Plan

[Floyd Clark Former FBI Deputy Director]

Larry Potts Former FBI Assistant Director, Criminal Investigations

Anthony Betz FBI CS Gas Expert

Dick Rogers Former Head of Hostage Rescue Team

Jeffrey Jamar

Byron Sage

Ronald McCarthy Former Officer, Los Angeles Police Department

Panel C - Approval of the Gas Insertion Plan

William Sessions **Former Director of the FBI**

Floyd Clark

Webb Hubbell **Former Associate Attorney General**

Bernard Nussbaum **Former Counsel to the President**

Dr. Harry Salem **Defense Department Toxicologist**

Mark Richard **Deputy Assistant Attorney General, Criminal Division**

Additional Witnesses To Be Determined

SEVENTH DAY 7/28

Sixth General Inquiry: Insertion of the CS Gas and the Fire

Panel A

Rick Sherrow Fire Expert

James Quintero Arson Expert, University of Maryland

Clive Doyle Former Davidian

Additional Witnesses To Be Determined

Panel B

Paul Gray Houston Fire Department, Leader of Fire Review Team

Jeffery Jamar

Floyd Clark

Dick Rogers

[Ed Dennis]

EIGHTH DAY

7/31

Justice Department Response

Janet Reno Attorney General of the United States

TALKING POINTS FOR TELEPHONE CALL TO CONGRESSMAN BILL McCOLLUM
(225-2176)

1) Wanted to get back to you today on your and Congressman Zeliff's request to receive copies of two of the documents clearly covered by Executive Privilege.

2) The two documents are both Treasury documents:

a) a memorandum from Secretary Bentsen to the President reporting on the events of the ATF raid one day after the raid.

b) an E-mail from Treasury official Langdon to another official (Simpson) describing how Treasury was moving to gather information on the day of the ATF raid (Feb. 28, 1993)

[the Committee already has this document except for one paragraph redacted because of a reference to a telephone conversation between Dep. Sec. Altman and the President]

3) Bill, you made some compelling arguments about why we should accommodate your request for these particular documents.

-- Both reflect a contemporaneous "state of mind" at various levels of the Treasury and ATF about unfolding events at Waco

-- Both would help the Committees develop a comprehensive chronology of events essential to the mission of these hearings.

-- Both can be provided while still protecting the larger interest of the President in having frank and candid discussions in the formulation of policy.

-- I appreciated very much your offer to keep the redaction in place for that part of the Langdon E-mail making reference to a telephone call to the President. In turn, the remaining portion of the redacted paragraph should help you in your goal of understanding the thinking of enforcement officials for taking the actions they did.

4) If we decide to accommodate this request, we must all agree that in no way does this establish a precedent for the remainder of the 28 documents -- or for the treatment of Executive privilege materials generally.

5) Bruce Lindsey

-- I noted that in the most recent hearing witness list, Bruce Lindsey's name doesn't appear.

-- It think it makes sense that this be the case. WH officials do not generally appear before Congress except in the most rare and compelling circumstances.

-- In addition, most, if not all, of what Mr. Lindsey would testify about is contained in the very documents that are privileged and which you have already reviewed.

-- If you need future information from him or other WH officials, please let me know and we will consider how to accommodate your request as best we can.

6) Bill, if there are future requests, they must be from both you and Congressman Zeliff. It's just not feasible to be dealing with such matters on different tracks.

7) I very much appreciate the careful and thoughtful way you have proceeded -- both privately and publicly in the media.

The same goes for your Chairman, Mr. Hyde.

1

Big than call.

Respect Du AG

PRIVILEGED AND CONFIDENTIAL
PREPARED FOR JULY 19, 1995 CONGRESSIONAL HEARINGS

CHRONOLOGY OF WHITE HOUSE BRIEFINGS AND ACTIONS

February 28, 1993

POTUS conversation with Bentsen and Altman

POTUS spoke with the Secretary Lloyd Bentsen and Deputy Secretary Roger Altman of Treasury and received their reports on ATF shootout. [Justice Report (JR) at 241.]

POTUS spoke with Altman who gave him a run down on what happened; POTUS said he "understood" and asked if "waiting out" the cult was considered; Altman told him facility was more than 70 acres, the people involved were survivalists, and that there was a "window" of opportunity before more publicity developed whereby ATF thought it could be successful in making the move it did. [TD 008323]

POTUS conversation with Stephanopolous

Communications Director George Stephanopolous spoke twice with POTUS to keep him informed of events in Waco. [JR at 241.]

March 1, 1993

POTUS calls Gersen *or vice versa*

POTUS expressed interest in Waco, Gersen told him the FBI was handling the situation; POTUS stated his understanding of the FBI's philosophy as negotiation until resolution; he asked to be advised if there was any change in that approach and a tactical resolution was considered; Gersen agreed. [JR at 27, 237.]

POTUS speaks with Sessions

POTUS speaks with Session to discuss the Bureau's proposed strategy for handling the situation; Sessions understood the strategy to be a "waiting" strategy under which the FBI would negotiate, watch and contain the situation. [JR at 126-27.]

March 3, 1993

POTUS calls ATF Agents/Families

POTUS calls ATF wounded agents and surviving family members of ATF agents who were killed. [MOOO604]

Early March, 1993

POTUS calls Gersen or vice versa

POTUS called Gersen immediately after Gersen informed McLarty of the decision to deploy military vehicles and requested an explanation for the deployment; Gersen assured

} - where does the vice versa come from?

POTUS no assault was planned; that the vehicles were necessary to enable the FBI safely to perform certain tactical operations; and that it was legal for FBI to use military vehicles for safety purposes; POTUS, while satisfied with response, asked to be advised if FBI adopted a more aggressive tactical stance. [JR at 239.]

April 11, 1993

McLarty conversation with POTUS

McLarty spoke with POTUS to discuss Waco standoff; in that conversation POTUS "mentioned a similar incident [Fort Chaffee] that had been resolved successfully through negotiations while he was the Governor of Arkansas." [JR at 242.]

[NB: POTUS experience was not with Fort Chaffee but in northwest Arkansas -- as his statement in DOJ report reflects -- with a group called the Covenant, the Sword and the Arm of the Lord. This Fort Chaffee assumption is reprinted many places throughout DOJ report and other press accounts]

April 13, 1993

Counsel conversation with POTUS

After meeting involving Hubbell, Nussbaum, Lindsey, and Foster regarding the FBI's proposed change in strategy, Nussbaum told POTUS of the FBI's plan; he also told POTUS that the handling of standoff was a DOJ, not White House, call; POTUS indicated that he had confidence in Reno and FBI. (JR at 244.)

to use tear gas

POTUS said "Let DOJ make up its mind" [M000671].

April 18, 1993

Lindsey conversation with POTUS

Lindsey, after speaking with Hubbell, told POTUS that Reno had reached a decision in Waco and would call POTUS after her meeting. [JR at 244.]

Reno call to POTUS

Reno called POTUS (Lindsey was with POTUS at time of call); Reno said she decided to approve the tear gas plan and that the gas had been tested and would not cause permanent damage to adults or children;

POTUS asked if she had received all information she needed to make decision, he asked about insuring the safety of the children in compound, he also asked why this action after seven weeks; Reno said: 1) limit on time FBI team could

maintain the quality and intensity of coverage; resources were limited and might be needed elsewhere in the country, 2) no progress had been made recently in negotiations and it was unlikely progress would be made using normal means of getting Davidians out; 3) danger that Davidians may harm themselves or others increased with passage of time; and 4) reason to believe that the children in compound were being abused and forced to live in unsanitary and unsafe conditions;

POTUS asked whether military had been consulted, she stated they had and they were basically in agreement with FBI plan (minor technical difference of opinion); at the conclusion, POTUS said "it is your decision" and that if she thought it was the right thing to do, he would support it.

[Presidential statement in JR at 246-48; see also JR at 108 (stating that POTUS "concurred" with the decision), 244-45, 280]

April 19, 1993

POTUS Press Availability (9:58 a.m.)

indent] The President was asked during an unrelated press event if he had authorized "the move on Waco this morning." He stated that he knew it was going to be done, and that Attorney General Reno and the FBI had made the tactical decisions, and that questions should be directed to Attorney General Reno and the FBI. *{Cite}*

Reno call to POTUS

indent] At 11:00 a.m., Reno spoke with POTUS and told him everything appeared to be going well and that she was leaving for judicial conference in Baltimore (Reno forgot to mention this call during her Nightline appearance that evening) **[JR at 245.]**

POTUS Press Statement

indent] The President issued a statement between noon and 1:25 p.m. He stated that the course of action had been recommended by the law enforcement agencies; that Attorney General Reno had informed him of their recommendations and supported them or risk maintaining previous policy indefinitely; and that "I told the Attorney General to do what she thought was right and I stand by that decision." [White House Press Release]

Stephanopolous conversations with POTUS

indent] Stephanopolous kept POTUS informed about events serving as conduit of information from outside sources. **[JR at 246.]**

Reno call to POTUS

indent] At 1:10 a.m., Reno calls POTUS after her Nightline appearance; POTUS asked about possibility of any survivors; told her she had done good job in tough situation and to get some sleep. **[JR at 245.]**

April 20, 1993

POTUS News Conference Statement (1:36 p.m.)

]The President made a formal statement on Waco. Noting that David Koresh was "dangerous, irrational, and probably insane," the President stated that Koresh was in violation of federal law and "common standards of decency" and was responsible for the deaths in February and in April.

]POTUS stated: "I was informed of the plan to end the siege. I discussed it with Attorney General Reno. I asked the questions I thought it was appropriate for me to ask. I then told her to do what she thought was right, and I take full responsibility for the implementation of that decision."

]Noting that future investigations might be "somewhat better handled," the President announced that he had directed Justice and Treasury to conduct vigorous and thorough investigations with "nonpolitical" independent experts to determine what happened, what could have been done differently and what changes should be instituted for the future. He also had directed the Departments to cooperate fully with Congress.

]In response to questions, the President stated that Attorney General Reno had told him that the FBI felt strongly that the move was necessary. He was told that the tear gas would not cause permanent damage but was expected to force the people to come out. He was assured that "under no circumstances" would FBI agents fire any shots, and that the agents in fact did not fire their weapons even though they were fired upon.

]The President related that he had asked Attorney General Reno, why now? She told him that progress had bogged down; that the agents could not maintain the quality and intensity of their effort and might be needed elsewhere; that the danger of harm to the Davidians and others was increasing; and that they had reason to believe the children were being abused and forced to live in unsanitary and unsafe conditions.

]Finally, the President asked if they had consulted the military, as he earlier had requested. Attorney General Reno stated that the military concurred except for one minor tactical difference.

]The President said he told the Attorney General he would stand by her, and he did. He denied that he had tried to distance himself from the decision and expressed surprise that impression had arisen. He had not been given a very long briefing or gotten involved in operational details; he takes responsibility for the decision as President and supports the Attorney General. The idea that she should resign is out of the question.

]The President stated that the conversation with Reno had not

involved other options, but these were considered along the way. Each went nowhere. The FBI thought this was their best option.

April 23, 1993

POTUS Statement

In response to questions, the President stated that an investigation was important, but that Koresh was responsible for the tragedy. The President did not think that he should have been more involved in the detailed planning level, and looked forward to the investigation to identify any problems in the chain of decision-making. He stressed that he had asked that the military be consulted. The President declined to assess Director Sessions' role.

Collins / Dave Schreiber

1) How much time, cost (dollars)

WACO & Committee investigations
- DOCUMENTS

- But Branderburg

- Neil

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W House?

Collins / Dave Schreiber

3/2/77
3/2/77
3/2/77

John (down) ...
DOCUMENTS

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Counsel's Office
Elena Kagan
OA/Box Number: 8284

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[Waco - File and Reports] [3]

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- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Alan Roth

225-3641

Chief of Staff

House Energy Com

~~274-3121~~

Talking pts w/ for Dwyer

TALKING POINTS - WHITE HOUSE WACO DOCUMENTS

- 1) The White House has extended unprecedented cooperation to the House Subcommittees holding hearings on events at Waco.
 - Over 1,000 pages of materials were produced to the Committees.
 - 28 documents falling squarely in the category of Executive Privilege were made available for review.
- 2) For these 28 documents, the Counsel for the President met three times in the past two weeks to permit full Committee and Subcommittee Chairmen and Ranking Members to review all 28 documents. (Hyde, McCollum, Conyers, Schumer, Clinger, Zeliff, Collins, Thurman)
- 3) Two days ago, the White House provided the Chairmen and Ranking Members of the Committees two Treasury documents for use at the hearings:
 - a) March 1, 1993 Memorandum to the President from Secretary Bentsen on the day after the ATF raid.
 - b) A paragraph in an already produced E-mail from Treasury official Michael Langan to John Simpson describing how information was gathered at Treasury about events unfolding in Waco, Texas.
- 4) A third document was just requested by Congressman Zeliff -- a memorandum from the White House Chief of Staff to the President.
 - The memorandum describes for the President information received from the enforcement agencies the day after the raid (March 1, 1993).
 - Unlike the two other Treasury documents, however, this is a completely internal White House document (from the White House Chief of Staff to the President) -- the type of communication at the very core of the principle of Executive Privilege.
 - Moreover, all the facts in this memo are already contained in the public DOJ Report. Nonetheless, the White House Counsel offered an accommodation: to provide the Members with a copy of this document to use at the hearing in a manner consistent with the two Treasury documents we provided to them.

5) Last week, the Committee Republicans this week claimed congressional "privilege" in not allowing Democratic Members to review memoranda and notes of Republican congressional staff to determine whether there was improper NRA involvement in putting on the Waco hearings. (7/18/95 letter from Congressman Hyde to Congressman Conyers)

- These same Republicans now argue that the White House has somehow been less than forthcoming in dealing with its confidential documents -- after we have permitted full review, and even use, by the Members.

6) After a dismal week of attempting to exploit the tragedy of Waco, the Republicans are desperately looking for a "White House" issue where there is none.

**U.S. Department of Justice**

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

July 24, 1995

The Honorable William H. Zeff, Jr.
Chairman, Subcommittee on National Security
International Affairs and Criminal Justice
U.S. House of Representatives
Washington, D.C. 20515

The Honorable William McCollum
Chairman, Subcommittee on Crime
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Zeff and Chairman McCollum:

Thank you for your letter to Attorney General Reno this morning. Your staff notified us on Saturday that the letter was forthcoming, and at that time we asked the Texas Rangers to cease efforts underway, at Congressman Schumer's request, to transport to Washington the weapons discussed in your letter.

As you know, it has been the objective of the Department of Justice throughout the period leading up to, and during, the Waco hearings to be as responsive as possible to requests from the subcommittees. We respected your earlier decision not to transport the weapons to Washington and had no further involvement with the weapons until we received Congressman Schumer's letter of July 21 requesting that we arrange for their transport. As noted above, when that request was countermanded by the majority, we notified the Rangers.

Because of our efforts to maximize cooperation with the subcommittees, we were troubled by an inaccuracy in your letter of this morning. You noted that despite your earlier decision that the weapons not be transported, Mr. Schumer produced several of the weapons at the hearing. You then went on to indicate that the Justice Department failed, "as a matter of courtesy" to inform you that certain weapons had been transported to Washington.

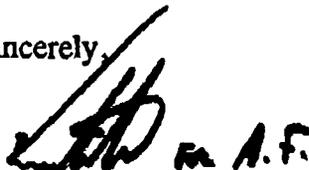
The fact is, the first time anyone at the Justice Department knew that Congressman Schumer was in possession of weapons from the Branch Davidian compound was when

Congressman Schumer displayed the weapons on Wednesday, July 19 during the hearing. The weapons displayed were transported without the knowledge or cooperation of the Justice Department. Because we had no knowledge that these weapons had been transported to Washington, we had no opportunity to notify you. We also, of course, had no knowledge of any interference the transfer of the weapons may have had upon assignments of the Texas Rangers.

Congressman Mica's letter to the two of you dated July 20, similarly states that: "The Justice Department never notified the subcommittee that the weapons were available in Washington." We are disappointed that neither you nor Congressman Mica checked with the Department before making claims about our behavior.

We continue to be committed to working in a fair, honest and direct manner with the subcommittees. Please feel free to contact me if I can be of further assistance.

Sincerely,



A.F.

Andrew Fois

cc: Honorable Charles Schumer
Honorable Karen Thurman
Honorable John L. Mica



Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, JULY 21, 1995

CRM
(202) 514-2008
TDD (202) 514-1888

JUSTICE DEPARTMENT STATEMENT ON LAW ENFORCEMENT PROCEDURES

WASHINGTON, D.C. -- Jo Ann Harris, Assistant Attorney General for the Criminal Division of the Justice Department issued the following statement today:

"During the past two days of Congressional hearings on the tragedy in Waco, a long-standing Justice Department practice has been badly mis-characterized. Documents have been produced at the hearing which suggest that the Justice Department requested the Treasury Department temporarily hold-off from interviewing potential witnesses in the Justice Department's criminal investigation of David Koresh and the Branch Davidians. Such a request would not be the least bit unusual.

"The Department often requests that Congressional committees and other agencies of the federal government temporarily refrain from pursuing investigations which could compromise and interfere with our criminal investigation. It is simply bad law enforcement to conduct simultaneous interviews with potential criminal trial witnesses. This is Prosecution 101, and any prosecutor worth his or her salt should know it."

-30-

95-409

Time, cost of inves
for
Treas, Justice

Neal Abner
Nick Guest

STATEMENT BY TREASURY GENERAL COUNSEL EDWARD S. KNIGHT

In the course of the Congressional hearings on Waco, members have referred several times to an electronic mail message dated April 14, 1992, from Robert McNamara, Associate Chief Counsel (Enforcement) entitled Preliminary Investigative Plan. They also referred to a message from Mr. McNamara dated April 9, 1993 titled Waco Press Release.

The April 14 Message

The April 14 message is being taken out of context. In particular, Mr. McNamara's message states that the Justice Department did not want the Treasury Review to conduct any investigative interviews with potential witnesses in the criminal case. He notes that there would be potential problems for the Treasury Review if witness interviews were delayed: "At some point we are going to have to interview the crucial witnesses and perhaps may have to take statements; while we may be able to wait for some of them to have testified in the criminal trial, the passage of time will dim memories."

In questioning this morning, a member of Congress added the word "hopefully" before reading "the passage of time will dim memories." The addition of the word "hopefully" -- which is not in the Treasury document -- is simply incorrect.

A full, fair and accurate reading of Mr. McNamara's message shows that he was pointing out that delaying interviews was not desirable. Mr. McNamara's message underscores his concern that the Treasury Review be searching and comprehensive. He is pointing out that certain actions preliminarily requested by the Justice Department could potentially limit Treasury's ability to get to the truth.

The Treasury Review made many pointed criticisms of the ATF investigation of David Koresh. Mr. McNamara's message was part of the early thought process that ultimately lead to the Treasury Review. Throughout the planning and conduct of the Review, two ideas were paramount: (1) to produce a thorough, unbiased review of ATF's conduct and (2) to ensure that the actions of the Treasury Review did not jeopardize the Justice Department's criminal case against those who murdered four ATF agents. To those ends, the Treasury Review employed independent outside reviewers, had the Treasury Inspector General oversee the investigative plan, and undertook appropriate coordination with the Justice Department. Mr. McNamara's message raised several issues that were relevant to the planning and execution of the plan, and notified the Treasury Office of Enforcement of issues that needed to be coordinated with the Justice Department.

The April 9 Message

The message indicates that the Treasury Department was planning to issue a press statement. Once again, a full, fair, and accurate reading of Mr. McNamara's message makes clear that the Treasury Department coordinated this press statement with the Justice Department to ensure that the ongoing murder investigation and the negotiations with the Branch Davidians were not compromised. The Justice Department expressed concern that criticisms of ATF might hinder the investigation and the negotiations. The coordination between the Treasury and Justice Departments on this issue was entirely appropriate. Here again, to suggest that this message is evidence of a cover-up is simply incorrect.

| <u>Name</u> | <u>Agency</u> | <u>Number</u> |
|------------------------|---------------------------|-----------------------|
| 1. Stan Zippertu | DOJ | 514-2011 |
| 2. Richard Smyer | DOJ | 514-2107 |
| 3. Mary DeRosa | DoD | 703/695-6710 |
| 4. Wc Stephanie Hoehne | DoD (PA) | 703 697-5131 |
| 5. Francine Kerner | Treasury (OGC) | 202 622-5504 |
| NEAL WOLIN | TREASURY (OGC) | 622-0283 |
| BRUCE REINHART | TREASURY (ENFORCEMENT) | 622-4598 |
| CHRIS PEACOCK | TREASURY (PUBLIC AFFAIRS) | 622-2016 |
| BOB BEAN | TREASURY LEG AFF | 622-1950 |
| BOB BRINK | DOJ LEG AFFAIRS | 514-2138 |
| BERI BRANDENBURG | DOJ PUBLIC AFFAIRS | 5 616-2777 |
| CHRIS SULLIVAN | DOJ Public Liaison | 514-3465 |
| Elena Kojan | EOB | 456-7594 |

EDMILLS

EOP

456-7900

John Turner

EOP

487-7900

KENT MARCUS

OLA/DOS

514-3008



GENERAL COUNSEL

DEPARTMENT OF THE TREASURY
WASHINGTON

July 14, 1995

The Honorable William F. Clinger, Jr.
Chairman, Committee on Government Reform
and Oversight
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Clinger:

This is in response to your letter of July 12, 1995. By the close of business today the Department will have completed production of all materials responsive to your July 12, 1995 letter.

As of July 13, 1995, the Department had produced almost 20,000 pages of Treasury documents and numerous Treasury videotapes, photographs, slides, charts, maps and diagrams. We will transmit to the Subcommittees today all materials we have identified as responsive to the draft subpoena, exclusive of material already produced. Our production consists almost entirely of third agency material and the remaining material identified in prior productions as held for review at Treasury. Because of the exigencies of time, the production will be completed in at least two separate deliveries during the course of the day.

Our first production today will include the remaining documents and videotapes that the Department identified as requiring special handling at Treasury due to particularly sensitive law enforcement or personal privacy concerns. The Department is delivering copies of all materials to the Subcommittees pursuant to the same confidentiality conditions expressed in its June 22, 1995 and June 30, 1995 transmittals. Because the materials previously held for review at Treasury include, among other things, videotapes which disclose the faces of ATF agents, telephone records which include home numbers, and sensitive personal medical information and sensitive law enforcement methods information, we are producing copies of this material on the condition that they will be secured and handled in the same manner as classified national security information, a condition on which we reached agreement with your staff yesterday afternoon. We understand that the Subcommittees agree that if

- 2 -

they wish to disclose any portion of video during the course of the hearing, such disclosure will occur only after consultation with and agreement of the Department. In addition, we request that these videotapes be returned to the Department at the completion of the hearings.

The document referenced in item number one of the draft subpoena, was produced by the Department on June 30, 1995, and is located at Bates Number 9185, 9186, and 9238. With respect to item number two, the Department has no material which fits this description. With respect to item three, and as stated in my July 11, 1995 letter to the Chairmen of the Subcommittees, the Department has already produced all videotapes containing footage of taken by Treasury personnel on February 28, 1993. However, we have included in today's production two videotapes of ATF's "Lessons Learned" presentation, which addresses the raid and was produced subsequent to the issuance of the September 1993 Treasury Report.

I have addressed above our production of sensitive material responsive to item number four of the draft subpoena. With respect to item five, included in today's production is a copy of what ATF Headquarters believes is the search warrant return. However, this request is more properly addressed to the Department of Justice.

With respect to items number six and thirteen, no documents exist which predate February 28, 1993. Judge Abner Mikva has already shared with you all responsive documents from the files of the Waco Administrative Review. In today's production is a fax transmittal located in ATF files addressed to the White House transmitting information (e.g., next of kin) on the four ATF agents killed on February 28, 1995.

With respect to items seven and eight, we have already produced all responsive records. In particular, we address the Subcommittee's attention to the memorandum of interview of Sharon Wheeler and to the documents at Bates stamp numbers 11954, 11955, and 10769.

No document exists responsive to item number nine. However, ATF personnel are reviewing the tapes and will attempt to identify the individuals for the Subcommittees.

Today's production includes all responsive third agency material with the exception of a few documents, which will be specifically identified and have been referred to either the Department of Justice or the Department of Defense for their production. Both agencies have assured us that they will cooperate with the

- 3 -

Subcommittees on these items. If the Subcommittees have not reached prompt satisfaction on these items by 5:00 pm today, we will consult with the Subcommittees regarding further action.

The Department does not been able to locate any original negative responsive to items eleven or twelve.

With regard to the potential witness list sent by you to the Department on July 10, we appreciate the opportunity to comment. In addition to this list, we have received from staff other draft witness lists that are organized according to each day of the hearings. Also, Secretary Rubin spoke to you, Chairman Hyde and Chairman McCollum about the subject of witnesses on the evening of July 11.

The Secretary received assurances from each of the Chairmen that the Administration's suggested panels of witnesses would be afforded an opportunity to be heard in a manner that assured a fair and balanced hearing. The Secretary sent a copy of our proposed panels as a follow-up to these conversations, and I have enclosed a revised list of witnesses who should testify.

The enclosed list contains only one addition: the addition of the Treasury Department's Waco Administrative Review Project Director, H. Geoffrey Moulton, Jr., on the opening panel, which currently contains only the authors of two commercial books on Waco. As we understand it, the initial panel is designed to present a balanced overview; therefore, it should reflect the considerable efforts of the Waco Review.

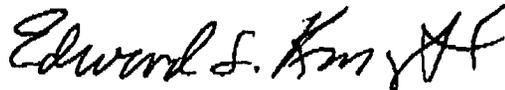
With respect to the witnesses listed in your July 10 letter, who are non-supervisory, or 'line' agents, the Department has a policy of opposing their testimony to avoid creating a political "chilling effect" on their behavior. Since you intend to compel testimony, we have examined other arrangements. We understand from Kevin Sabo, your Committee's Chief Counsel, that the Subcommittees would be willing to limit the testimony and questions posed to line agents to the factual observations regarding matters relevant to the hearing. These witnesses would not testify and will not be questioned regarding the scope of and reasons for their investigative decisions, advice and/or opinions. With this understanding, and the further understanding that you are prepared to compel their presence, we will produce the line agents identified in the attachment to your July 10 letter.

- 4 -

The panels should be organized to ensure that questions raised about the Review can be answered promptly and in a manner that ensures a fair and balanced hearing.

Your consideration of these matters are appreciated.

Sincerely,



Edward S. Knight
General Counsel

Enclosure

- cc: The Honorable Henry Hyde
- The Honorable Bill McCollum
- The Honorable William H. Zeliff, Jr.
- The Honorable Cardiss Collins
- The Honorable John Conyers
- The Honorable Karen L. Thurman
- The Honorable Charles E. Schumer



U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

July 15, 1995

The Honorable William F. Clinger
Chairman, Committee on Government Reform and Oversight
U.S. House of Representatives
Washington, D.C. 20515

The Honorable William H. Zeff, Jr.
Chairman, Subcommittee on National Security,
International Affairs and Criminal Justice
U.S. House of Representatives
Washington, D.C. 20515

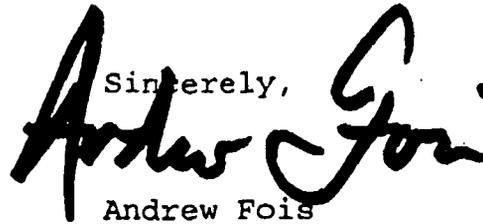
The Honorable William McCollum
Chairman, Subcommittee on Crime
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairmen Clinger, Zeff and McCollum:

Accompanying this letter are documents requested in Chairman Clinger's letter of July 12, 1995. As outlined in the Department's July 14 letter to each of you, we are working to meet your requests and will be in further contact with your staff regarding the documents and issues not included in this transmittal.

Included in this transmittal are: a copy of the plea agreement (Item #2 as referenced in Chairman Clinger's July 12 letter); copies of the FBI "302s" for Larry Potts and Jeffrey Jamar (Item #5); and the telephone logs for the Attorney General, Webster Hubbell, and the DOJ Command Center (Item #6). Our continued search also produced the FBI Director's phone log which we included in this transmittal. While former Director Sessions took with him upon his departure phone logs and other documents, we are able to provide this particular log because it was submitted into the record for the previous Congressional hearings on Waco. This log covers from February 26 to April 30, 1993. It is unlikely that we will be able to produce Director Sessions' phone log for February 15 to February 25, because we no longer have access to his phone logs and these dates were not included in the document prepared for the previous hearing.

Again, we will continue to work toward speedy completion of the remaining production.

Sincerely,


Andrew Fois
Assistant Attorney General

cc: The Honorable Karen Thurman
The Honorable Charles Schumer

- Long chronology -
- 2 issue papers
 - Pres know + when
 - White House + when

ME

Shorter chronology
 - for internal purposes
 - focusing only on Pres

• Paul analysis

1. Call to Sabo -
 re exec. privilege quote in WPost
2. - Benton to Pres and delete ^{- wait as to doc-reasons}
 - window of op. (redacted)
 Give you these - in return drop from Bonnie
 (request/reasons for AUSA)
3. 302s
4. Zipperstein - AUSA
 Fax for Cliff's notes/
 copy of section of report

Kinger
 ↑
 Govt Ret
 ↓
 Zelitch - nat'l

Hyde
 ↓
 Judiciary
 ↓
 Zeliff - subcom
 McCallum Crime + Crime

AS - AS -

PRIVILEGED AND CONFIDENTIAL
PREPARED FOR JULY 19, 1995 CONGRESSIONAL HEARINGS

CHRONOLOGY OF WHITE HOUSE BRIEFINGS AND ACTIONS

February 28, 1993

POTUS conversation with Bentsen and Altman

POTUS spoke with the Secretary Lloyd Bentsen and Deputy Secretary Roger Altman of Treasury and received their reports on ATF shootout. [Justice Report (JR) at 241.]

POTUS spoke with Altman who gave him a run down on what happened; POTUS said he "understood" and asked if "waiting out" the cult was considered; Altman told him facility was more than 70 acres, the people involved were survivalists, and that there was a "window" of opportunity before more publicity developed whereby ATF thought it could be successful in making the move it did. [TD 008323]

POTUS conversation with Stephanopolous

Communications Director George Stephanopolous spoke twice with POTUS to keep him informed of events in Waco. [JR at 241.]

FBI calls Gersen

The FBI notified Acting Attorney General Gersen that the ATF had requested that the FBI assume control of situation in Waco. [JR at 241.]

Gersen meets with FBI

Gersen met with Deputy FBI Director Floyd Clark and Assistant Director FBI Larry Potts; they indicate they would take over if the FBI is given full command and control authority. [JR at 236.]

Gersen calls McLarty

Gersen called Chief of Staff McLarty to explain ATF's request and get permission to deploy FBI's Hostage Rescue Team (HRT) (may have occurred on 3/1/93. [JR at 236.]

FBI briefs Stephanopolous

The FBI, Larry Potts, briefed Stephanopolous at 7:20 p.m. [JR at 241.]

March 1, 1993

POTUS calls Gersen

POTUS expressed interest in Waco, Gersen told him the FBI was handling the situation; POTUS stated his understanding of the FBI's philosophy as negotiation until resolution; he asked to be advised if there was any change in that approach and a tactical resolution was considered; Gersen agreed. [JR at 27, 237.]

McLarty calls Gersen

Following up on POTUS' conversation; Gersen fully concurs with POTUS negotiate philosophy and assures him no significant action will be taken without White House approval. [M000502]

Gersen calls Sessions

advised Sessions of POTUS' request to be kept informed; Sessions in turn advised Potts of this request. [JR at 237]

McLarty speaks with Bentsen

Bentsen on top of Waco situation; gives McLarty memorandum for POTUS outlining situation [TD 00017878], Bentsen indicates that he spoke with Governor Richards and that he will not issue any press statements besides the one already issued expressing condolences to families of ATF agents; Altman will be leaving today to visit with families and wounded agents in Waco. [M000502]

March 3, 1993

POTUS calls ATF Agents/Families

POTUS calls ATF wounded agents and surviving family members of ATF agents who were killed. [M000604]

Meeting with Treasury and White House officials

Altman met with Nussbaum and Senior Advisor Bruce Lindsey to brief them on his trip to Waco following ATF shootout on 2/28/93. [JR at 242, March 2/3; TD 00019011, March 3.]

In addition, Phil ?, Jack Devore and Josh Steiner attended meeting. They discussed how Treasury was going to review ATF's procedures; Altman indicated that they would investigate immediately and include an outsider or two; [TD 00019011]

Nussbaum/Lindsey read statement POTUS may issue on review -- it would indicate that POTUS asked Bentsen to undertake review; the statement would be released at end of standoff; [TD 00019011]

Nussbaum indicated that because Noble was not confirmed and Bentsen was too busy, the responsibility for the matter should fall to Altman; Nussbaum checked on Noble's clearance during meeting -- it was not imminent. [TD 00019011]

March 1 - 12, 1993

Gersen contact with White House

Gersen stayed in contact with McLarty, Stephanopolous, White House Counsel Bernard Nussbaum, and POTUS to inform them of developments; McLarty described two lines of communications:

Gersen to him; Gersen to Nussbaum. Lindsey also kept informed of developments in Waco and the White House situation room monitored events. [JR at 238, 241-42.]

FBI request for Military Vehicles

FBI requested Gersen to approve deployment of military vehicles to assist FBI in limited tactical maneuvers to secure perimeter; Gersen agreed and contacted DoD to arrange for U.S. Army at Fort Hood, Texas to provide vehicles. [JR at 238-39.]

Gersen calls McLarty

Gersen notified McLarty that military vehicles would be deployed for non-offensive purposes near the Davidian compound. [JR at 239.]

POTUS calls Gersen or vice versa

President called Gersen immediately after McLarty call and requested an explanation for deployment of military vehicles; Gersen assured POTUS no assault was planned; that the vehicles were necessary to enable the FBI safely to perform certain tactical operations; and that it was legal for FBI to use military vehicles for safety purposes; POTUS, while satisfied with response, asked to be advised if FBI adopted a more aggressive tactical stance. [JR at 239.]

April 11, 1993

McLarty conversation with POTUS

McLarty spoke with POTUS to discuss Waco standoff; in that conversation POTUS "mentioned a similar incident [Fort Chaffee] that had been resolved successfully through negotiations while he was the Governor of Arkansas." [JR at 242.]

[NB: POTUS experience was not with Fort Chaffee but in northwest Arkansas -- as his statement in DOJ report reflects -- with a group called the Covenant, the Sword and the Arm of the Lord. This Fort Chaffee assumption is reprinted many places throughout DOJ report and other press accounts]

Week of April 12, 1993

Preparations for the tear gas plan were being made and debated at FBI and DOJ. [JR at 242.]

April 13, 1993

Meeting with Justice and White House officials

Webb Hubbell met in the White House Counsel's office with Nussbaum, Lindsey and Vince Foster; the meeting lasted 45

minutes; Hubbell's purpose was to advise White House of FBI's change in tactics through the proposed use of tear gas. [JR at 243.] The plan involved FBI ramming the building and shooting a pepper-type gas from the back to the front of the building; the gas would cause the people to seek fresh air. [M000678.] Webb came over to advise White House of the FBI's recommendation because POTUS had indicated in conversation to Gersen that he wanted to be informed if they changed from negotiation strategy [M000669-670]

Hubbell explained outline of FBI plan and stated Reno had not made a final decision whether to approve plan. [JR at 242-43]. In discussion, they talked about whether there was risk of excessive casualties (and whether they) (unclear reference to either Davidians or FBI) would turn machine guns on people. [M000669-70.] *

Lindsey asked why FBI had changed its mind about negotiation; Hubbell said FBI had only one HRT team and it needed to be pulled back for training exercises if standoff continued indefinitely and also, negotiations were not making progress; [JR at 243.]

Lindsey suggested that military be consulted because POTUS would want to know they had an opportunity to review plan [References that Lindsey mentioned Fort Chaffee incident -- Lindsey thinks this is wrong because he knew it was incident in northwest Arkansas with the Covenant, the Sword and the Arm of the Lord]; Hubbell indicated plans underway to meet with military; none of the White House participants in the meeting raised any objection to the proposed use of tear gas. [JR at 243; April 13 date estimated.]

Hubbell report to Reno

Hubbell reported about the meeting to Reno upon returning to DOJ. [JR at 243.]

Counsel conversation with POTUS

After meeting, Nussbaum told POTUS of FBI's recommended change in strategy; he also told POTUS that the handling of standoff was a DOJ, not White House, call; POTUS indicated that he had confidence in Reno and FBI. (JR at 244.)

POTUS said "Let DOJ make up its mind" [M000671].

April 14, 1993

Meeting with Justice and DoD

Reno met with current and former commanders of Delta Force (military) to discuss FBI plan to use tear gas. [JR at 243.]

April 18, 1993

Hubbell call to Lindsey

Hubbell called Lindsey to inform him Reno had decided to approve FBI tear gas plan; Lindsey told Hubbell that Reno should call POTUS to inform him directly of her decision. [JR at 244.]

Lindsey conversation with POTUS

Lindsey told POTUS that Reno had reached a decision in Waco and would call POTUS after her meeting. [JR at 244.]

Reno call to POTUS

Reno called POTUS (Lindsey was with POTUS at time of call); Reno said she decided to approve the tear gas plan and that the gas had been tested and would not cause permanent damage to adults or children;

POTUS asked if she had received all information she needed to make decision, he asked about insuring the safety of the children in compound, he also asked why this action after seven weeks; Reno said: 1) limit on time FBI team could maintain the quality and intensity of coverage; resources were limited and might be needed elsewhere in the country, 2) no progress had been made recently in negotiations and it was unlikely progress would be made using normal means of getting Davidians out; 3) danger that Davidians may harm themselves or others increased with passage of time; and 4) reason to believe that the children in compound were being abused and forced to live in unsanitary and unsafe conditions;

POTUS asked whether military had been consulted, she stated they had and they were basically in agreement with FBI plan (minor technical difference of opinion); at the conclusion, POTUS said "it is your decision" and that if she thought it was the right thing to do, he would support it. [Presidential statement in JR at 246-48; see also JR at 108 (stating that POTUS "concurred" with the decision), 244-45, 280]

April 19, 1993

FBI Begins Tear Gas Plan

Tear gas insertion begins at 7:00 a.m.

POTUS Press Availability (9:58 a.m.)

The President was asked during an unrelated press event if he had authorized "the move on Waco this morning." He stated that he knew it was going to be done, and that Attorney General Reno and the FBI had made the tactical decisions, and that questions should be directed to Attorney General Reno and the FBI. [Cite]

Reno call to POTUS

At 11:00 a.m., Reno spoke with POTUS and told him everything appeared to be going well and that she was leaving for judicial conference in Baltimore (Reno forgot to mention this call during her Nightline appearance that evening) [JR at 245.]

POTUS Press Statement

The President issued a statement between noon and 1:25 p.m. expressing deep sadness at the loss of life in Waco, and offering his thoughts and prayers to the families of David Koresh's victims. He stated that the course of action had been recommended by the law enforcement agencies; that Attorney General Reno had informed him of their recommendations and supported them or risk maintaining previous policy indefinitely; and that "I told the Attorney General to do what she thought was right and I stand by that decision." [White House Press Release]

Stephanopolous conversations with POTUS

Stephanopolous kept POTUS informed about events serving as conduit of information from outside sources. [JR at 246.]

Hubbell call to McLarty

Afternoon, Hubbell speaks with McLarty [JR at 245.]

Reno call to POTUS

At 1:10 a.m., Reno calls POTUS after her Nightline appearance; POTUS asked about possibility of any survivors; told her she had done good job in tough situation and to get some sleep. [JR at 245.]

April 20, 1993

POTUS News Conference Statement (1:36 p.m.)

The President made a formal statement on Waco. He noted that four federal agents had been killed in the line of duty against the Branch Davidian compound, which had illegally stockpiled weaponry and placed innocent children at risk. The failure of the ATF operation led to a 51-day stand-off, during which the FBI made every effort to resolve the matter without bloodshed. Their efforts failed because David Koresh was "dangerous, irrational, and probably insane." The President noted that Koresh was in violation of federal law and "common standards of decency" and stated that Koresh was responsible for the deaths in February and in April.

Prior to the raid, the President had been briefed by Attorney General Reno on the FBI's effort to increase pressure and persuade the Davidians to surrender: the FBI would use tear gas "that would cause no permanent harm to health." The FBI would not use ammunition, even to return hostile fire.

} n. b.
"machine
gun
live"

POTUS stated: "I was informed of the plan to end the siege. I discussed it with Attorney General Reno. I asked the questions I thought it was appropriate for me to ask. I then told her to do what she thought was right, and I take full responsibility for the implementation of that decision."

The President stated that Koresh was responsible for the carnage, and the "murder" of the children who were his "captives."

The President announced that he had directed Justice and Treasury to conduct vigorous and thorough investigations with "nonpolitical" independent experts to determine what happened, what could have been done differently and what changes should be instituted for the future. He also had directed the Departments to cooperate fully with Congress.

The President expressed appreciation to the Attorney General and the agents on the front lines, "who did the best job they could under difficult circumstances." He expressed sorrow at the loss of life and the hope that the tragedy would deter others from following the likes of Koresh. He also expressed hope that inevitable future confrontations would be "somewhat better handled."

In response to questions, the President stated that Attorney General Reno had told him that the FBI felt strongly that the move was necessary. He was told that the tear gas would not cause permanent damage but was expected to force the people to come out; the underground bunker also would provide a refuge from the tear gas for the children. (There were no gas masks for the children, but the plan was to use gas beyond the effective period of operation for gas masks.) He was assured that "under no circumstances" would FBI agents fire any shots, and that the agents in fact did not fire their weapons even though they were fired upon.

The President related that he had asked Attorney General Reno, why now? She told him:

- The agents could not maintain the quality and intensity of their effort, and the agents might be needed elsewhere.
- This case was outside their previous experience, and progress had bogged down.
- The danger of harm to the Davidians themselves and to others was increasing.

- They had reason to believe that the children were being abused and forced to live in unsanitary and unsafe conditions. Attorney General Reno had stressed the ongoing abuse and the increasingly unsafe conditions for the children.

The President also had asked if they had considered the risks. He was told that they had, and felt prospects for bad things happening were increasing with time.

Finally, the President asked if they had consulted the military, as he previously had requested be done based upon the unique nature of the siege. Attorney General Reno stated that they had and that the military concurred except for one minor tactical difference.

The President stated that he told the Attorney General that he would stand by her, and that he did. He denied that he had tried to distance himself from the decision and expressed surprise ("a mild word") that impression had arisen. He had not been given a detailed 4- to 5-hour briefing or get involved in the operational details, he takes responsibility for the decision as President, and supports the Attorney General. The idea that she should resign is out of the question.

The President stated that the conversation with Reno had not involved other options, but these were considered along the way. Each went nowhere. The FBI thought that this was their best option. The President had praise for the FBI, citing its work in the World Trade Center investigation.

He felt sick when he saw the fire, and his first thought was for the children.

April 23, 1993

POTUS Statement

In response to questions, the President stated that an investigation was important, but that Koresh was responsible for the tragedy. The government is not responsible that "a bunch of fanatics decided to kill themselves." He stated that he particularly regretted the death of the children. The President did not think that he should have been more involved in the detailed planning level, and looked forward to the investigation to identify any problems in the chain of decision-making. He stressed that he had asked that the military be consulted. The President declined to assess Director Sessions' role in light of his lack of direct contact with Sessions.

Nussbaum call to Altman

Nussbaum called Altman to discuss the investigations (review); indicated that he did not want DOJ and Treasury to go there separate ways and suggested one revision to Treasury (review) proposal -- that outside experts not serve as a unit, the two agencies should announce them and consult with them but they should not be a "review board" because they might develop a life of their own. [TD 00019013]

Altman thought this was reasonable but Noble was troubled -- Altman told Noble to call Nussbaum directly. [TD 00019013.]



U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

July 11, 1995

The Honorable William H. Zeff, Jr.
Chairman, Subcommittee on National Security,
International Affairs and Criminal Justice
U.S. House of Representatives
Washington, D.C. 20515

The Honorable William McCollum
Chairman, Subcommittee on Crime
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman McCollum and Chairman Zeff:

This responds to your request that the Department of Justice conduct a series of X-ray surveys on certain firearms which were seized in connection with an investigation into the murder of a number of individuals by David Koresh and others at Waco, Texas on or about April 19, 1993. It also responds to your request for certain "technical documents" submitted at trial which describe these weapons.

As we have repeatedly advised, the Department of Justice wishes to fully cooperate in the hearings which you have scheduled and to provide you with as much assistance in their planning as is possible. Accordingly, we are enclosing the "technical documents" referred to in your letter of July 6, 1995.

During June 1995, T. March Bell and Robert D. Charles of your staff contacted us and asked that we arrange for your Subcommittees to review the physical evidence connected with the investigation. As you are aware, this evidence fills a warehouse in Texas and has been and remains in the custody of the State of Texas through its law enforcement agency, the Texas Rangers. We interceded with the Texas Rangers and made arrangements with your staff for them to travel to Austin, Texas where the Texas Rangers would produce all evidence for review under secure conditions and at great expense to be borne by the taxpayers of the State of Texas. Arrangements were made for your review of the evidence on June 26, 1995.

In advance of the trip to Austin, Texas, we asked your staff to supply us with the name, date of birth and Social Security Number of each individual from the Subcommittees who would have

access to the evidence. This is information which has been kept as to all individuals who have had access to the evidence since it was seized by the State of Texas and is a reasonable security measure. Your staffs agreed and, in fact, supplied us with such a list on June 23, 1995. Prior to that time, your staff also advised us that they might bring expert consultants along with them. We, of course, presumed that such consultants would be in the employ or control of the Congress.

On the morning of June 26, 1995, members of your staff appeared at the selected evidence review site in Austin, Texas, with several individuals who were neither employees of Congress, under the control of the Congress, nor consultants retained by the Congress. Rather, we were advised by Mr. Bell that these individuals were private consultants who had been retained by a "private advocacy group" and who were present to X-ray 48 of the seized firearms which had previously been determined at trial to be fully automatic weapons and thus contraband within the meaning and contemplation of 26 U.S.C. §5861(d). Mr. Bell declined to identify the group which had paid to secure their presence. In later conversations, he advised us that the cost of their presence in Austin had been \$25,000.00 for one day.

We are certain that you understand the serious concerns which we have about the presence of individuals who are not employees of the Congress and who decline to advise us of who their employers are. Current litigation surrounding these events includes the appeals taken by criminal defendants to the United States Court of Appeals and civil actions filed by many of the victims of David Koresh and others. These civil actions seek hundreds of millions of dollars of taxpayer funds. Moreover, as you are aware there are many groups representing fringe elements of society and whom mainstream law enforcement has termed a significant danger to the nation's security, who have spread lies about the actions of law enforcement at Waco. Accordingly, we know that you will appreciate our concerns about permitting access to those who will not appropriately identify their affiliations.

The Department's on-site representative expressed concern that these consultants were not employees or agents of the Congress and that the agreement we had reached was to show the evidence to the Congress. As the day progressed, we had further conversations with members of your staff here in Washington in an effort to accommodate the Committee staff's extraordinary request that the evidence be made available for examination by individuals not under the control or direction of Congress. They advised that they too had had concerns about the propriety of using individuals paid for by private groups in this context and they produced a copy of a letter from the House Ethics Committee (copy attached) sanctioning the practice in this instance.

Nonetheless, out of an abiding concern that the Department of Justice act at all times in a manner consistent with the highest ethical standards, we made contact with the staff of the full Committee in order to assure that the use of the outside

consultants was sanctioned by the full Committee Chair. We were advised shortly after making this contact, that the request for access to the evidence for x-ray testing would be withdrawn if the Justice Department would agree to have the FBI conduct x-ray tests. I indicated that the Justice Department was anxious to assist in meeting the Committee's legitimate needs, but also made clear that I was unable to absolutely commit to having the FBI provide the requested tests without getting the specifics of the requested testing and checking with the FBI.

Mr. Jim Clarke of the full Committee staff and I subsequently reached an agreement on how to handle this matter. We agreed that the request to x-ray the evidence in Texas would be withdrawn in exchange for a commitment that, upon submission of a letter outlining the testing the subcommittees wanted conducted by the FBI, the FBI would conduct the requested tests if they were not too cumbersome, too expensive, or otherwise unusually difficult to provide.

We understand the Subcommittees' interest in whether the 48 firearms in question are, in fact, fully automatic. In that regard we can advise you that it is unlawful to possess a fully automatic firearm not registered with the Department of Treasury. Some of the defendants in the investigation relating to the committed by David Koresh and others were charged with violations of Section 5861(d) and thus the fact that these 48 weapons were fully automatic was proved beyond a reasonable doubt in a Federal criminal trial. ^{CRIMES}

In preparation for that trial, an expert from the Federal Bureau of Investigation examined the subject weapons and rendered the opinion that they were, in fact, fully automatic. The expert testified at trial and his testimony was necessarily believed beyond a reasonable doubt by the jury. The materials submitted to the court in support of his conclusion are the "technical documents" enclosed with this letter.

That expert established that the relevant guns were automatic weapons by taking them apart and examining them. The FBI indicates that this is the standard method for establishing that a weapon is a fully automatic weapon, and FBI experts have indicated that they have never x-rayed weapons in order to establish whether a weapon is or is not fully automatic. Accordingly, upon receipt of an inquiry regarding the requested tests, we believe that the requested tests will not prove anything not already proven at trial and may well prove nothing at all.

Nonetheless, we are prepared to transport the subject firearms from Austin, Texas to Washington, DC and to produce the same FBI expert to further examine the firearms in the presence of Subcommittee staff or any expert whom you retain. Should this not be satisfactory, we are also prepared to undertake the X-ray examination which you have requested although we have been advised by the FBI that this is not the technique used by firearms experts.

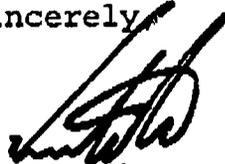
In order to accomplish the further Congressional expert examination, the Texas Rangers have agreed to transport the firearms by secure motor vehicle to Washington and we will produce the FBI expert. This will cost the taxpayers of the State of Texas and the United States many thousands of dollars.

In order to accomplish the X-ray examination, we will need to transfer personnel and equipment from the explosives examination section of the FBI. These personnel are all currently engaged in trial preparation and trial work wholly unrelated to this matter. Such an effort will not only cost thousands of taxpayer dollars but will also divert the FBI's attention from important criminal cases at a substantial intangible cost.

Because the process required will be expensive, cumbersome and difficult and of little or no evidentiary value to the public whom we both serve, we recommend against the procedure which you have requested. Nonetheless, we are prepared to undertake either or both examinations as you deem appropriate. As we did in Austin on June 26, we ask that you supply us with the names, dates of birth and Social Security Numbers of the individuals whom you wish to attend these examinations. In the case of any individual who is not a full-time employee of the United States Congress, please provide full details of that individual's employment relationship to the Congress. Furthermore, any such individual must be bound by the same confidentiality obligations as you have agreed to for Members and their staffs and must also not have or represent any financial interest adverse to that of the United States of America.

Based on these parameters, we will abide by your wishes and look forward to hearing from you. As always, please feel free to contact me should you have any questions.

Sincerely,



Kent Markus
Principal Deputy Assistant
Attorney General

cc: The Honorable William Clinger, Jr.
The Honorable Karen Thurman
The Honorable Charles Schumer

Enclosures

N E W S R E L E A S E
FOR IMMEDIATE RELEASE
 July 11, 1995

For further information,
 call: NRA Public Affairs
 703-267-3820

WHY DID JUSTICE DEPARTMENT SAY "NO" TO X-RAY OF GUNS?

The National Rifle Association Institute for Legislative Action (NRA-ILA) announced today that, since June 14, it has retained Failure Analysis Associates (FAAA), an engineering and scientific consulting firm, to assist in the analysis of information pertaining to the 1993 tragedy in Waco, Texas, which claimed the lives of four federal agents and eighty-two civilians.

FAAA served as experts for General Motors in the X-car investigation and more recently in the C/K pick-up truck probe in which they investigated for GM the notorious NBC Dateline episode. FAAA worked on the analysis of the Challenger disaster and the Exxon Valdez oil spill. The firm recently completed widely publicized explosion testing of ammonium nitrate fertilizer that is alleged to have been used in the Oklahoma City bombing disaster.

"We conducted a nationwide search for the most appropriate experts for this analysis," said NRA-ILA executive director Mrs. Tanya K. Metaksa. "We selected FAAA based on their long history, broad expertise and specific experience in other governmental and high-profile investigations. Once FAAA completes its analysis, we will make it available to the Congress."

"The legacy of the four agents and twenty-two children should be: never again. We believe science can help assure that legacy."

On Monday, June 26, Dr. John Moalli, Managing Engineer with FAAA, arrived in Austin, Texas, to begin one phase of the analysis -- the x-ray of fire-damaged guns and other materials retrieved from the compound. Said Dr. Moalli: "It was our understanding that we would be able to examine guns and other materials and conduct X-ray and other non-destructive analyses on which our scientific findings would be based." Equipped with a truck load of sophisticated analysis equipment, the engineers were denied access to the guns and other materials by Mr. Richard Scruggs, formerly personal assistant to Attorney General Janet Reno and currently Counsel for Intelligence Policy for the Department of Justice.

"We presented our background, credentials and explained the non-destructive nature of our proposed analysis. Mr. Scruggs refused access to the evidence, until we revealed our client. As a matter of policy, unless authorized, FAAA does not reveal its clients. We were retained to establish the facts regardless of client identity or client preference."



NATIONAL RIFLE
 ASSOCIATION OF AMERICA
 11800 WAPLES HILL ROAD
 FAIRFAX, VA 22030

NRA PUBLIC AFFAIRS
 703-267-3820

.. more ..

JUSTICE SAYS "NO" TO X-RAY - Page Two

"If the Clinton Administration wants to create the impression of a cover-up, it's performing flawlessly," observed Mrs. Metaksa. "Understanding that client identity is the sole condition stipulated by Mr. Scruggs for access to the evidence, let us now proceed to conduct X-ray and other non-destructive analyses."

Founded in 1967 by three Stanford University professors and two Ph.D.-level Stanford Research Institute researchers, FaAA is now the largest engineering firm in the nation devoted primarily to the analysis and prevention of engineering- or science-related failures and disasters. FaAA employs 300 people, approximately seventy of whom hold doctorates in their field of specialty.

Leading the investigation for FaAA is Dr. Roger L. McCarthy, FaAA CEO, who recently completed his term on the President's Commission on the National Medal of Science. The core FaAA team on the Waco project consists of five Ph.D.s from the Massachusetts Institute of Technology, Stanford and Purdue with expertise in the areas of firearms technology, chemical engineering, fire cause and origin, synthetic materials, non-destructive evaluation and acoustics.

Chronology

- June 2** -- First contact made between FaAA and outside counsel to NRA-ILA, an effort to determine FaAA interest and capability.
- Outside counsel presents concept of FaAA involvement to NRA-ILA for consideration.
- Outside counsel, NRA-ILA and FaAA conduct conference call and agree to face-to-face meeting.
- June 7** -- Face-to-face meeting takes place in Florida. In the meeting, NRA-ILA determines that FaAA offers the best scientific and engineering expertise and analysis capability.
- June 14** -- NRA-ILA and FaAA representatives meet in Fairfax, Virginia, to finalize contract and scientific taskings. FaAA recommends, as one tasking, the analysis of fire-damaged firearms. NRA-ILA concurs.
- June 26** -- FaAA arrives at Texas Rangers headquarters in Austin to examine evidence.

-- nra --

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Congress of the United States
House of Representatives
Washington, DC 20515

CONFIDENTIAL
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WHIP-AT-LARGE

July 12, 1995

Honorable William H. Zeliff, Jr.
Chairman,
Subcommittee on National Security, International Affairs, and
Criminal Justice
Committee on Government Reform and Oversight

Dear Mr. Chairman:

I am writing to express my grave concern about the potentially irreparable contamination of the hearings you will co-chair on the tragic events at Waco.

My concerns fall into two categories:

1. Growing evidence that the National Rifle Association has secretly and perhaps improperly influenced the course of the investigation and the very structure of the hearing itself.

2. Statements by you -- as recently as last Sunday on national television -- that are either flatly wrong, or at best among the contested issues. Such statements call into serious question the impartiality with which these hearings will be conducted.

1. Influence of the National Rifle Association. I am gravely concerned by a growing body of undisputed evidence that the NRA has played a behind-the-scenes role in influencing the investigation leading up to these hearings, and continues to play a role in the hearings themselves.

Of course, the NRA has a legitimate interest in the subject matter of these hearings. Like any other advocacy group, it should be able to have a voice before the Congress.

But it should not be allowed to act secretly through Congressional staff, to manipulate, and to pollute our process.

The undisputed evidence is that it has done so. The open question is whether it continues to do so.

I refer first to the facts surrounding the highly unusual events in Austin last month concerning the examination of physical evidence in custody of the Texas Rangers. The undisputed fact is

that your staff (1) asked the Justice Department to make available highly sensitive evidence still at issue in criminal appeals and civil litigation, (2) at first concealed that there was a third party at interest behind the "experts" it offered to make the examination, and then (3) refused to reveal who that third party was once it became known that there was a third party involved.

As you well know, the NRA itself has revealed that it was behind this bizarre incident, notwithstanding reported denials by you and your staff (see the attached article from today's The Wall Street Journal, p. A11).

I am also troubled by the apparent role of one Robert Sanders, whose name has appeared on the list of witnesses you propose to call for the hearing.

Your witness list represents Mr. Sanders as a "former ATF deputy director for enforcement." What it does not indicate is his current activity.

I have been told by an extraordinarily well-informed source that Tanya Metaksa, executive director of NRA's Institute of Legislative Action, has within the last several weeks introduced Mr. Sanders as on retainer to the NRA. Other sources indicate that Mr. Sanders has represented himself recently as a "consultant" to your committee.

In addition, I have also been told that one Ms. Metaksa's predecessors stated in 1986 that Mr. Sanders had been retained to represent the NRA in connection with the McLure-Volkmer fight.

Finally, I have also been told that Mr. Sanders currently represents a number of parties who have pending so-called "abuse cases" against the Bureau of Alcohol, Tobacco and Firearms.

I find this latter perhaps most troubling of all, in light of the fact that your committee has coincidentally requested from the Treasury Department a wide range of documents related to these-called "abuse" cases, even though they have only marginal relationship to the Waco matter itself.

In light of these facts, I ask that you answer these questions, so that the public may know all the facts regarding this hearing:

1. Exactly how has the NRA or any of its staff, counsel, or other entities been involved in the planning, direction, conduct, and any other questions related to this hearing?

2. Has the NRA chosen or requested any other witnesses for the hearing?

3. How was the witness list chosen?

4. What precisely is Mr. Sanders' relationship to the NRA and to your committee (i.e. has he acted as a "consultant")?

5. Has Mr. Sanders had any access as a "consultant" or otherwise to any of the documents turned over to your committee by the Executive Branch?

6. Has the NRA or any representative of the NRA had any access to any of the documents turned over to your committee by the Executive Branch?

7. Are any of the other witnesses employed by, retained by, or had any fees or expenses paid by the NRA in connection with the investigation or the hearing itself?

2. Statements by you. I was also disturbed to hear you make several unambiguous misstatements of fact last Sunday. Unfortunately, some of these have been picked up by others and assumed to be true. Among the worst of these are:

o "Fire-throwing equipment" was involved.

Fact: There was no "fire-throwing" equipment of any kind involved at any time during any of the events at Waco.

o A "very flammable . . . mixing agent" described as "methyl [sic] chloride" was used in connection with the CS gas.

Fact: There is no evidence that methylene chloride is flammable by itself or when used to propel CS gas. In fact the evidence is to the contrary -- that it acts as a fire retardant.

o ATF should have arrested David Koresh when he went for his "daily run."

Fact: There has been no evidence that David Koresh went for his daily run.

o Treasury had failed to provide personnel files of supervisory personnel.

Fact: The official personnel files of Philip Chojnacki and Charles Sarabyn were delivered to your committee on Friday, July 7.

o A drug "nexus" was required for any military support.

Fact: Military support could legally and properly be provided without any drug nexus whatever. The real question at issue was whether ATF had to reimburse the military for that assistance.

Making such statements as these is the equivalent of a judge declaring the "official version" of material facts at a trial before the opening statements are given and the evidence heard. I ask you to better inform yourself of the facts, and be careful that future misstatements are not made, so that the hearings can go forward in a truly impartial and fair manner.

Sincerely yours,

A handwritten signature in black ink that reads "Charles Schumer". The signature is written in a cursive, slightly slanted style.

CHARLES E. SCHUMER
Member of Congress

**U. S. Department of Justice**

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

July 13, 1995

The Honorable William H. Zeff, Jr.
Chairman, Subcommittee on National Security,
International Affairs and Criminal Justice
U.S. House of Representatives
Washington, D.C. 20515

The Honorable William McCollum
Chairman, Subcommittee on Crime
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Zeff and Chairman McCollum:

Over the past two days we have had discussions with the majority and minority staffs of your subcommittees regarding witnesses for the upcoming hearings regarding Waco. This letter summarizes Department of Justice views and agreements reached with majority staff on a number of topics. Please notify me immediately if you have any contrary understanding from that set out in this letter.

I. Proposed Additional Witnesses

The minority staff of your subcommittees have provided us various drafts of the witness list for the upcoming Waco hearing. In an effort to maximize the value of the hearing, we believe that greater balance and more relevant information would be provided if the subcommittees would add the following witnesses to the following panels:

First Day, Opening Panel -- Ed Dennis. Mr. Dennis was the Justice Department's principal outside expert who reviewed the Waco matter. He submitted a lengthy report regarding Waco to the Deputy Attorney General in October 1993. He was the Assistant Attorney General for the Criminal Division during the Bush Administration, and was the United States Attorney in Philadelphia, Pennsylvania during the Reagan Administration. He has extensive knowledge of the Waco matter, and his testimony should be added to the opening panel on the first day to give the

subcommittees a fair and balanced overview of the facts.

Fifth Day, Panel D -- Dr. Park Dietz. Dr. Dietz is one of the most famous forensic psychiatrists in the world. The FBI has relied on his expertise in hundreds of situations, including at Waco. He can add significantly to the testimony of Pete Smerick, a former FBI behavioral scientist whose name already appears on the panel.

Sixth Day, Panel C -- Mark Richard. Mr. Richard is a career Deputy Assistant Attorney General in the Criminal Division. He attended most of the meetings with the Attorney General during the week of April 12, 1993 at which the tear gas plan was discussed. He also visited Waco during the siege, where he met with representatives of the FBI, United States Attorneys Office, and the Texas Rangers.

Sixth Day, Panel C -- Drs. Paul Rice and David Upshall. Doctors Paul Rice and David Upshall work for the British Ministry of Defence, Chemical and Biological Defense Establishment. They are the world's leading experts on CS gas.

Seventh Day, Panel B -- Professor James Quintiere. Professor James Quintiere of the Department of Fire Protection Engineering at the University of Maryland conducted a Fire Development Analysis of the April 19, 1993 fire at the Branch Davidian compound. His testimony is critical to a complete understanding of the fire. While Paul Gray of the Houston Fire Department (already named on the list) is an important witness too, his report addressed the cause and origin of the fire, while Professor Quintiere's report addressed the development and spread of the fire.

II. Justice Department Witnesses No Longer Requested

On July 10, 1995, Chairman Clinger wrote to the Justice Department, inquiring whether the Department had any concerns with an attached list of potential witnesses. The Department indicated that its concerns with the list were limited to Assistant United States Attorney (AUSA) William Johnston and the line-level agents categorically described at the end of the list, based upon a strong institutional reluctance to produce non-supervisory career agents and/or attorneys.

Discussions with staff regarding the category labeled "Unidentified FBI Agents (Hostage Rescue Team Members who entered bus prior to fire)," have yielded an agreement that no line agents fitting this description need be produced. This agreement is based upon the recognition that the testimony these line agents would have provided could be provided by supervisory agent Richard Rogers who is already scheduled to testify on other matters. Accordingly, we will produce no line agents in this

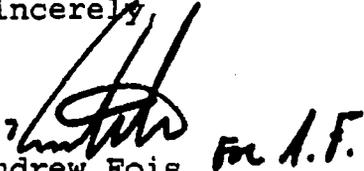
category. Finally, it is our understanding that Mr. Danny Coulson is no longer required as a witness.

III. Remaining Witness Issues

The Attorney General remains deeply concerned by the request to produce AUSA Johnston and FBI Agent Jim McGee (the only person meeting the description on the witness request list: "Unidentified FBI Agents (Hostage Rescue Team members who saved a woman during the fire)). During the discussion between the Attorney General and Chairman McCollum on this issue this evening, Chairman McCollum indicated that he wished to further consider the Attorney General's concerns and that they would continue their discussion tomorrow after his arrival in Florida at 11:00 a.m. The Chairman indicated that he would see that no subpoena for these witnesses would issue during the pendency of their discussions.

Thank you for your consideration with respect to these matters.

Sincerely,


Andrew Fois *for A.F.*
Assistant Attorney General

cc: The Honorable Karen Thurman
The Honorable Charles Schumer

WILLIAM F. CLINGER, JR., PENNSYLVANIA
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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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July 14, 1995

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MAJORITY - (202) 225-6074
MINORITY - (202) 225-4061

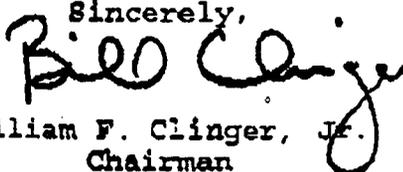
The Honorable William J. Perry
Department of Defense
The Pentagon
Washington, D.C. 20301

Dear Mr. Secretary:

The Committee on Government Reform and Oversight is planning to call the attached list of individuals as witnesses during hearings on the Waco matter. These hearings begin on Wednesday, July 19, 1995. Please notify me by Monday, July 17, 1995 to indicate whether the Department of Defense has any concerns with the individuals named on this list. You can FAX a response to me at 202-225-3974. Our Subcommittee on National Security, International Affairs, and Criminal Justice will consider any concerns you have before the scheduled beginning of the hearings.

I thank you for your immediate attention to this request.

Sincerely,



William F. Clinger, Jr.
Chairman

Attachment

Potential Witness List for Department of Defense

Dr. Harry Salem
Brigadier General Walter Holmes *Huffman*
Ambassador Holmes
Mr. Crain
SFC Dunn
SSG Moreland
Major Petree
Lieutenant Colonel Lindley
Brigadier General Pickler
SSG Fitts

Withdrawal/Redaction Marker

Clinton Library

| DOCUMENT NO. AND TYPE | SUBJECT/TITLE | DATE | RESTRICTION |
|--------------------------|---|------|-------------|
| 002. list | DOB and Phone Number (Partial) (1 page) | nd | P6/b(6) |

COLLECTION:

Clinton Presidential Records
Counsel's Office
Elena Kagan
OA/Box Number: 8284

FOLDER TITLE:

[Waco - File and Reports] [3]

2009-1006-F
kc138

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

| AGENCY | PHONE | FAX | DOB |
|--------|-------|-----|-----|
|--------|-------|-----|-----|

White House

| | | | |
|--------------|----------|----------|--|
| Chris Cerf | 456-2144 | 456-2146 | |
| John Tanner | 456-6788 | 456-1647 | |
| Jon Yarowsky | 456-7911 | 456-5055 | |

Department of Defense

| | | | |
|-----------------|--------------|--------------|--|
| Stephen Preston | 703-697-7248 | 703-693-7278 | |
| David Ogden | 703-697-2715 | 703-614-6745 | |
| Staurt Ailey | 703-695-6804 | 703-614-6745 | |

Department of Justice

| | | | |
|-------------|----------|----------|--|
| Kent Markus | 514-3008 | 514-4482 | |
|-------------|----------|----------|--|

Treasury

| | | | |
|---------------|----------|----------|--|
| Edward Knight | 622-0287 | 622-2882 | |
| Neal Wolin | 622-0283 | 622-2882 | |

Hill-D

| | | | |
|--------------|----------|----------|--|
| Don Goldberg | 225-5051 | 225-4784 | |
|--------------|----------|----------|--|

(H) P6/(b)(6)

| | | | |
|----------|----------|----------|--|
| Tom Diaz | 225-7064 | 225-1845 | |
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(H) P6/(b)(6)

| | | | |
|----------------|----------|----------|--|
| Julien Epstein | 225-6504 | 225-4423 | |
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(H) P6/(b)(6)

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| Ron Stroman | 225-5051 | 225-4784 | |
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(H) P6/(b)(6)

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|----------------|----------|----------|--|
| Cherri Branson | 225-5056 | 225-8185 | |
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| | | | |
|-----------------|----------|----------|--|
| Perry Apellbaum | 225-6906 | 225-7680 | |
|-----------------|----------|----------|--|

| | | | |
|---------------|----------|----------|--|
| Melanie Sloan | 225-6906 | 225-7680 | |
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| | | | |
|---------------|----------|----------|--|
| Dave Schooler | 225-5051 | 225-4784 | |
|---------------|----------|----------|--|

Hill-R

| | | | |
|---------------|----------|----------|--|
| Bobby Charles | 225-2577 | 225-2373 | |
|---------------|----------|----------|--|

| | | | |
|------------|----------|----------|--|
| Kevin Sabo | 225-5074 | 225-3974 | |
|------------|----------|----------|--|

| | | | |
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| March Bell | 225-2577 | 225-2373 | |
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Senate-R

| | | | |
|--------------|----------|----------|--|
| Lisa Kaufman | 224-5225 | 224-9102 | |
|--------------|----------|----------|--|

P6/(b)(6)

MEMBERS PHONE AND FAX LIST

| NAME | PHONE | FAX |
|------------------------|----------|----------|
| William H. Zeliff, Jr. | 225-2577 | 225-2373 |
| Bill McCollum | 225-3926 | 225-3737 |
| William Clinger | 225-5121 | 225-4681 |
| Henry J. Hyde | 225-4561 | 225-1166 |
| Cardiss Collins | 225-5006 | 225-8396 |
| John Conyers, Jr. | 225-5126 | 225-0072 |
| Charles E. Schumer | 225-6616 | 225-4183 |
| Karen S. Thurman | 225-1002 | 226-0329 |

MEMORANDUM

TO: CHERYL MILLS and CHRIS CERF
FROM: CAROLYN ATWELL DAVIS
DATE: 6/19/95
RE: THEORIES ABOUT INCIDENTS AT RUBY RIDGE AND WACO BY
PRIVATE INDIVIDUALS AND GROUPS

OVERVIEW

The incidents at Ruby Ridge and Waco are examples of the need to defend citizens against a hostile federal government. There is a government conspiracy to strip citizens of their fundamental rights. The federal government is in the hands of secular humanists and the self-indulging special interest groups.

RUBY RIDGE

- the marshals fired on the Weavers without warning
- the FBI engaged in deliberate and systematic torture of the Weaver family by calling out comments to Vicki Weaver, knowing she was dead
- there is a conspiracy by the federal government against people with "different" religious beliefs and unconventional lifestyles
- Randy Weaver was entrapped into selling sawed-off shotguns to the undercover agent

WACO

Committee for Waco Justice:
(Carol Moore, Alan Forschler, among others)

Raid:

- warrants were defective: faulty affidavit *what made it so?*
- the Davidians' gun business was legal
- BATF ignored Davidians' attempts to cooperate
- BATF used excessive force
- dubious drug allegations to obtain National Guard helicopters for free
- agents killed by friendly fire
- BATF intimidation of the press

- BATF agents shot first
- BATF coverup
- Treasury Dept. coverup

Conclusions:

1. BATF drove the Branch Davidians to self-defense
2. An independent counsel should prosecute the responsible BATF agents and officials

Fire:

- possible illegal use of tanks
- FBI destroyed crime scene despite complaints
- FBI planned to gas and disassemble Mt. Carmel
- FBI pressure tactics replaced negotiations
- FBI misled Janet Reno on need for and dangers of assault
- President Clinton was hostile toward Branch Davidians
- Lack of fire precautions
- FBI demolition trapped people, according to statements by Davidians
- FBI started the fire by the demolition
- FBI and BATF crime scene coverup
- "Independent" fire investigator coverup
- Justice Dept. coverup

Conclusions:

1. FBI and Justice Dept. actions are responsible for the deaths of the Branch Davidians
2. An independent counsel should prosecute responsible FBI agents and FBI and Justice Dept. officials

Linda Thompson - American Justice Federation:

(woman who did the videotape)

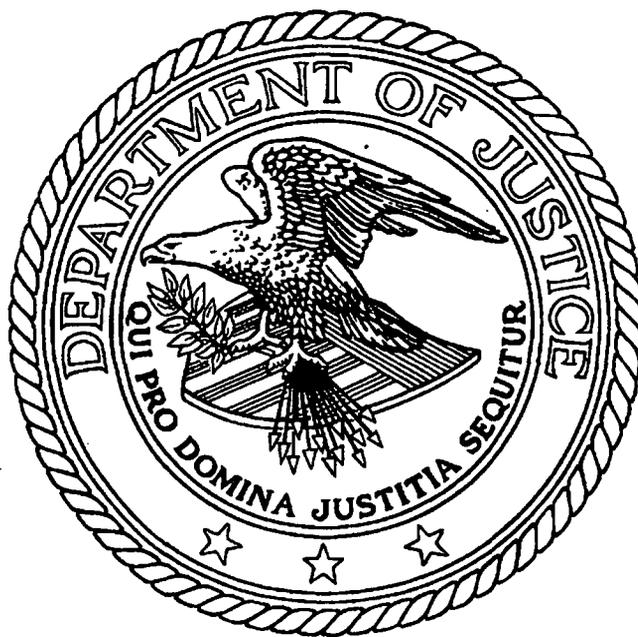
- Mark Breault, former Davidian who sought revenge for being custed by Koresh, invented allegations of child abuse
- Cult Awareness Network was instrumental in spreading lies about "religious weirdness" at Mt. Carmel
- the probable cause affidavit and search warrant were sealed by same judge who issued warrant, therefore the judge colluded in the lies and coverup
- the Davidians' weapons were legal
- BATF agents were killed by friendly fire during raid on 2/28
- Mike Schroeder, a Davidian working in town the day of the raid, was shot in the back by BATF agents while trying to get into the compound and his body left for days hanging on a fence, chewed by buzzards and wild dogs.
- tanks bashed holes in buildings not in order to spray gas, but to ventilate house so that fire would spread rapidly
- the 51-day siege was deliberate and systematic torture by FBI
- supplies of baby food to the compound were not delivered during siege
- Gov. Ann Richards did not order withdrawal of tanks after she claimed she had been tricked into ordering them
- FBI refused to allow journalists who questioned the federal actions into the press conferences.
- Federal government is engaging in tyrannical, Nazi-like tactics by calling a religion a "cult" and putting out false information about child molestation
- President Clinton, Attorney General Reno, FBI Director William Sessions and Treasury Secretary Lloyd Bentsen are murderers; we have cold-blooded killers running our country.

Unknown source from Internet:

The four BATF agents killed at Waco were ex-bodyguards of President Clinton. They are on a long list of persons who have recently died under suspicious circumstances who had some connection to the Clintons. This list includes Arkansas state troopers, former members of the Clinton campaign, and persons who travelled with the Clintons. This is known as the "Clinton Body-Count."

Report to the Deputy Attorney General on the Events at Waco, Texas February 28 to April 19, 1993

3 Reports
not
copied



October 8, 1993

Redacted Version

Evaluation of the Handling of the Branch Davidian Stand-off in Waco, Texas February 28 to April 19, 1993

Edward S.G. Dennis, Jr.



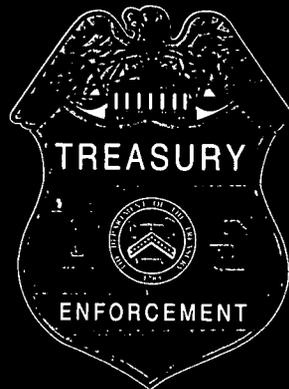
October 8, 1993

Redacted Version

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



September 1993

