WITNESSES: H. ALLEN HOLMES, ASSISTANT SECRETARY OF DEFENSE
ARMY MAJ. GEN. JOHN M. PICKLER
ARMY BRIG. GEN. MICHAEL HUFFMAN
CHRIS CRANE, U. S. ARMY SPECIAL OPERATIONS COMMAND
ARMY LT. COL. PHILIP LINDLEY
ARMY MAJ. MARK PETREE
ARMY STAFF SGT. STEVE FRITTS
ARMY STAFF SGT. ROBERT W. MORELAND
ARMY STAFF SGT. 1ST CLASS CHRIS DUNN
2141 RAYBURN HOUSE OFFICE BUILDING
AFTERNOON SESSION 2:51 P. M. (EDT)
THURSDAY, JULY 20, 1995
REP. MCCOLLUM: This hearing of the joint subcommittees will come to order. At this time I would like to call the witnesses for panel B, who have been waiting quite a while for the opportunity to have this hearing. And we apologize for the wait, gentlemen. I will call you in the order they're on my list, but obviously you found where the name tags are down there. And then I will swear you in collectively afterwards. Ambassador H. Allen Holmes. Ambassador Holmes is the assistant secretary of defense for special operations and low-intensity conflict. The Defense Department's counter-drug policy office falls under his leadership. Mr. Holmes previously served as ambassador to Portugal and as ambassador-at-large for burden sharing. Master -- let's see if I get this right -- MG John M. Pickler, U. S. Army major general. John Pickler was the commander of Joint Task Force 6, the military counter-drug force along the southwest border. Brigadier General Michael Huffman, United States Army, is the Army's assistant judge advocate general for civil law. As such, he is the second highest ranking lawyer in the United States Army. Chris Crane is a special project coordinator with the United States Army special operations command at Fort Bragg, North Carolina. Lieutenant Colonel Lindley, Philip Lindley, was the former deputy staff judge advocate for the United States Army special forces command at Fort Bragg, North Carolina. Major Mark Petree, United States Army, was formerly attached to the third division, third brigade of the Army's special forces group at Fort Bragg, North Carolina. Staff Sergeant Steve Fritts, United States Army. Let's see who else we've got here. Staff Sergeant Robert Moreland and Sergeant First Class Chris Dunn were each attached to the United States Army's third special forces group at Fort Bragg, North Carolina in early 1993. I know you all are already standing. If you'd raise your righthand, I'd like to swear you in. Do you solemnly swear or affirm that the testimony you are about to give will be the truth, the whole truth and nothing but the truth? ALL: I do.

REP. MCCOLLUM: Please be seated, gentlemen. Let the record reflect that all of the witnesses answered in the affirmative. Before we begin the questioning of this panel, I'd like to announce that due to the changes of the rules of what we wanted to do today because we did not get the unanimous consent this morning -- (inaudible) -- the five-minute rule, that we will have to drop from today's schedule the final or fourth panel. And we have been notifying those panel members of that fact. We will resume the hearings after the completion of today's testimony from this panel and panel C in the morning with this panel that is dropped from tonight. It will mean also that the schedule will slip, for those of you following what we have, and the scheduled second panel for tomorrow -- not the first, but the second -- will be moved to the beginning of the week on Monday morning, when we resume these hearings. And we believe that by that time we'll be back on schedule and hope that it all works well. At this point in time, under the five-minute rule, the chairman would normally begin the questioning. I yield my five minutes for that purpose to Mr. Buyer.

REP. BUYER: Thank you, Mr. Chairman. I'm not able to see theses names all very well. If someone could help me out -- could you guys just turn this way a little bit so I can see? Thank you. Let me first begin a line of questioning with Brigadier General Huffman. Earlier, in an opening I gave this morning with regard to the Posse Comitatis Act -- just to refresh my colleagues' memory, the Posse Comitatis statute is a criminal statute that states that it's a crime to use any part of the Army or Air Force to enforce the laws of the land unless authorized by Congress or the Constitution. Is that your understanding, General Huffman? GEN. HUFFMAN: Yes, Congressman.

REP. MCCOLLUM: If you would, please, your microphone.
REP. BUYER: Is that your understanding of the Posse Comitatis?

GEN. HUFFMAN: Yes, Congressman, that's the basic reading of the Posse Comitatis Act. If I may interrupt for one second, Congressman, to say that I have submitted a written statement outlining the provisions of the Posse Comitatis Act which I believe has been provided to all of you, and I would ask if that could be made a part of the record.

REP. MCCOLLUM: I would like to ask all the witnesses to note that even though the mike may be near you, you'll need to direct it to you since we don't have enough for everybody. Turn it as it is your turn to answer. Thank you very much.

GEN. HUFFMAN: Certainly.

REP. BUYER: I'd also note that Section 375 here of Title 10 prohibits military personnel from conducting search, seizure, arrest or other similar activity unless authorized by law. You're also familiar with that section, are you not, General? GEN. HUFFMAN: I am, Congressman.

REP. BUYER: Thank you. These statutes, the Posse Comitatis and this, may apply only to the active-duty military and not to the National Guard when under state control. Is that correct?

GEN. HUFFMAN: Yes, sir.

REP. BUYER: The National Guard, as I understand also, they have three separate statuses under the law. Would you please briefly explain what they are and whether the Guard comes under the Posse Comitatis statutes under each of those? GEN. HUFFMAN: Three potential statuses for the National Guard. One is Title 10 status. That's active duty, when they are basically federalized. If that is the case, the Posse Comitatis Act does apply to them. Title 32 status, a state active-duty status, which would not leave them under the Posse Comitatis Act -- in Title 32, for example, where they're being funded by federal funds, counter-drug funds. Last, pure state status in which the Posse Comitatis Act does not apply to them either.

REP. BUYER: Are you familiar with an after-action report by the Texas National Guard? Have you ever seen the after-action report? GEN. HUFFMAN: I have not seen a completed after-action report, no, sir.

REP. BUYER: Pardon? GEN. HUFFMAN: No, sir, I have not.

REP. BUYER: All right. I wanted to make you aware, though, that in their after-action report that what we have here is on 14 January 1993 -- this is an after-action report -- the subject -- it's drafted by the adjutant general of Texas; the subject, "After-Action Report of Texas National Guard Counter-Drug Support in Waco, Texas." And on 14 January, 1993, there were aerial photographs taken by an RF-4, a Phantom F-4C aircraft from the Alabama National Guard. Were you aware that had taken place? GEN. HUFFMAN: Yes, sir.

REP. BUYER: Now, what I have here -- this is a model of a Phantom F-4. Now, what we have here -- you described that we've got three different statuses. We've got the National Guard when they're...
Title 10, federalized. We've got the National Guard when they're under state control on their own funds. And then we have that middle status when we have the Texas National Guard under state control using federal funds in support of a federal mission. And that's what we had at Waco, did we not, was the middle? GEN. HUFFMAN: The National Guard was, yes, being paid with federal funds under Title 32.

REP. BUYER: But under state control.

GEN. HUFFMAN: Under state control, correct.

REP. BUYER: Claiming to be outside the Posse Comitatis Act. GEN. HUFFMAN: By law, being outside the Posse Comitatis Act.

REP. BUYER: Right. So what we have here, ladies and gentlemen, is we've got this statute, a matter of policy of our land, to try to keep a separation between military and local law enforcement. But now what we've learned is that there are also memorandums of understanding between governors. So what we have is the adjutant general in Texas calling on the phone and calling Alabama and Alabama sends an F-4 across state lines from Alabama into Texas. Now, my question to you, General, does this begin to ask questions of -- are we talking about violations of Posse Comitatis or not, or are we into such a gray area here that it's really understandable why the American people are beginning to say, "Gee, why is the military involved in this?" GEN. HUFFMAN: Taking the last part of your statement first, if I could, Congressman, it is easy to understand why the American people, lay persons watching aircraft with U. S. Army or U. S. Army National Guard, don't make that differentiation, nor should they have to. It's our responsibility to stay within the law. The second part of the question is your address to this action as being in a gray area. Certainly in this statute, as in all other statutes that the courts have interpreted, there are some gray areas, but this is not one of them, Congressman. It is clear that the Posse Comitatis Act does not apply to National Guard forces who are under state command and control, and that was the case here.

REP. MCCOLLUM: Mr. Buyer's five minutes is up. Mr. Schumer has just walked in. Shall I give it to Ms. Thurman? Ms. Thurman, you're recognized for five minutes.

REP. THURMAN: Colonel Lindley, after Mr. Crane notified you of the JTF-6 request for the ATF mission, you had some very heated arguments with JTF-6 attorneys. They even got personal, according to your memos. Could you describe the nature of your concerns to us? COL. LINDLEY: The nature of the concerns first expressed in thememo, ma'am?

REP. THURMAN: Mmm-hmm. COL. LINDLEY: There were -- as the operation came to me, there were three areas of support which were requested. One was a review and a scrub; that is, an analysis of the mission that had already been planned. The second area that we were requested for support included medical coverage in close proximity to whatever location this was. I didn't know at the time any of this was related to any sort of activity. It was a normal JTF-6 mission, as far as it came down. The third thing was requesting assistance in developing rehearsal sites and constructing those rehearsal sites. The first two issues that came up, the review and the scrub of the operation plan, centered on the team that was present out there and the review of a discriminating fire plan. The second issue dealt with the medical personnel that were present there and being directly involved
in potential searches of individuals coming through in the collection of evidence, as well as some liability issues associated with the treatment of the civilians, if you will, that were on the objective.

REP. THURMAN: Do you believe your concerns were resolved, I mean, or how were they resolved? I mean -- COL. LINDLEY: Ma'am, they were resolved satisfactorily by the time all this got done.

REP. THURMAN: Sergeants Moreland and Dunn, let me just give you an opportunity here. It's come to my attention that there have been some statements made in some -- I don't know; do you call these tabloids? Whatever they're called; I don't know, whatever -- that you were or there were -- you had something to do this. And did you provide any assistance to the ATF that went beyond the orders that you were given?

MR. : No, ma'am, I did not.

REP. THURMAN: Have you been trained in close-quarters combat, and did you provide this training to the ATF?

MR. : No, ma'am, I did not.

REP. THURMAN: And did you in any way provide illegal assistance to the ATF during this raid?

MR. : No, ma'am, I did not.

REP. THURMAN: And were you in Waco at the compound on February 28, 1993?

MR. : No, ma'am, I was not.

REP. THURMAN: Okay. And if I could have Sergeant Dunn answer the same questions. SGT. DUNN: I was not in Waco, ma'am. I did not teach CQB, either.

REP. THURMAN: And you didn't provide any illegal assistance or -- SGT. DUNN: No, ma'am.

REP. THURMAN: Okay. General Huffman, let me ask you, what kind of evidence would you have to have come in on a posse comitatus? I mean, what kind of evidence would somebody have to give you, do you think, to be able to go or provide your services or whatever? I mean, do you -- is there something written? Is there -- I mean, what kind of evidence would they give you? GEN. HUFFMAN: Are you asking, ma'am, what -- what procedure is gone through when someone makes a request for equipment or support that might --

REP. THURMAN: That's it. GEN. HUFFMAN: -- have a posse comitatus act issue involved in it?

REP. THURMAN: Yes, sir. GEN. HUFFMAN: There are various levels of approval of this type of support, depending on what kind of support is being asked for. I think I would like to defer this question, if I could, to Ambassador Holmes.

REP. THURMAN: That would be fine. (Off-mike discussion.) GEN. HUFFMAN: Ambassador
Holmes thinks I should take the question. (Laughter.)

REP. THURMAN: Well, I can tell you one thing. I can't answer it. That's why I am asking. GEN. HUFFMAN: I think it's a wonderful idea, and I will try to answer it. (Laughter.) No, the level of support depends on what's being asked, but the type of evidence, to use your term, you would need to determine whether the support requested was legal or not would depend on what kind of support is being requested. Some type of equipment can be approved at a very low level on a mere request by another federal agency that they need this to get their job done. Lethal equipment requires a much greater showing and a much higher level of approval. It's a fairly common-sense, I guess, approval process, but it has a lot of different elements to it.

REP. MCCOLLUM: Ms. Thurman, your time is up.

REP. THURMAN: I know.

REP. MCCOLLUM: Thank you. Mr. Zeliff for five minutes.

REP. ZELIFF: I'll be happy to yield my five minutes to Mr. Buyer.

REP. BUYER: Thank you, Mr. Zeliff. Let me go back to General Huffman for just a second. General, in fact, isn't it true that as long as the military does not become directly involved in search, seizure or arrest, that really military personnel can actually provide a lot of this equipment, facilities, training, and advice, and there isn't necessary to be this drug nexus?

GEN. HUFFMAN: That is correct, Congressman. The -- both the posse comitatus act itself and 10 USC, Sections 371 through 381, enacted by Congress in 1981, allow the provision of many different kinds of support to civilian law enforcement agencies by the military -- training, equipment, expert advice. And the principal prohibition, as you mentioned, sir, is that the military is not to be involved in arrest, search or seize or similar activities, such as the stop and frisk.

REP. BUYER: But the real question here really comes down to, if they have the drug nexus, perhaps they wouldn't have to do some of the reimbursement, is that correct?

GEN. HUFFMAN: The drug nexus provides a specific type of reimbursement. It is not, as you said earlier, sir, required for the provision of the support itself. But even under the Economy Act, which is one of the acts one would turn to to provide support to another federal agency, even a civilian law enforcement agency, there are waivers of reimbursement under various standards.

REP. BUYER: The -- Mr. Crane, you took the initial phone call from JTF 6 for the -- from ATF's request for military training related to raid on 3 February 1993, is that correct?

MR. CRANE: Yes, I did.

REP. BUYER: And when you received that phone call, you had some concerns about the support that was requested, isn't that correct?
MR. CRANE: I did, sir.

REP. BUYER: At which you then immediately contacted LieutenantColonel Lindley, the deputy SJ, the United States Special OperationsCommand, to review the correct --

MR. CRANE: Yes, I did, sir.

REP. BUYER: -- to review the request?

MR. CRANE: Yes, sir.

REP. BUYER: Is that the right chain of events? Lt. Col. Lindley, when Mr. Crane came to you to discuss the request from JTF 6and the concerns that you had -- and you answered some of them for Ms. Thurman -- you wrote a memo, did you not?

LT. COL. LINDLEY: Yes, sir. I started a chronology immediatelyin the event, and kept it up through the remainder of the day, sir.

REP. BUYER: And your memorandum from record -- actually, youjust kind of sketched it down, and we won't pay attention to some ofthe spelling errors and those kinds of things. (Laughter. )It's just really you're getting it down for the record.

LT. COL. LINDLEY: Sir, just contemporaneous notes recorded asthe events occurred, yes, sir.

REP. MCCOLLUM: Colonel Lindley, you're going to need to put that mike over --

LT. COL. LINDLEY: I'm sorry, sir.

REP. MCCOLLUM: It stops the direction. It's not your fault, butyou're talking to the -- Mr. Buyer, and the mike wasn't there.

LT. COL. LINDLEY: I'm sorry, Mr. Chairman.

REP. MCCOLLUM: All right.

REP. BUYER: I would ask that the -- your memorandum besubmitted for the record, if there are no objections.

REP. MCCOLLUM: No objection. Duly admitted.

REP. BUYER: Your memo was detailing your actions of that dayand, as you indicated, you understood that the mission that was firstgiven to you was not permissible. Is that your position?

LT. COL. LINDLEY: Well, my initial analysis and what waspresented orally to me indicated that there were some problems withit, yes, sir. It was impermissible as proposed.
REP. BUYER: And then you ended up speaking with some -- a JAG officer from JTF 6 who wasn't happy with your analysis, is that correct?

LT. COL. LINDLEY: He called me, that's correct, sir.

REP. BUYER: He called you? LT. COL. LINDLEY: Yes, sir.

REP. BUYER: What'd he call you? He wasn't too happy with your analysis, right?

LT. COL. LINDLEY: He wasn't particularly enamored with it, no, sir.

REP. BUYER: Wasn't enamored with it. All right. But he didn't persuade you to change your legal analysis, did he?

LT. COL. LINDLEY: No, sir.

REP. BUYER: What ended up happening was they ended up changing the request, did they not?

LT. COL. LINDLEY: I subsequently understood that. I never saw any subsequent requests, sir. I was involved in this thing for one day, and that was it, sir.

REP. BUYER: Okay, so you didn't end up seeing an operations order --

LT. COL. LINDLEY: No --

REP. BUYER: -- later on?

LT. COL. LINDLEY: No, sir. I'm sorry. No, I did not.

REP. BUYER: Well, you should know that it was scaled back tremendously, and you're to receive a lot of credit for having saved the face of the military, and to your compliment, sir. Let me jump over here to General Pickler. You were the commanding general of JTF 6 at the time of the command specifically designed to provide the military support to law enforcement in the war on drugs along the southwest border of the United States. Is that correct?

GEN. PICKLER: Yes, sir, that's correct.

REP. BUYER: And in order for soldiers under your command to provide support for law enforcement, your command needed a drug nexus, is that correct?

GEN. PICKLER: That's correct, sir.

REP. BUYER: When ATF came to you and said that there were -- there's a methamphetamine lab on the compound, did you just accept it on its face value, or did you do some kind of analysis? And if there was an analysis, what was it?

GEN. PICKLER: JTF 6 has, of course -- had no reason to doubt the legitimacy of the drug
operation. And we do not routinely question the veracity of credentialed officials for duly constituted law enforcement agencies. However, in this particular case, there were a couple of meetings during which the drug connection was discussed. One of those meetings was on the 2nd of February at Operation Alliance, which was the coordinating center for federal, state and local law enforcement agencies within the southwest border region, through which all requests for DOD -- DOD support were channeled. And on the 2nd of February, there was some evidence of drug connection mentioned. Several things came out in that meeting and came out in a meeting that was conducted by the ATF in Houston at which my JTF 6, J3 plans officer, Lt. Col. Jan Berthall (sp), Major Mark Petree and several of his individuals attended in Houston the 4th and 5th of February. The actual call that was made to Mr. Crane was made during the course of events when the existence of the request coming from Operation Alliance, instead of going to the regional logistics office for simple equipment, Operation Alliance had four entities through which they could funnel requests: JTF 6, the regional logistics support office, the National Guard, or NORAD, depending upon the nature of the request. Initially, the request itself from ATF went to the regional logistics support office. When it became evident that they might not be able to provide all that was asked for and that more was involved, ATF contacted JTF 6. And then we went through our systematic review process, we coordinated with the parent headquarters of Major Petree, which was the third Special Forces group. We laid out for the third Special Forces group the kinds of things that ATF was talking about. This was -- my approved execute order didn't occur until about 17 February, some two weeks later, and during an extensive and comprehensive review process. So that the coordination with Mr. Crane, and his coordination with the legal officer in third special forces group was a natural part of that comprehensive review process.

REP. BUYER: I know my time has just expired. Has your -- is the operation order that Mr. Zeliff had placed in the record, that was your operation order? Are you familiar?

GEN. PICKLER: The one on 17 February, 21: 45 Zulu, I believe is the execute order. That may be the one in the record --

REP. BUYER: All right, we'll look into that. Thank you.

REP. ZELIFF: We'll clarify that. Mr. Buyer, your time is up. Mr. Schumer, you are recognized for five minutes.

REP. SCHUMER: Thank you very much, Mr. Chairman. I want to thank the fine gentlemen here from the military for being here. And I would say that I am glad you are here, because a lot of the mistruths that have floated around that came out from this article in the Soldier of Fortune, which I think a lot of my colleagues are asking questions about, and may have been the blueprint for why you folks were called -- can be debunked. I mean, just the question that my colleague Ms. Thurman asked -- in Soldier of Fortune, in this article that alleges all these things, it says you two sergeants, Moreland and Dunn, were down there, and you obviously weren't, and there are travel vouchers to prove it. And this is one of the problems some of us have in the way these hearings may have been conducted, because you get an article from this kind of magazine, not known for its veracity, and then it becomes just played about again and again. But the good news is at least we get a chance to answer questions and set the record straight. Following along that line, I'd like to ask a few questions to you, Major Petree. Am I pronouncing your name correctly, sir? Petree? Thank you.
First, you sat in on the briefings of the ATF in the days before the raid, mostly as an observer. Is that correct?

MAJ. PETREE: Yes, sir.

REP. SCHUMER: And in your opinion, did the ATF agents expect to be met with gunfire when serving the warrant?

MAJ. PETREE: Yes, sir.

REP. SCHUMER: Okay. Did the agents in the days before the raid, in your observations, fear that they were about to be met with armed resistance before the warrant was served? Or did they think they would -- I mean, there are two choices here. One is that the people in the compound were going to fire back, and it would be an armed encounter; the other it was going to be just as Mr. Ishimoto talked about in the last panel -- I don't know if you heard him -- that this dynamic entry, which ATF usually uses, would produce in all likelihood no armed resistance.

MAJ. PETREE: What I mean by my answer is that ATF was planning for that contingency, that in case they would meet some sort of armed resistance --

REP. SCHUMER: But what did they think the likelihood was? That's my question.

MAJ. PETREE: I didn't really get a feel for that, sir.

REP. SCHUMER: Okay, thank you. And then, finally, did you see the ATF agents preparing to raid the compound in a manner which led you to believe that their intention was to shoot first, ask questions later, or rather were they simply preparing to serve what they believed was a legal warrant?

MAJ. PETREE: I'd have to go with the latter, sir --

REP. SCHUMER: Yeah.

MAJ. PETREE: -- from what I observed at Fort Hood, Texas, watching some of the rehearsals.

REP. SCHUMER: Okay, thank you. Finally, and I think this is a very important point here: there is, in my judgment, it is absolutely clear that no law was violated -- no action was taken that comes close to violating Posse Comitatus or any other law. General Huffman, is that your -- do you agree with that?

GEN. HUFFMAN: Congressman, so far as the Army's involvement in this, I would say that is correct.

REP. SCHUMER: That's correct, that the military, the Army -- it is not even close -- did not even come close to stepping over any line that might be regarded as violating that law. Is that correct, sir?
GEN. HUFFMAN: That's my opinion, yes, sir.

REP. SCHUMER: Thank you, general. And then I would make this observation, and then I want to ask Ambassador Holmes a sort of big-picture question -- and that is that even if at worst -- you know, we've heard a whole lot about the methamphetamine that may or may not have been on the -- made on the compound -- assuming it wasn't, and even assuming the ATF -- somebody in ATF deliberating misstated that it was -- which I believe not to be true -- let's make it clear to everybody clear the only consequence of that -- there is no consequence that involves any legal violation whatsoever. Mr. Buyer, my colleague from Indiana, says maybe it should -- maybe the law ought to be changed. That's a different issue. But there was violation of any law, and the only consequence, if it was clear that ATF purposefully deceived you folks in saying that there were drugs there, was -- would be who would pay for the military equipment -- the helicopters and other things that were used. That is clear. There is no dispute about that, as I understand it. Is that correct, Ambassador Holmes?

MR. HOLMES: That is essentially correct, Congressman. Let me just say I think we need to put a little perspective on this. Since 1989, the Congress has directed and urged the Department of Defense to get involved in the war against drugs, and every year has exhorted us to do more --

REP. SCHUMER: Ambassador, my time is running out, and I'm going to let you answer that --

MR. HOLMES: Yeah, but --

REP. SCHUMER: -- but I want you to answer another thing in line with that, and that is this: I agree with you completely. I dismiss as out of hand the kind of paranoid complaints that see the military as a sinister tool taking over America. It is my judgment we are paying hundreds of billions of dollars for military types of activity, as long as people are not making arrests on the street, as long as they are not involved in civil law enforcement; but giving advice, helping other agencies do their jobs -- in the drug area for sure, and even in the non-drug area makes imminent sense with all the money we're spending for the military. What is your view, Ambassador Holmes?

MR. HOLMES: Everything that we are doing in that regard is according to statute, and every official that carries out a request has very clear delegated authority from the secretary of defense's statutory authority.

REP. SCHUMER: And, finally, you know of no law that was broken in any of these activities, do you?

MR. HOLMES: I know of no law that was broken --

REP. SCHUMER: Didn't even come close, did it?

MR. HOLMES: I know of no law that was broken.

REP. SCHUMER: Thank you.
REP. ZELIFF: (?) Thank you, Mr. Schumer. I next recognize Mr. Hyde.

REP. HYDE: Thank you very much. I just want to comment briefly on my friend from New York's triumphalism at learning that the Soldier of Fortune article contains a lot of nonsense. I -- don't deny us a share in that triumphalism. The beauty of the hearings are to bring that out, and to bring it out for the country to see and to know what are myths and what is reality. So I would think the gentleman would cheer that we are having these hearings, and we're all getting an opportunity to hear authentically what the facts are. So --

REP. SCHUMER: Well, as I said, it's a half cheer, Mr. Chairman.

REP. HYDE: Well, I'll try to get you up to a full cheer. (Laughter.) And having elicited from you the concession that these hearings do have some merit, and that all any of us want is the truth, and we're getting it and I welcome it, I yield what time I have left to Mr. Buyer.

REP. BUYER: Thank you, Mr. Hyde. It's always interesting that sometimes members always like to talk about conservative conspiracy theorists, and nobody recognizes that there are liberal conspiracy theorists. And they try to think that, well, if in fact there's a panel, it must be a panel because of some Soldier of Fortune typemagazine. I've never even read the article. I've never seen the article. I respect this panel. These are heroes here in front of me, and I am very proud of your service. And I think it's important for us to hear from these witnesses so they can explain what exactly was the military involvement, to inform America with regard to the Posse Comitatus statute, and how -- its impact on local law enforcement -- and that's what this process is. When I left off last time, General Pickler, I asked you if that was your operations order. Have you had an opportunity to review it?

GEN. PICKLER: I looked at it briefly, and --

REP. BUYER: And is that your operations order?

GEN. PICKLER: Yes, sir, it looks -- it matches the date/time group of the operations order I signed.

REP. BUYER: At the bottom of the ops order it talks about having the support from some of the highest levels of -- let's see, "This operation has the highest interest of BATF, Washington, and has been approved at that level. "What does "Washington" mean?

GEN. PICKLER: Sir, in my opinion the original support request that came into the rapid support -- or, correction: to the regional logistics support unit, had a heading from the Washington office of the Bureau of Alcohol, Tobacco and Firearms. And my recollection of the events included the fact that in addition to the ATF representative at Operation Alliance, who was one of the four senior representatives of that organization. It also had endorsement at the Houston office as well as Washington, because all of those appeared to be involved with the request itself.

REP. BUYER: All right, you were -- when I read your op order there's a lot of mention about the drug nexus -- methamphetamine lab. I take from your testimony earlier you accepted another federal agency at face value, and it was not your job to question them. Was that kind of the--
GEN. PICKLER: That's correct. In addition --

REP. BUYER: Well, you accept on your face value, but -- although you were concerned because of some counsel that is provided by -- by Lieutenant Colonel Lindley and perhaps your own counsel at the time, and it's scaled back. So what I noticed, you were concerned with your personnel becoming too involved with the training of ATF, and it's that why your execute order issued on February 17, 1993, indicated that the RSU would provide only tactical, which is company level, communications training, emergency medical evaluation training, pickupzone/landing zone training, and tactical vehicles dismount training, as well as range-control support? You wanted to narrow it, is that correct?

GEN. PICKLER: We wanted to narrow it. That's correct, sir. Due to the comprehensive review process and the systematic approval process that we go through prior to the approval of the execute order, that's correct.

REP. BUYER: All right. Thank you. Major Petree, you received this execute order from JTF-6 to execute the training for (Texas ?), did you not?

MAJ. PETREE: Yes, sir.

REP. BUYER: And did that order include reference to an active methamphetamine lab?

MAJ. PETREE: I don't recall, sir.

REP. BUYER: You don't recall? We'll give you an opportunity to read it. Sergeant First Class Fritts, at the time did you receive an order from Major Petree to go and do a study on how to take down a methamphetamine lab? SGT. FRITTS: Sir, we were directed to go out and do research on the dangers of entering a methamphetamine lab.

REP. BUYER: And how long did your research, how long did that take? SGT. FRITTS: Approximately three, four days.

REP. BUYER: Three to four days, and you wrote -- what did you do-- (inaudible; crosstalk) -- SGT. FRITTS: Myself and another medic wrote a paper and presented it to MHP (ph).

REP. BUYER: All right. I see my time has expired. We'll comeback to this.

(Off-mike comments.)

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

REP. SCOTT: Thank you, Mr. Chairman. General Huffman, the military mission and civilian law enforcement missions are different. Can you tell me what training military personnel have in civilian search-and-seizure law?

GEN. HUFFMAN: Military personnel other than military police have very little training in search and seizure, Congressman.
REP. SCOTT: And when there's probable cause for arrest and when a warrant is valid and when it's not valid, they have very little, if any, training?

GEN. HUFFMAN: Other than military policemen, yes, Congressman.

REP. SCOTT: Civil arrest, who's subject to arrest, and how to detain a subject -- very little training.

GEN. HUFFMAN: Not areas of military expertise, yes.

REP. SCOTT: And can you tell me so that that's one of the reasons that you don't want military personnel involved in civilian law enforcement, because they're not trained as such. Is that right?

GEN. HUFFMAN: The reason we don't get involved in arrests, search, seizure, service of warrants is because the law prohibits it, Congressman, but you're right, we do not have the expertise, either.

REP. SCOTT: Are there other reasons why we'd want to keep the military separate -- not because it's the law, but just in general why it's a good idea or a bad idea?

GEN. HUFFMAN: I think, Congressman, if you looked at the beginnings of the Posse Comitatus Act, which I think has two bases in history -- one of them was it was an attempt in the post-Civil War area during reconstruction in the South to prevent the continued use of federal troops in the enforcement of the civil law. Secondly, it was a reaffirmation of the civilian control of the military in our country, in our history.

REP. SCOTT: Ambassador Holmes, do you want to comment on this? Is this generally why it's -- why we want to maintain the separation?

MR. HOLMES: My own view is that this is a basically good government to maintain a clear separation between the military power of the executive branch and law enforcement power of the attorney general.

REP. SCOTT: Mr. Chairman, I yield back the balance of my time.

REP. MCCOLLUM: Thank you, Mr. Scott. Mr. Schiff?

REP. SCHIFF: Thank you, Mr. Chairman. General Huffman, I believe you're assistant judge Advocate General for military law and operations for the U. S. Army, am I right?

GEN. HUFFMAN: That's correct, Congressman.

REP. SCHIFF: All right. General Huffman, I have to acknowledge that I'm on standby status and my uniform has hung in the closet for the last two years, but I am also a judge advocate in the U. S. military. My uniform is blue when I put it on, but I think we have the same mission. I want to ask you, although -- even -- even if a support for local -- for civilian law enforcement could be legal under the Posse Comitatus Act, the military won't necessarily supply it in all occasions, will it?
GEN. HUFFMAN: No, Congressman, we will not.

REP. SCHIFF: Well, the military has its own missions to perform, so it has to, for its own internal policy reasons, limit the support it can provide.

GEN. HUFFMAN: That's correct.

REP. SCHIFF: General Pickler, I thought I heard you say, sir, that there was a necessity for a drug nexus for your command to participate in training. Did I hear that correctly?

GEN. PICKLER: You did, sir.

REP. SCHIFF: All right. Why was there a requirement in your command for a drug nexus to exist?

GEN. PICKLER: The mission of Joint Task Force 6 is to plan and coordinate DOD Title X support to federal, state, and local drug-related law enforcement agencies within the southwest border region.

REP. SCHIFF: And you were the commander of Joint Task Force 6 at that time?

GEN. PICKLER: Yes, sir. I was.

REP. SCHIFF: Are you still the commander?

GEN. PICKLER: No, sir. I've had two assignments since then.

REP. SCHIFF: Okay. I'm sorry, did I let you finish your --

GEN. PICKLER: I've had two assignments since then.

REP. SCHIFF: I'm sorry. You were explaining why the drug nexus had to exist for Joint Task Force 6.

GEN. PICKLER: Yes, sir. That was the reason we were constituted. That was our mission.

REP. SCHIFF: It was a drug-related mission.

GEN. PICKLER: Absolutely, sir.

REP. SCHIFF: All right. And did your command in some way provide training or other assistance to the Bureau of Alcohol, Tobacco, and Firearms for this particular matter, the Waco matter?

GEN. PICKLER: We provided the support that's outlined in the execute order in terms of the medical support, the communications support, and so forth, prior to the events at Waco in a category we call general support to law enforcement, yes, sir.
REP. SCHIFF: Okay. And you would not have provided that support if it had not been a drug nexus?

GEN. PICKLER: JTF-6, or one of its tactical control units, would not have provided that support, sir.

REP. SCHIFF: So what information did you receive that persuaded you that there was a drug nexus in this case for you as commanding officer to provide that support?

GEN. PICKLER: I received several reports of that nature, both from the people who attended the meeting on 2 February and from the people who attended the meeting on 4 February in Houston, and subsequently in the process of developing their presentation to me for my approval of the execute order. Evidence of that nature included the fact that certain members of the Branch Davidian group had previous drug-related activities, that precursor chemicals may have been involved there on the site, some pictorial evidence of the fact that a methamphetamine lab was alleged or possibly --

REP. SCHIFF: Pictorial evidence?

GEN. PICKLER: Schematic evidence. I believe that at the meeting on 4 February, there was a pictorial evidence of the fact that the compound itself would have a methamphetamine lab in one of the ancillary buildings there, and that was what they expected it to be.

REP. SCHIFF: My time is almost up, so excuse me for interrupting, General, but who is giving you this information?

GEN. PICKLER: We got the information from the Bureau of Alcohol, Tobacco, and Firearms and the operation alliance in their support request, where they submitted it through the military support working group. They're a duly constituted working group to provide and coordinate that request to Joint Task Force 6, gave a statement in here that said that there would be -- that characterized the organization as an extremist-type organization believed to be involved in the manufacture of methamphetamine, or words to that effect.

REP. SCHIFF: And that is originating with Bureau of Alcohol, Tobacco, and Firearms?

GEN. PICKLER: Yes, sir, to the best of my knowledge, it is.

REP. SCHIFF: My time is up, Mr. Chairman. Thank you.


REP. SHEILA JACKSON LEE (D-TX): Thank you very much, Mr. Chairman. There are a few operations down at this end of the table that I'm trying to maneuver, and that is these microphones. I hope my time allows me to get them maneuvered correctly. They're kind of stretching over -- (Off-mike comments.)
REP. MCCOLLUM: -- (inaudible) -- either you may ask him or I will. I think Ambassador Holmes wanted to make a comment. I won't charge to you. Ambassador Holmes --

REP. LEE: I will -- I will -- I will ask the ambassador the question, Mr. Chairman, and you can go ahead and yield the time initially and then I'll be more than happy -- (laughter) --

REP. MCCOLLUM: Go ahead, Ambassador.

MR. HOLMES: Thank you, Mr. Chairman. I think it's important to emphasize that Operation Alliance is composed of all of the federal, local, and state law enforcement agencies involved in the counter-drugwar, and when -- and it receives -- JTF-6 receives six (hundred) or 700 requests a year. These are vetted by Operation Alliance, and on that board, the senior members are the Drug Enforcement Agency, ATF, Customs, and Border Patrol. And so, when JTF-6 receives these requests from that duly constituted board, it's not their role to second guess any connection with drugs.

REP. MCCOLLUM: Thank you, Ambassador. You may now proceed, Ms. Jackson.

REP. SHEILA JACKSON LEE (D-TX): Mr. Chairman, thank you very much. I have made a commitment in beginning my questions as to re-emphasize the importance of these hearing because, of course, lives were lost. And we've made a commitment to ensure that that doesn't happen again -- at least under these circumstances. So, Ambassador, I want to just recount for you the information that I have about the assistance that might have been given, that was given. Provision of training facilities and equipment, aerial reconnaissance missions, the use of helicopters during the raid, and advice concerning ATF medical and communications plan. This is a summary out of the Treasury Report. Is any of that contrary to what the policy is with respect to assistance, if asked by a civilian agency of the military? Is any of the inconsistent?

MR. HOLMES: No, it's not.

REP. JACKSON LEE: Can you expand as to whether any other kind of assistance could be given?

MR. HOLMES: The Department of Defense has had a broad mandate of authority from the Congress to provide support -- and I emphasize support -- to law enforcement agencies involved in combating illegal drugs. These requests come in. They're vetted. They're looked at. They can be requests for equipment, for technical assistance, for training. But --

REP. JACKSON LEE: So, this is not out of the ordinary, but the list that I just --

MR. HOLMES: Certainly not. This is --

REP. JACKSON LEE: -- recounted for you is certainly not out of ordinary.

MR. HOLMES: This is one of -- one of five programs in the Department of Defense's counter-drug program, which is part of the national program.

REP. JACKSON LEE: Appreciate it. This is about 3:30 in the afternoon, and maybe a little levity
isallowed. I'm going just say to B. G. Pickler, I was going to call him Big Guy, but I assume it's brigadier general -- and I wanted to make sure I had the right title.

GEN. PICKLER: Ma'am, it's major general.

REP. JACKSON LEE: It's major. That's your initials. So, I shouldn't call you Big Guy Pickler.

GEN. PICKLER: At the time, I was a brigadier general. Somebody saw fit to promote me.

REP. JACKSON LEE: Thank you. I just wanted to make sure that I had the right title for you. And it is now major.

GEN. PICKLER: Yes, ma'am. It is.

REP. JACKSON LEE: Major general. I just wanted to make sure that I corrected that. Let me -- and I'll have a question for you. Lieutenant Colonel Lindley, let me thank you for making the system work. As I understand it, you asked some additional questions on having the opportunity to review some of the requests they made. Is that my understanding?

COL. LINDLEY: Ma'am, let me accurately correct it right now.

REP. JACKSON LEE: Yes.

COL. LINDLEY: I mean, this is the second time it's been said. The reason the system worked is because of the special forces soldier, who was out there, that questioned the tasking that was being submitted.

REP. JACKSON LEE: And I -- COL. LINDLEY: They had the foresight. They had the knowledge and the training ahead of time to go out there and raise these issues. And the real people you thank are the soldiers that were out there in the field.

REP. JACKSON LEE: Let me say to you that you now reinforce my point even more, because that was the line officer out in the field making the assessment. Let me ask you then, either based upon the line officers assessment and then your ultimate participation, would you think that any of the requests -- and I include things like reconnaissance missions, the use of helicopters during the raid, advice concerning ATF medical and communications plans -- did that suggest to you ways to kill better or to make the operation work, if it was to go through?

COL. LINDLEY: Ma'am, it was a support role, as far as the first part of your question -- killing better. That's not relevant.

REP. JACKSON LEE: Well, let me -- that's a shocking question, and you're hesitant to answer because you're not sure what I'm trying to get at. Would the support opportunities be offered to ensure that a raid, if it occurred, would be effective, and the least amount of lives would be lost? Or would it be to do quite the contrary -- ineffective and lives to be lost? Would you think that all of that that was asked of you would help to ensure less lives were lost?

COL. LINDLEY: I think a basic tenet of anybody in government service is to preserve life. And I think that this would support that concept, Ma'am.

REP. JACKSON LEE: Let me go on. Thank you very much. Let me go on to the judge advocate, if I might, and query you again about the question of the separation of military and civilians. I might
guess that you might have been trained at the University of Virginia Law School or --

GEN. HUFFMAN: At the judge advocate general school at the University of Virginia, yes.

REP. JACKSON LEE: And I can't join in with Congressman Schiff, but I don't have a uniform, but I am able to practice before the U. S. military court of appeals. So, I may have some standing here. I think it's important to try to understand why we separate out the civilian responsibility and the military assistance. Could you say -- for the viewers and listeners and those of us who are trying to get to the bottom line of what happened, it is a difference between dominance or dominating the civilian community versus providing assistance, that we are trying to keep a certain degree of separation so that we are not a nation dominated, run by, controlled by the military, but yet you are allowed to assist -- when necessary -- under the, of course, the certain laws that we have.

GEN. HUFFMAN: Yes.

REP. JACKSON LEE: Would you expand on that, please?

GEN. HUFFMAN: Well, as I mentioned a little earlier, our Founding Fathers intended this separation of the civilians and the military. They did not want the military dominant, as it was in Europe. And so, the separation of the military -- the civilian control of the military became one of our tenets in the United States. And the Posse Comitatus Act is really a logical follow on to that.

REP. JACKSON LEE: Did you help in Oklahoma City, by any chance -- after the tragedy? Did you help in any medical way or any other manner, might have provided any assistance?

GEN. HUFFMAN: The Army and the National Guard both helped in Oklahoma City. Yes.

REP. JACKSON LEE: So, you were asked to help. And you did work with civilian agencies in that instance.

GEN. HUFFMAN: That's correct.

REP. MCCOLLUM: Ms. Jackson Lee --

REP. JACKSON LEE: We thank you for that. Thank you, Mr. Chairman.

REP. MCCOLLUM: -- your time has expired. Ms. Ros-Lehtinen.

REP. ILEANA ROS-LEHTINEN (R-FL): Thank you, Mr. Chairman. I'd like to yield my time to Mr. Shadegg.

REP. JOHN SHADEGG (R-AZ): Thank you very much. I appreciate that. Let me begin by saying I'm somewhat disappointed that Mr. Schumer is no longer with us. He was offended at a remark of mine last evening, having to do with something I said. I want him to know that I have not only not seen or read the Soldier of Fortune Magazine, I was unaware of any of its application to this hearing until the hearing started. So, any implication that I'm asking questions out of the Soldier of Fortune
Magazine, or its theories, is inaccurate. General Pickler, let me begin with you, and with -- if I might --with the operational order. And this is the order that Mr. Buyer was asking you about. And it's the order which has in -- I believe these second or third sentence -- "This operation has the highest interest of BATF, Washington, and has been approved at that level. " Page two of that order contains a sentence which I think is a good lead in for where I want to ask some questions. About the third sentence says, "Intelligence indicates that an active meth-amphetamine lab, and deliveries of the required chemicals to produce the substance of meth-amphetamines. "So, I guess it means the presence of those things. Intelligence in the military can mean military intelligence. I presume, from your earlier testimony, that this is not military intelligence that indicated that.

GEN. PICKLER: You're absolutely right, sir. It was not military intelligence. And that's one of the reasons that we don't question the duly constituted law enforcement, because that could lead us down the path in violation of Executive Order 12333, to the prevention of military surveillance or intelligence oversight of U. S. persons. And so, we do not become involved in that kind of activity, sir. And so, the intelligence was law enforcement related only.

REP. SHADEGG: And it would be of concern to you, would it not, if that intelligence were false or fabricated or based on information that was years old and clearly no longer valid?

GEN. PICKLER: Yes, sir. It would be of concern to me, but I had no reason to doubt it.

REP. SHADEGG: Okay. Mr. Crane, do you sometimes become concerned about that intelligence being inaccurate -- and specifically I'm referring to a fax memo, on which there's a handwritten note at the bottom of it that says, "To reinforce SOF resistance to potential cheating, which seems to recur at JTF-6 --. "Do you -- are you familiar with that language?

MR. CRANE: I am not, sir. I would like to see the memo, if possible.

REP. SHADEGG: Do you know what the word cheating would mean in the context of the intelligence you receive in order to determine if there is a drug nexus?

MR. CRANE: Up until last Tuesday, I did not. But, yes, sir, I do now.

REP. SHADEGG: Would you explain to the committee what it means?

MR. CRANE: Cheating would mean, in this context, a federal agency lying to another federal agency to obtain support, sir.

REP. SHADEGG: Yes, that would concern me significantly. Lieutenant Colonel Lindley, let me turn to a different topic. There became a point in time -- as I understand from your testimony -- when you became concerned about this training mission and its involvement with meth-amphetamine and a meth-amphetamine lab. What dangers do you know to be associated with a meth-amphetamine lab? COL. LINDLEY: First of all, it was a meth-amphetamine lab from the beginning.

REP. SHADEGG: That was the representation from the beginning. COL. LINDLEY: That's correct.
And for a number of different aspects -- backing away for a moment from the largest, the physical characteristics of methamphetamine production, and the dangers in the chemicals. There's ammunition considerations. If the medics were down there, the potential difficulties with an explosion of an ongoing methamphetamine lab. You can't simply shut one off. The second side of it was that the obvious production of (taggants?) and other evidence that would be present within the area that could be impregnated within the clothing would get the soldiers themselves involved in the physical collection of evidence.

REP. SHADEGG: And indeed, it's an extremely dangerous circumstance or situation, is it not? COL. LINDLEY: Absolutely, sir.

REP. SHADEGG: The field officer that you're talking to me about, was that Major Petree? Was he the one on the field who raised these concerns and discussed the issue of methamphetamine with you?

COL. LINDLEY: Sir, Mr. Crane next to me was the one who received the phone call. I believe it was Major Ballard who talked to him first, the special operations rep out at JTF-6. I subsequently talked to Major Petree.

REP. SHADEGG: And did you explain the dangers of methamphetamine lab to Major Petree?

COL. LINDLEY: I raised that as one of the many issues that we were discussing, yes, sir.

REP. SHADEGG: Okay. And Major Petree, once that had been raised with you, as I understood it, you took action with regard to those dangers and with regard to that issue in this matter. Is that right?

MAJ. PETREE: Sir, we were a little ahead of that game.

REP. SHADEGG: Okay. Tell us where you were.

MAJ. PETREE: When we had first heard about the potential or the possibility, Major Ballard, as the operations officer for the (RSU?), was my link on a daily basis to General Pickler and JTF-6. We were continually talking, continually sharing information. He's also very familiar with RSU operations as the operations officer. Roughly about January, when I was first given an indication -- about mid-January, when I was first given an indication that something was up, that something was coming down, a few noted points were coming out. One of those was methamphetamine in terms of a laboratory being part of this objective for this -- as at that time, an unnamed LEA, law enforcement agency. I then met with essentially my own company staff, if you will, two of whom are 18 Delta special forces medical sergeants -- 18 Delta is the MOS code -- one of whom was Sergeant Fritts. In discussions, I did ask that they produce a paper like that because at that time, sir, you have to understand that I also had my completion of my tour out there, January through March. Our organization had conducted eight operations for JTF-6. There is some roll-off into some of the operations where potentially my own personnel could be exposed to the chemicals used in methamphetamine production. Some of you are keying on lab, but don't forget that once the individual gets done pouring chemicals into apparatus, or something like that, he takes that trash and he dumps it. In some of my operational areas associated with other types of operations in support of LEAs, these dumping areas could potentially be or come across -- my personnel could
come across them during movement to and from. So I hope that answers your question.

REP. SHADEGG: That would be very dangerous. I see my time has expired. We'll pick up with this in the next round. Thank you.

REP. MCCOLLUM: Thank you, Mr. Shadegg. Ms. Lofgren, I believe you're next on your side. You're recognized for five minutes.

REP. LOFGREN: Could I pass to the next -- (inaudible)?

REP. MCCOLLUM: Certainly. Ms. Slaughter, would you like five minutes?

REP. SLAUGHTER: Yes, thank you, Mr. Chairman. I want to read very briefly here from testimony of Mr. Brault (sp) that he gave to Donnie Aguilera -- Davey Aguilera; I correct myself -- where he talks about when he first went to the compound and said that "Vernon had said that he had found an amphetamine manufacturing facility which he called a still and that there were a number of documents containing recipes, instructions on how to manufacture amphetamine. The previous occupant of the property was George Roden (sp) of great fame, who was run off at gunpoint, I think. But he had rented out part of the property, and one of the renters was a man named Donnie Joe Harvey, who later went to prison for robbery and was considered dangerous by the Waco authorities and was also rumored to be into drugs. Vernon Howell said he'd turn this over to the sheriff. But witnesses who were with him when the sheriff's department came said he turned over nothing. " There was a building, this man says, in the summer of '88, the time that he left, which was off-limits to everybody except Koresh himself. And he said that there was literature in there, but never -- he gave an indication nobody else was ever allowed to go in. That building burned to the ground in the spring of 1990. And one night in 1989, when talking to a few of us, this man says -- again, I'm quoting -- "I was the only ex-member there. Vernon was talking about trafficking drugs as a way of raising money. He seemed very interested in getting money through this means. " Now, I appreciate that this is the word of just one person who had lived there, but I'd like to ask, in your considered professional opinion, if you had this kind of testimony from a person and that several people had mentioned that that lab had been there, that there was somebody connected there who had gone to prison for drugs, there was a building completely off-limits to everybody else, would it have given you some pause that there might have been a methamphetamine lab there? Do you think that the idea it was there is totally far-fetched, given this information I just read you? What do you think?

MR. : Ma'am, from my perspective, in talking with the people I talked to, and refreshing my own memory and having talked to them both currently active and retired, none of us had any reason to doubt the existence of a methamphetamine lab based on what we had been told and what we had seen at the meetings we attended.

REP. SLAUGHTER: The previous panel this morning said that they saw no earthly reason to think that there was one there. Is it your opinion that it was something that needed to be considered before serving this warrant and something to search for on those premises?

MR. : I think the existence of a methamphetamine lab was certainly very possible under the
circumstances. And one thing that hasn't been (added? ) by previous testimony, I would point out that when Lieutenant Colonel Bertho (sp) came back from the 4 February meeting in Houston, chaired by the ATF and that organization, he represented to me another factor, which was that the ATF intended to include a lab team from the DEA in the operation. And so that certainly further endorsed our own understanding of the potential for methamphetamine production. And the lab team would have then been constituted to handle those kinds of precursor chemicals and the dangerous chemicals that might exist in that kind of an operation.

REP. SLAUGHTER: One other thing that I want to ask -- (inaudible) -- goes to state of mind, and it may not be anything that you can answer. But during the planning of this raid and your interaction with the people who were planning it, was there ever indication that you could see on their part that it ever occurred to them that they would be met with gunfire or that they would need their own guns when they went out to serve this warrant? During the training, were they prepared to go in shooting is really the question I want to get at.

MR. : I didn't get that indication in observing therehearsals and some of the training they were going under. I think, as I stated earlier, they were prepared for the eventuality of that. But, no --

REP. SLAUGHTER: That it might happen. But that was not discussed at all during the planning at all? As far as you know, they had the sense they could go out and serve that warrant and walk away?

MR. : To the best of my knowledge, that's correct.

REP. SLAUGHTER: Thank you very much. I yield the rest of my time to Mr. --

REP. MCCOLLUM: I think your time has expired.

REP. SLAUGHTER: Has it? I'm sorry.

REP. MCCOLLUM: You came close, but --

REP. SLAUGHTER: All right, thank you.

REP. MCCOLLUM: At this time I recognize Mr. Coble for five minutes.

REP. COBLE: Thank you, Mr. Chairman. Mr. Chairman, I will yield five minutes to the gentleman from Arizona, Mr. Shadegg.

REP. SHADEGG: Thank you, Mr. Coble. I certainly appreciate it. First of all, members of the panel, let us apologize for the structure of this. It's forced upon us. It causes us to break up the sequence of the questioning. But let me pick up where I left off. As I understand it, the individual to whom we next turn this process was Staff Sergeant Fritts, is that right? You were charged with writing a paper. Am I correct? SGT. FRITTS: Yes, sir.

REP. SHADEGG: Okay. And tell me briefly, what did the paper say? What was your goal in writing the paper? SGT. FRITTS: First, sir, the goal of writing the paper was to inform my commander and
the other detachments assigned to our company the hazards associated with coming across a methamphetamine lab while out on movement.

REP. SHADEGG: And who instructed you to prepare that paper? SGT. FRITTS: At the instruction of my commander, Major Petree.

REP. SHADEGG: Okay. Now, do you know what happened with that paper, what was done with it?

SGT. FRITTS: After review by Major Petree, we took it to Houston with us for the meeting and then it was presented to the ATF.

REP. SHADEGG: Okay. So the paper was presented to the ATF at a meeting in Houston? SGT. FRITTS: Yes, sir.

REP. SHADEGG: Okay. And did you discuss the paper with them? SGT. FRITTS: No, sir, I never discussed the paper with them.

REP. SHADEGG: But you were present at that meeting? SGT. FRITTS: Yes, sir.

REP. SHADEGG: Okay. After that meeting, was there further discussion with ATF about the issue of a methamphetamine lab? And they were afforded an opportunity to read the paper? SGT. FRITTS: Not in the short amount of time that we were there would they have had the chance to read the paper.

REP. SHADEGG: There was a subsequent meeting, however? SGT. FRITTS: No, sir. I mean, not until the team went to Fort Hood, Texas.

REP. SHADEGG: Not until the team went to Fort Hood, Texas. Was there a point in time when you reached any conclusions about ATF's response to that paper? SGT. FRITTS: I never got a feeling from them, sir, as to their response to the paper. And I never had discussions with them about the paper. But let me say at the same time, I was trying to do research through a book to understand my role better so I could do my job more completely. So I never gave them opportunity to discuss it with them.

REP. SHADEGG: Well, maybe I'm confused here, but my understanding is that either directly or through other members of the military that were involved in this project, you had contact with ATF and it became pretty evident to you that ATF was not worried about the concerns expressed in your paper. Isn't that correct? SGT. FRITTS: Sir, my impression was that they were not worried about the methamphetamine lab, no.

REP. SHADEGG: Your impression was that they were not worried about it? SGT. FRITTS: Yes, sir.

REP. SHADEGG: Okay, and you drew that based on further contact with ATF? SGT. FRITTS: It led to the discussions during the Houston meetings.
REP. SHADEGG: Further discussions during the Houston meetings? SGT. FRITTS: Yes, sir.

REP. SHADEGG: In what regard? They just didn't seem too concerned about it at the Houston meeting? SGT. FRITTS: Well, sir, like I said before, I was doing research in the book, so I did not pay attention entirely to the discussions going on between their main leaders and Major Petree, so they might have discussed it further, but I did not ever hear it discussed again myself.

REP.: -- (off mike) -- pull your mike a little closer --(inaudible) -- difficulty hearing you. Thank you. SGT. FRITTS: Sorry, sir.

REP. SHADEGG: Did the ATF ever, to your knowledge, express any concern about the dangers that were presented by a methamphetamine lab? SGT. FRITTS: Not to my knowledge, no, sir.

REP. SHADEGG: Did you reach a conclusion that perhaps they didn't themselves believe there was a methamphetamine lab present? SGT. FRITTS: I don't know if I ever reached a conclusion along those lines or not, sir.

REP. SHADEGG: Well, let me put it differently. Did anything in their conduct following your handing them the papers suggest that they were, indeed, concerned? SGT. FRITTS: About the presence of a methamphetamine lab?

REP. SHADEGG: And the dangers that were exposed as a result of the lab being there? SGT. FRITTS: No, sir, nothing in the contact would indicate that.

REP. SHADEGG: Is there anybody else there who can say to me that the DHF (ph) reacted in a conscientious way and said -- and did things that evidenced their concerns about the presence of the dangers as detailed in Staff Sergeant Fritts' memo?

MR.: In terms of chronology, the next time I heard or discussed anything or listened to anything from the ATF reference the methamphetamine lab was when we were also attempting to get clearance at Fort Hood for the use of flash banks (ph) with the Fort Hood range control.

REP. SHADEGG: Mr. Fritts, let me just go back to this one more time. In discussions with committee staff, I thought -- it is my understanding you made it clear to at least the staff that BATF pretty well blew off the issue of there being a methamphetamine lab. SGT. FRITTS: Yes, sir. I said the impression I received that they -- once the paper was presented, they no longer showed any interest in a methamphetamine lab.

REP. SHADEGG: From that point forward, they didn't show any interest in a methamphetamine lab? SGT. FRITTS: To me, sir, yes, sir.

REP. SHADEGG: Thank you very much. I have nothing further.

REP. MCCOLLUM: Thank you very much. Mr. Taylor, you're recognized for five minutes.

REP. TAYLOR: Thank you, Mr. Chairman. I'm curious and I want to open this up to the panel. Are
you prohibited by law from training law enforcement agents from other either U. S. government agencies or local law enforcement agencies? If they come to you and say, "We'd like to learn how to shoot our M-16s," can you teach them that? If they come to you and say, "We'd like to learn a little bit about survival training should one of our guys get lost in a national forest," if they come to you for any of those reasons, can you train them, by law?

MR.: Yes, Congressman, we can. None of those would be prohibited by the Posse Comitatus Act.

REP. TAYLOR: Does that happen on a fairly regular basis?

MR.: Yes, very frequently.

REP. TAYLOR: Why?

MR.: Specific requests, I'm not certain, but requests from law --

REP. TAYLOR: But requests like that. I mean, the great resources of the Department of Defense and the great training and expertise that's available, doesn't it make sense to make that available to protect the citizenry of this country? Yes, sir, Mr.-- (inaudible) -- .

MR.: Congressman, there is a -- by law, there is a widerange of activities, support activities which law enforcement agencies, federal, state, local, either involved with counterdrug or not, or other law enforcement problems, they can come and request that through the Defense Department at any number of levels.

REP. TAYLOR: Well, let me make it specific, then. If the ATF -- and they know they're going into a compound, they know the guy's got probably a hundred fully automatic weapons, and they know he's got a dangerous history because he shot at a previous preacher there, and they know that he has told a special agent he's not going to be taken alive, he's not going back, so they come to these special forces or they come to the Army and they say, "Can you teach us very briefly what you know about getting into a building?" Is it legal for them to do that?

MR.: Well, since we have a particular case involved here known as Waco, I would like to ask --

REP. TAYLOR: Okay -- MR. : -- General Pickler to answer that question.

REP. TAYLOR: Okay, but ignoring the talk of the meth -- meth -- I can't even say it -- (laughter) -- methamphetamine labs, what if they just came to you and said, "We have a person that's dangerous, suicidal, he's got a lot of people with him and we need some expertise on how to get into that building, can you teach us that? Is it legal?"

GEN. PICKLER: Yes, I would say -- I would say -- well, I -- General Huffman may have a different view, but I would say that is illegal, but normally it doesn't happen that way --

REP. TAYLOR: Okay --
GEN. PICKLER: -- generally what happens is that law enforcement comes to the Defense Department and asks for the sheriff's department, various people, to be included in the next MP school --

GEN. HUFFMAN (?): Right, that's correct.

GEN. PICKLER: -- for X, Y, or Z. That's normally the way it happens.
REP. TAYLOR: Okay.

GEN. PICKLER: But this --

REP. TAYLOR: -- (inaudible; crosstalk) --

GEN. PICKLER: -- (inaudible; crosstalk) -- legal activity to render support to law enforcement.

REP. TAYLOR: Okay, but had that happened, it would have been legal, is what you're telling me.

GEN. PICKLER: Had what happened?

REP. TAYLOR: Had the ATF just come to you without even mentioning the amphetamine lab and said, "We have a situation. We understand you're experts at this, tell us how we do it," you can tell them, is that not correct?

MR.: Yeah.

MR.: I think what you're looking for is whether or not there -- a drug connection is required, and it isn't.

REP. TAYLOR: Okay.

MR.: I mean, it can be --

REP. TAYLOR: I want that for the record, that the drug connection is not required. General, I'm -- I want to open this up to the panel. I'm very concerned that some groups out there are going to great extents to paint you, the ATF, and the law enforcement of this country as the bad guys. That's -- (inaudible) -- because I think you're the good guys. Let me just ask this panel, did any of you participate in the raid, or do any of you know of anyone else in the armed forces of the United States of America, on active duty with the United States of America, not the Texas -- Texas National Guard, who participated in this raid? Second question is -- and I'm going to ask this of any single panel that comes for the remainder of this hearing, did anything that any of you have heard or seen or read justify the murder of four ATF agents and the wounding of 20 more in the serving of that warrant?

REP. MCCOLLUM: -- (off mike) -- answer that second question, the record cannot show the answers of the collective panel. Would you mind, for the record, going down the list -- I'll give you the time --
REP. TAYLOR: Absolutely.

REP. MCCOLLUM: -- and getting an answer to that first question about whether that person knows --

REP. TAYLOR: -- (inaudible; crosstalk) --

REP. MCCOLLUM: -- whether or not there was any active-duty military personnel at the scene of the Waco raid on February 28, 1993?

REP. TAYLOR: That participated -- (inaudible) --

REP. MCCOLLUM: -- (inaudible; crosstalk) --

REP. TAYLOR: Those reporters didn't participate in the raid, they were witnesses.

REP. MCCOLLUM: Well, that's true.

REP. TAYLOR: There's a big difference between -- SGT. MORELAND: No, sir, I do not know of anyone at Waco at the raid and I was not there, sir.

REP. TAYLOR: Lieutenant Colonel?

MR. CRANE: Sir, I was in Fort Bragg the entire time and I have no knowledge.

REP. MCCOLLUM: -- (off mike) -- the question -- (off mike) --

LT. COL. LINDLEY: Sir, I have no knowledge of any active-duty participation.

REP. TAYLOR: If you don't mind, Mr. Chairman, I'll say the names for the record.

REP. MCCOLLUM: Please do.

REP. TAYLOR: We'll go back. First was Staff Sergeant Moreland, second was Mr. Crane, third was Lieutenant Colonel Lindley, Brigadier General Huffman.

GEN. HUFFMAN: No, Congressman, I was not there and I know of no one who participated in the raid.

REP. TAYLOR: Major General Pickler.

GEN. PICKLER: Sir, I was not there and I know of no one in JTF-6 or under my tactical control who participated in the raid.

REP. TAYLOR: Major Petree.
MAJ. PETREE: No, sir, I was not there. I know of no one who was, and I can guarantee you that nobody in my command was there.

REP. TAYLOR: If you other two gentlemen -- your name tags are turned away from me, so if you would identify yourself. SGT. DUNN: I'm Sergeant First Class Dunn. No, I was not there and I know of no other active-duty military that were there. SGT. FRITTS: Staff Sergeant Fritts. I was not there. I know of no one who was.

REP. TAYLOR: Okay.

REP. MCCOLLUM: Ambassador Holmes did not answer. Would you answer that, too, please?

MR. HOLMES: I wasn't even in the Defense Department at that time, but I can -- (laughter) -- to the best of my knowledge, I know of no one --

REP. TAYLOR: Okay. If you would --

REP. MCCOLLUM: Well, (let me ask ? ) the second question, too. I think this is very important to (clarify ? ) the record. That's part of why these hearings are going on --

REP. TAYLOR: Thank you.

REP. MCCOLLUM: -- are to make this record clear, and I don't think there's anybody on either side of the aisle that doesn't want it to be that way, so please.

REP. TAYLOR: You have people who are sworn to defend and uphold the Constitution of the United States. Have any of you -- has anything that you have seen, anything that you have heard or read, justify the murders of four ATF agents and the wounding of 20 more in the serving of the warrant on -- and, again, the murder by David Koresh and his followers as they served a warrant on the -- February 28? Do any of you all think you saw anything that justifies that?

REP. MCCOLLUM: You can answer collectively or individually to that. I don't think we need to go down the row for this purpose. If anybody there knows that --

REP. TAYLOR: Would you like me to call the roll? Would you prefer that?

REP. MCCOLLUM: -- volunteer.

REP. TAYLOR: I'll call the roll. Sergeant Moreland?

SGT. MORELAND: No, sir.

REP. TAYLOR: Mr. Crane?

MR. CRANE: Absolutely not.
REP. TAYLOR: Lieutenant Colonel Lindley? LT. COL. LINDLEY: No, no.

REP. TAYLOR: Brigadier General Huffman?

GEN. HUFFMAN: No, Congressman.

REP. TAYLOR: Ambassador Holmes?

MR. HOLMES: No.

REP. TAYLOR: Major General Pickler?

GEN. PICKLER: No, sir.

REP. TAYLOR: Major Petree?

MAJ. PETREE: No, sir.

REP. TAYLOR: Sergeant -- again, I wish you'd turn your name --

SGT. DUNN: No, sir. I know of nothing.

REP. TAYLOR: Staff Sergeant?

SGT. FRITTS: No, sir, I do not.

REP. TAYLOR: Thank you very much.

REP. MCCOLLUM: Your time is up, Mr. Taylor. Thank you for the questions. Mr. Buyer, you're recognized for five minutes.

REP. BUYER: Thank you, Mr. Chairman. One thing I wanted to -- want to get cleared up, because I think Treasury's playing games with the committee, and that deals with our request for documents, Mr. Chairman. When we have General Pickler here, in his testimony something was stated that bothers me. The subcommittee asked the ATF for all evidence of precursor chemicals. None of the documents which we have says anything with regard to precursor chemicals. Major General Pickler testifies that you were at a meeting where they said that there were precursor chemicals. Let's clear the air here on whether that happened or not.

GEN. PICKLER: No, sir. I was not at the meeting. My personnel were at the meeting during which precursor chemicals were discussed as one of the elements of the possibility of the existence of a meth-amphetamine lab, sir.

REP. BUYER: All right. Thank you. And if there's anyone from Treasury here, if there are any documents to that, we would appreciate it. Otherwise, we'll continue to go after Treasury on their
conduct. Let me ask questions to Major Petree. Did you or your team any provide any training, other than that directed in the JTF-6 operation order, that you're aware of?

MAJ. PETREE: No, sir.

REP. BUYER: Were you or your team ever asked by ATF to provide any other forms of additional support?

MAJ. PETREE: Just earlier on in the initial -- the 2 February meeting. And I think it was more of an approach of anything you can give us -- and type of support in trying to identify that. The only other thing we had discussed before was the possibility of providing 18 Deltas on site, the possibility of us reviewing tactical plans. Those are the two that stand out for me --

REP. BUYER: The review of the tactical plan --

MAJ. PETREE: -- other than also what was requested --

REP. BUYER: Did you participate in that?

MAJ. PETREE: No, sir.

REP. BUYER: Okay, so they asked, but you declined because it was outside the scope of your operations order?

MAJ. PETREE: By that time I received General Pickler's order, and also by that time I had also already issued my own order to the personnel to go conduct the mission. We had already determined, by that point, that we weren't going to get it near that.

REP. BUYER: Did you or any member of your team ever provide close quarters combat training to ATF in connection with the mission?

MAJ. PETREE: No, sir.

REP. BUYER: Are you familiar whether they did have any of the training on close quarters combat?

MAJ. PETREE: Sir, to be honest, this had come up in answeringsome of the staffers' questions. And, of course, for almost two years now, it's been a continuous question. And it's also been related in the Soldier of Fortune Magazine. At no time did any of my personnel give any close quarters combat training. Nor did myself. There's also something here that the ATF SRTs didn't ask for -- I don't think they specifically wanted it. They certainly seemed to have the capability, or they were doing it on their own -- something similar. It was never really a serious question from ATF for close quarters battle training.

REP. BUYER: All right. Hold on just a second. Are you familiar with MOUT?

MAJ. PETREE: Yes, sir.
REP. BUYER: And what's it stand for?

MAJ. PETREE: Military Operations on Urban Terrain.

REP. BUYER: And that's almost -- and that an easier form of combat isn't it? It's --

MAJ. PETREE: That's combat -- right.

REP. BUYER: Could you describe what that is?

MAJ. PETREE: That would be combat -- that's the doctrinal U. S. Army term for combat in built up areas, or urbanized areas, or semi-urbanized areas.

REP. BUYER: And would it be similarly described as like a dynamic -- well, I don't know if you want to call it a dynamic entry. But you're going to break down the doors, throw a hand grenade, and kill anything that's moving. Is that correct?

MAJ. PETREE: That more typifies the general instruction that goes on for MOUT, yes, sir. Lead with a grenade --

REP. BUYER: Right. That's what your job is --

MAJ. PETREE: Yes, sir.

REP. BUYER: -- in the Army, correct?

MAJ. PETREE: Right.

REP. BUYER: And close combat support, though, is laying down discriminating fields of fire, is it not?

MAJ. PETREE: Close combat support?

REP. BUYER: Right. Or close quarters combat support.

MAJ. PETREE: Oh, close quarters. In close quarters battle, yes, it's discriminating fire techniques.

REP. BUYER: Discriminating fire techniques.

MAJ. PETREE: Yes, sir.

REP. BUYER: Would you describe -- what is the difference in level or training between MOUT and close quarters combat training, in time, to do that?

MAJ. PETREE: Just simply, obviously, for -- the U. S. Army term for the type of operations where
you use discriminative fire, using specialized personnel who are selected to perform this, and specialized equipment to also performance, plus specialized ammunition, is close quarters battle. The timeframe for that is considerably more extensive than it would be to prepare, say, an infantry company for their -- against their mission essential tasklist of combat and urban environment MOUT.

REP. BUYER: But, for the Army, isn't it two months of training for close quarters combat support?

MAJ. PETREE: For close quarters battle, sir?

REP. BUYER: Battle support is two months in training to do that?

MAJ. PETREE: It is approximately two months, yes, sir -- just for the basic line, yes, sir.

REP. BUYER: All right. The ATF wasn't even close.

REP. MCCOLLUM: Thank you very much, Mr. Buyer. Mr. Brewster?

REP. BILL BREWSTER (D-OK): Thank you, Mr. Chairman. Ambassador Holmes, I think my friend Mr. Taylor established the fact that it's certainly legal -- the training that was done. Wasn't the only question of the meth-amphetamine lab who was going to pay? Didn't that open it to where they did not have to pay for that training?

MR. HOLMES: Well, the issue of paying or not paying is related to the budget, which the Congress gives us every year --

REP. BREWSTER: I understand that.

MR. HOLMES: -- to support law enforcement agencies. And we support all kinds of agencies -- Forrest Service, taking down marijuana, support to Customs Service, across the board. And that is funded.

REP. BREWSTER: And you should. And I agree with that.

MR. HOLMES: Right.

REP. BREWSTER: Mr. Schumer, a moment ago, made the comment that even if there wasn't a meth-amphetamine lab, the fact that it was alleged didn't break any law. And you concurred with that. Would that mean, then, that any federal agency could -- if they chose -- alleging that you or I or anyone else has a meth-amphetamine lab with no impunity?

MR. HOLMES: Well, it doesn't work that way. I mean, the requests for support --

REP. BREWSTER: I'm not talking about --

MR. HOLMES: -- they come in --
REP. BREWSTER: I'm not talking about context. Mr. Schumer was talking about just the fact that there was a meth-amphetamine lab alleged, and there was no meth-amphetamine lab, didn't break any law. Does that then mean that any --

MR. HOLMES: Well, breaking any law as far as we're concerned. At the time -- at the time, the Defense Department, the joint task force-6, acted on the basis of the information presented by the operation alliance.

REP. BREWSTER: Okay. Two or three of you talked about precursor chemicals. What precursor chemicals were alleged to be there? Propylene Glycol or what would it be?

MR. : Sir, I'm not certain exactly which precursor chemicals were there. I know it was discussed in the context of the possibility of delivery of those kinds of chemicals much earlier than 1993. And the suspicion of precursor chemicals being on the scene, if indeed there was a meth-amphetamine lab there. So, but never this precise chemical was identified to me.

REP. BREWSTER: There was never an allegation of a particular chemical alleged to Major Petree or anyone else?

MAJ. PETREE: The only time we heard, when you start getting into the conversation of precursor chemicals was during the description in the 2 February preliminary hearing at operation alliance. The ATF representative, when he was giving a brief background as to why they had targeted this organization, they had described that the UPS or shipping documents, they were keeping a track on that. And a great deal of --

REP. BREWSTER: And they were precursors for amphetamines?

MAJ. PETREE: No, sir. Not for amphetamine. All I heard was precursor. And this was consistent with the production of illegal drugs.

REP. BREWSTER: I noticed, too, that you're all active duty. And it seems the National Guard helicopters were used. Doesn't that require the governor's approval? And did the governor approve?

GEN. PICKLER: To the best of my knowledge, that was approved by the government of the state of Texas.

REP. BREWSTER: So, to your knowledge, the governor of Texas -- Governor Richards approved it.

GEN. PICKLER: I do not know whether the governor personally approved it, but I believe that -- from what I've been told -- that, at least at the level of the adjutant general, it was approved.

REP. BREWSTER: Okay. Colonel Lindley, I note -- looking through your notes here, it seems that you were always concerned about if it met the criteria. Did you ever satisfy yourself that it did?

COL. LINDLEY: Sir, as I testified earlier, I was involved in this thing through the end of the day. I had a message from Captain Becker, who was the third group attorney, near the end of the
evening that indicated that the mission had been pared down. And as I testified earlier, I believe that everything that occurred out there involving the military was done legally and properly.

REP. BREWSTER: Okay. One more question. Major Petree, I know you were involved in the training aspect of it. And the SRTs are awell-trained group to start with. You testified that they thought there was a possibility of gunfire there. Yet, I hear people say that the ATF was outgunned, that many of them only had sidearms -- 9 millimeter semi-automatic pistols. I don't know -- Beretta, S&W, whatever. As a special forces person, if you were entering that type of a conflict, would you be better armed than that? COL. LINDLEY: Well, sir, as to whether the ATF strictly had pistols, I can tell you at Fort Hood, Texas, we observe pistols, we observe submachine guns, we observe AR-15s, and we observe a long gun or -- I'm trying hard not to use the word "sniper" because it connotes (those?) --

REP. BREWSTER: I understand. COL. LINDLEY: -- a long-range type of weapon like that with optics.

REP. BREWSTER: And you would expect then that each of the personnel would probably be equipped with some combination of those, as opposed to just carrying a 9-millimeter handgun. COL. LINDLEY: That's what we saw at Fort Hood, yes.

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

REP. BREWSTER: Thank you.

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

REP. SHADEGG: Thank you, Mr. Chairman. Let me begin with kind of a puzzling document that we have in this investigation. It's a document produced by the Treasury Department, along with thousands of other documents, and apparently from notes taken following the investigation, and it goes to this issue, so I want to read it. Itsays, quote -- and these are apparently notes taken down by the Treasury Department investigators following the incident; unfortunately they don't give us the source of this individual, and the way they produced these just in mass piles, it's impossible for us to identify the source. But it says, "The use of the National Guard was a scam. In my opinion" -- dot, dot, dot -- "to my knowledge" -- period. "There was never any mention of a meth lab being on the property" -- dot, dot, dot. "This was a scam initiated by Bureau headquarters" -- I assume that's Bureau of Alcohol, Tobacco & Firearms -- again, "in my opinion, to obtain the additional resources of the National Guard, air support assistance, et cetera. That's troubling to me.

REP.: Mr. Chairman, do we have copies of the document he was reading?

REP. SHADEGG: We have copies of all these documents. It contains a date stamp of 00010228.

REP. MCCOLLUM: For the record, those would be documents that have been produced to both sides for the purposes of the committee by the department. So I don't have it up here recopied, but you've got them somewhere.
REP. SHADEGG: I think the drug nexus issue is one of concern. It's of great concern to me to consider that perhaps one agency of the federal government lied to another agency of the federal government to procure the resources, even if they could have procured similar resources by some other means. General Pickler, as I understand your testimony, they would not have gotten your resources but for the drug nexus. Is that right?

GEN. PICKLER: That's correct, sir.

REP. SHADEGG: And I believe Major Petree made the exact same point. Is that not correct, Major?

MAJ. PETREE: That's correct, sir. He wouldn't have given me the mission to do it.

REP. SHADEGG: Okay. General Pickler, I want to ask you about a document that I have handed to you. It's dated 9 September '93. It says, "To SOJ3 from SOJA. "Do you have that document?

GEN. PICKLER: Yes, sir, I do.

REP. SHADEGG: Who -- can you tell me who that really is to and from?

GEN. PICKLER: No, sir, I cannot. That is not part of my organization. I guess it's the special operations command, but I'm not sure, sir. And I don't -- I have not seen that document before.

REP. SHADEGG: Do any of you recognize that document? Could you pass it up and down?

MR. : That's USOCOM at MacDill Air Force Base. The SOJ3 is the operations office within USOCOM. And I think the SOJ8, if I'm not mistaken -- I could be -- is the budget office. But I could be mistaken.

REP. SHADEGG: If one of you would go to that document and go to the paragraph number three, it says -- in that paragraph, the third sentence -- "In that instance" -- referring to the Waco investigation and the Waco siege -- "we" -- and that's why I want to know who the author of the document was -- "were persuaded to provide the ATF free training with the allegation" -- allegation -- "never confirmed, proven or even acknowledged that it was for a, quote, 'suspected methamphetamine laboratory,'" closed quote. I take it it would be a concern to each of you if you were persuaded to use your resources based on a representation of a methamphetamine lab when no such lab existed nor was there really reasonable evidence that such a lab did exist, wouldn't it?

MR. : It would be a concern, Mr. Congressman, but I had absolutely no reason to doubt it at the time.

REP. SHADEGG: You were relying on what you were being told.

MR. : I was relying on what I was being told and what was in writing to us at JTF-6 through the vetted organization of operation alliance.
REP. SHADEGG: Well, if you can't rely on what another agency of the federal government tells you, you're in trouble. Mr. Moreland, let me ask you a question. I believe -- Staff Sergeant Moreland. You said that you were not present at the time of this proceeding. Were you ever asked to get your act together with your testimony or the events involved in this particular incident to discuss how all these things came down and kind of get your story together?

SGT. MORELAND: No, sir. Again, I was not there and I haven't -- no, sir.

REP. SHADEGG: A colleague of yours from Fort Bragg contacted us and indicated that you had said at one point that there were some individuals at the raid. Are you familiar with who that might be, how we might track that individual down?

SGT. MORELAND: No, sir, I would not.

REP. SHADEGG: Okay. No idea where that kind of information might come from?

SGT. MORELAND: No, sir.

REP. SHADEGG: This seems to me to be a unique opportunity for you to tell the American people about what went on at this incident. Why don't you tell us, in your words?

SGT. MORELAND: As far as how the training went and things like that?

REP. SHADEGG: Your role, what you think what went correct, what you think went wrong.

SGT. MORELAND: With the actual mission itself, the actual --

REP. SHADEGG: With either the military's role in it or the ATF.

SGT. MORELAND: I wouldn't like to critique ATF's role because I'm not a law enforcement officer. I don't have that kind of experience. So it would be an uneducated guess. So for me to say what ATF did right or what they did wrong would not help anything.

REP. SHADEGG: Okay. What about the military's role? Were you concerned the military was being asked to play a role on the basis of information that was not, in fact, accurate? Is that a concern to you?

SGT. MORELAND: No, sir.

REP. SHADEGG: Thank you very much.

MR. : Sir, I'd like to clarify the memorandum. The SOJ3 is, in fact, the operations office. I had thought that you had said SOJ8. And, in fact, the SOJA is the judge advocate's office for USOCOM.

REP. SHADEGG: And for the larger audience out there, it's the lawyers, the judge advocates --
MR.: That's correct.

REP. SHADEGG: -- communicating with the operations people --

MR.: Absolutely.

REP. SHADEGG: -- about this concern of theirs with regard to the allegation of a meth lab.

MR.: That is a fact.

REP. SHADEGG: Thank you very much.

REP. MCCOLLUM: Thank you, Mr. Shadegg. Mr. Watt, you're recognized for five minutes. Oh, Mr. Lantos is next? I'm sorry, I didn't see you there, Mr. Lantos. You're recognized for five minutes.

REP. LANTOS: Thank you very much, Mr. Chairman. I want to commend this panel for the outstanding and professional set of responses that I was privileged to watch from my office. I'd like to go beyond the sphere of questioning that you have had so far. The purpose of a congressional hearing is really twofold. One is to find out what happened and the second is to look to the possible need for additional legislation to accommodate new circumstances. Now, I raised the question with an earlier panel with respect to the dramatically changing threat environment to the United States both in terms of terrorism, nuclear smuggling, biological/chemical weapons, other items. I would be very grateful, Ambassador Holmes and any other member of the panel, if you would step beyond Waco for a moment, and from your posture of experience of dealing with these issues and dealing with the changing threat to the United States -- the World Trade Center bombing, the episode in Tokyo of a violent religious cult pumping poison gas into a subway system, other matters -- do you feel that your involvement needs to be redefined, broadened, brought up to date? Because it's very interesting to deal with the minutiae of the Waco episode, which I think is very critical at the micro level. But there is a macro level, and the macro level is the threat to the United States in this new environment with both governmental terrorism, individual terrorism, violent cults. And since you are the entity that is clearly the best-equipped, best-prepared, best-funded in the United States, would you care to give us your thinking as to the new ground rules that perhaps might be needed? Ambassador Holmes, will you begin?

MR. HOLMES: Congressman, you have raised a very important point, in my view. Certainly with the World Trade Center attack, unhappily this announced the arrival of terrorism in the United States.

REP. LANTOS: Exactly.

MR. HOLMES: I happen to be the official in this Defense Department responsible for combating terrorism.

REP. LANTOS: I know.

MR. HOLMES: I have worked -- all of us have worked very hard since the beginning of the
administration to pick up on the very good work done by the Bush administration to expand our procedures, particularly in light of the phenomenon of the weapons of mass destruction and the possibility, after the end of the Cold War, that these kinds of weapons could fall into the hands of terrorists. We have done a lot of work. We've made a lot of progress not only within the Defense Department but inter-agency, working with our colleagues who had the lead agency responsibility. Overseas it's the State Department. Within the United States it's the Justice Department, particularly the FBI. I think we have the authority we need. We have the funding. We're working on sharpening our procedures, conducting exercises. And we've had very strong support from the president in this regard.

REP. LANTOS: Would any of your colleagues on the panel care to comment? Go ahead. Yes?

GEN. PICKLER: Sir, from my perspective in work both as the commander of Joint Task Force-6 and director of operations for U. S. Army forces command, where we were imminently involved in military support to civilian authorities, I believe that our current policies in dealing with that, coupled with the laws and regulations, particularly the constraints of Posse Comitatus, are appropriate for the use of military forces in the context of today's environment. And I believe the history and tradition on which they are based -- they are as solid today as they have been in the past. And my own view is that the emphasis in that regard properly applied to civilian law enforcement agencies for their unique kind of work, different from the military type of work, is appropriate to combat some of that threat, sir.

REP. LANTOS: Would any other member of the panel care to comment? I take it, therefore, none of you feel any need for additional legislation? You feel that the current laws provide the flexibility, even in this very new and changed threat environment to dealing with the issues? Mr. Ambassador?

MR. HOLMES: That is clearly my view, with respect not only to countering terrorism, but also combating illegal narcotics.

REP. LANTOS: And, in retrospect, what specific steps should have been taken by civilian authorities -- civilian law enforcement agencies, in bringing you in more effectively?

MR. HOLMES: With respect to which problem?

REP. LANTOS: Waco.

MR. HOLMES: I believe that the system worked, as it has been set up, and has been well explained during this hearing by General Pickler and others, that when the Operation Alliance, representing the civilian law enforcement agencies, came with a request that was specific, and I think that the JTF-6 had all the authority it required to respond to that, and in fact that is what happened.

REP. LANTOS: So, from the point of view of the Department of Defense, the post-mortem reveals nothing that's gone wrong?

MR. HOLMES: From our standpoint, everything that was done by the Department of Defense was completely according to law and to the delegated authority of the officials concerned.
REP. LANTOS: Thank you very much. Thank you, Mr. Chairman.

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

REP. CHABOT: Thank you, Mr. Chairman. I've heard four or five times today the question or comment that, whatever the facts were, that didn't give Koresh and his followers the right to open fire on federal officers, resulting in the deaths of four officers. That seems to be the spin of the day on the other side of the aisle. Well, I don't think it should come as any surprise that myself and all of my colleagues agree with the folks on the other side of the aisle: There was absolutely no excuse for the killing of these officers. We are attempting to get all the facts out in this particular case so that we can avoid this type of tragedy in the future.

Now, let me shift gears here. Now, at the close of the hearing last night, we heard testimony from Agent Aguilera that, contrary to government testimony given earlier in the day, ATF agents in the helicopters were not informed of any rule requiring them to unload their weapons while they were on the helicopters. Mr. Aguilera's testimony on this point is especially important, since he was on the helicopter during the raid. Mr. Aguilera further testified that the rules of the operation did permit agents in the helicopters to return fire from the compound if they received it. I would like to return to the question of the helicopters with this panel. The Treasury Department has insisted that the helicopters were used solely as a distraction, and not for any aerial assault. That may well have been the plan. But Treasury documents reveal that at one point at least the idea of a helicopter assault was discussed, as was the idea of a so-called night-time ninja assault. The idea of a helicopter assault was then dismissed, apparently, but one agent went so far as to draft a letter to the Customs air branch at Houston requesting that they provide helicopters for an aerial assault. Prior to my question, Mr. Chairman, I'd ask unanimous consent to introduce two Treasury documents referring to the helicopter air assault plan that was later ruled out in favor of a plan in which helicopters would mainly be used as a diversion.

REP. MCCOLLUM: Without objection, so received.

REP. CHABOT: Thank you. My concern is prompted not only by the initial consideration of an air assault -- and how an air assault would help to serve a search warrant, I don't know -- but also by the testimony last night of Mr. Aguilera. And now I find that there is yet another document, handwritten notes of some reviewing official, that say, and I quote, "HCs" -- which means helicopters -- "as a diversion. simultaneous gunfire worked in Seattle. three to four hundred meters from boundary. Hover. "And then it says, "Practiced at Hood," which I assume refers to Fort Hood. So my first question to you gentlemen is this: Did any of you hear or participate in any discussion about any plan -- proposed plan or contingent plan, to use helicopters for an air assault on the Branch Davidian compound in the initial raid?

GEN. PICKLER: Sir, at my level in JTF-6 I did not.

MAJ. PETREE: In our level we did. One of the missions of the detachment was to facilitate the helicopters actually entering into military airspace, and then entering military airspace what was essentially a rather large area for range operations in terms of live bullets. (New speaker? )The --
describing what they wanted to do with it, how they want -- we had to get the -- with how they wanted to deploy the helicopters, I was involved in this discussion, in order to get the right clearance and coordinate that through the radio-to-range controls so we could correctly relay the intent. During that time period, they mentioned the phrase, "We are going to use this as a distraction. "Everything else though, I don't remember hearing. I didn't hear.

REP. CHABOT: Okay. There's another document that I would like to have passed out there at this time, if I could. And I'd just like to refer to a couple of terms in here. They use the term "helicopters as a diversion. "And it says "simultaneous gunfire. "Would that have any meaning? This is a document we all received. In going through these documents you find a lot of information -- this is one of the things that we discovered, and we thought it would be an appropriate question to ask here. "Helicopters as a diversion," "simultaneous gunfire"? Or "worked in Seattle"? Is there another incident in Seattle where -- that would be relevant to the hearings today?

REP. MCCOLLUM: Let the record reflect that those being asked the question preceding this one answered in the negative.

GEN. PICKLER: Negative, sir. I am not aware of any operation in Seattle, or reference to an operation in Seattle. That is clearly outside the JTF-6 area of operations.

REP. CHABOT: Okay. Do you know if the Hood referred to there is Fort Hood in all likelihood?

MAJ. PETREE: Again, I can testify to that they did practice in the state that they were practicing and using the helicopters as a diversion method. I can testify to that at Hood.

REP. CHABOT: Let me ask you this: In any of the discussions that were had, in any of the training that occurred down at Fort Hood, did the ATF ever indicate whether they contemplated that this raid would in all likelihood result in civilian casualties?

MAJ. PETREE: Contemplate?

REP. CHABOT: Was likely to result in civilian casualties, or casualties to the members of the ATF themselves?

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MAJ. PETREE: I never got a feeling for what they determined to be their likelihood, or the likelihood -- or what sort of percentage of possibility -- I didn't get any of that kind of indication from them. I just know that in the medical support planning that we had discussed we needed to consider that to develop some of the classes, and then in also in some of the assistance we provided in laying on the --

REP. CHABOT: My time is just about up. One final question: Did they consider this? Were they aware that this was a high risk operation? By high risk I mean likely to take casualties on either side?
MAJ. PETREE: I can only answer as to what I saw in terms of what they were planning and what assistance they asked us for around that area in terms of med evac planning.

REP. CHABOT: Thank you, Mr. Chairman. Mr. Watt?

REP. WATT: Thank you, Mr. Chairman. I want to address a question to Ambassador Holmes, General Huffman, and Colonel Lindley in particular. There are some of the members of this -- these two committees who think that these hearings are a massive waste of taxpayer money, and designed for a political objective rather than a legislative objective. And I was happy to see that Mr. Lantos at least started to talk about the notion of having some legislative connection as opposed to a lot of the witch-hunt that we have been on during the course of these hearings.

My specific question is: I take it that your connection with this is that you provided military support or involvement to some extent, and some people have questioned whether that stepped across the line in some way to get you into law enforcement as opposed to military conduct. Is there any one of you three gentlemen who I think are lawyers and assistant secretaries who believe that you in any way stepped across a legal line that the military should not have stepped across in this episode in any way?

MR. HOLMES: Absolutely not.

REP. WATT: Mr. Lindley and Mr. Huffman?

GEN. HUFFMAN: No, Congressman, I do not.

REP. WATT: Would you say the -- Mr. Lindley, I'm sorry, I didn't mean to --

COL. LINDLEY: Absolutely not, sir.

REP. WATT: Would the three of you say that the guidelines which basically define what those limits are between the military and law enforcement worked as they were designed to work in this particular case?

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MR. HOLMES: I think the guidelines are clear and they worked -- based on my examination of the record. Of course I was not at the Defense Department at the time.

REP. WATT: Mr. Huffman?

GEN. HUFFMAN: I was not a personal participant either, but based on my review everything worked the way it was supposed to work.

REP. WATT: Colonel Lindley?

COL. LINDLEY: It worked how it's supposed to work, sir.
REP. WATT: Does any one of the three of you think that there is any kind of a legislative response that this committee -- these two committees, or that the Congress of the United States should be making to further clarify the line that -- between the military and law enforcement to address any abuses that took place in this process?

MR. HOLMES: I have no suggestions in that regard. I think the guidelines are very clear.

REP. WATT: General Huffman?

GEN. HUFFMAN: I have no suggestions.

COL. LINDLEY: No suggestions, sir.

REP. WATT: Thank you. I would just -- I have some question about whether these witnesses have any knowledge of these documents, just as they didn't seem to have any knowledge of the documents which Mr. Chabot was introducing. But I would submit for the record the statements of a number of individuals who were actually on the helicopter who denied that they fired at any point.

REP. MCCOLLUM: Without objection, so admitted.

REP. WATT: And I will yield back the balance of my time.

REP. MCCOLLUM: Thank you very much, Mr. Watt. Mr. Blute, you're recognized for five minutes.

REP. BLUTE: Thank you, Mr. Chairman. At this time I will yield my five minutes to Chairman Zeliff.

REP. ZELIFF: And I'll yield to Mr. Chabot.

REP. CHABOT: Thank you, and I'll try not to use up all the time here. I appreciate that, Mr. Chairman. I was -- (inaudible) -- questions to Major Petree here. I have a document that I would like to have delivered to you at this particular moment, in light of your testimony about casualties. It's a document -- at the top it says "scenario," and at the right-hand corner it says D-1159, meaning we got this from the Defense Department. I would like to bring your attention down to item number six and number seven. Item number six says, "DLEA recognizes that casualties are probable." Item number seven says, "Casualties will be DLEA -- bad guys and civilians." And I'm just wondering -- have you ever seen this document before?

MAJ. PETREE: No, sir, I've never seen it.

COL. LINDLEY: Mr. Chairman, if I could clear up something for the record.

REP. CHABOT: That was going to be my next question. Is anyone else at the table aware of this particular item?
COL. LINDLEY: I am the author of this, sir. What happened in this situation -- approximately two weeks after we became aware that the mission double-zero-two-echo had in fact been the Waco operation, I was tasked by the staff judge advocate at Special Forces Command to conduct a continuing legal education seminar for our group attorneys for other special forces groups that would be rotating through JTF-6. I have taken liberties with the situation to use this as a training event for the attorneys within Special Forces Command. This was part of a teleconference that went out. It's true that I used the rough-fact basis that occurred out at Waco, Texas, but I elaborated on that a little bit for professional development with my attorneys to engage in a discussion back and forth in the area of statutory interpretation and development.

REP. CHABOT: Thank you. Let me ask another question here. Major Petree, it's my understanding that you were at a meeting -- I believe February 1st of '93 -- and at that meeting there were casualties discussed at that meeting. Is that potential casualties at the Operation Alliance?

MAJ. PETREE: Op Alliance -- and I think the date was 2 February -- I may have given the staffers the wrong date.

REP. CHABOT: They gave me February 1st, but if it's 2nd or 1st I think it doesn't matter too much.

MAJ. PETREE: Once again, at that time it was put to us couched in the terms of eventuality -- or not eventuality, but the possibility. It was in case of -- it was couched to us in terms of in case of casualties.

MR. : Sir, I might add that --

REP. CHABOT: What type of casualties are we talking about, though?

MAJ. PETREE: Well, I think at that point it was not so much whether it was LEA or whether it was so much residents, or somebody with a weapon. It was put to us -- or as we understood it, we were discussing types of wounds and we were discussing age groups.

REP. CHABOT: All right, I'm not trying to get tricky here or anything -- I'm not going to talk about auto accidents and things. We were talking about potential gunshot wounds, I would assume?

MAJ. PETREE: Yes, sir.

REP. CHABOT: Okay, who raised the issue? Did ATF raise the issue, or did the military raise the issue? Or --

MAJ. PETREE: At the 2 -- I would describe the 2 February -- and I have used this phrase before, as essentially a horse blanket, because I think it was at that point a search on their part as to what support the military could provide. And as they were going down a long list of things, they came across medical support, and that was both on site, planning for, coordinating for, possible equipment to support it, in terms of both med evac and the emergency trauma treatment.
REP. CHABOT: Thank you. Officer Fritts, if I could just ask you a question. It is my understanding that you taught the ATF members proper ways to carry the casualties, et cetera -- is that right?

SGT. FRITTS: We discussed it, yes, sir.

REP. CHABOT: I'm sorry, I couldn't hear you.

SGT. FRITTS: We discussed it. We never actually went through hands on, but it was discussed --

REP. CHABOT: What was discussed?

SGT. FRITTS: Just the proper carries and the way to carry the casualties from the site back to the first-level care.

REP. CHABOT: And what type of casualties are we referring to here in all likelihood?

SGT. FRITTS: Gunshot wound casualties, sir.

REP. CHABOT: Okay. And did you -- it is my understanding that you actually contacted a local ambulance company about this matter to be on standby or to give additional assistance if it necessary?

SGT. FRITTS: Yes. I contacted an ambulance company to find out the availability to have an ambulance on site during the day of the --

REP. CHABOT: And I assume that that's because that it was very possible that there might be fairly heavy casualties in this action?

SGT. FRITTS: Sir, when you are planning medical evacuation, you plan for worst-case scenario at all times.

REP. CHABOT: Right. And it wasn't the worst-case scenario that happened here necessarily, but it was pretty bad scenario. I think my time is up.

REP. MCCOLLUM: Without objection.

REP. MCCOLLUM: Ms. Lofgren, would you like to take up your five minutes?

REP. CLINGER: (?) Mr. Chairman, I'm sorry, before you return to Ms. Lofgren, I wonder if Colonel Lindley has identified the document that was referred to, I'd ask unanimous consent it be made part of the record.

REP. MCCOLLUM: Without objection.

REP. CLINGER: Thank you, Mr. Chairman.

REP. MCCOLLUM: Ms. Lofgren, would you like to take up your five minutes?
REP. LOFGREN: Yeah, I don't think I'll take my whole five minutes, as most of my questions have been asked and answered. It really is following up in a sense on my colleague from California's question earlier about the role of the military forces in our country and civilian disorder in the future as the world becomes more complicated. I think one of the things that has kept our country strong and safe -- and every military person I've ever met agrees -- is the civilian control of the armed forces and of the separation of the military from civilian patrol law enforcement. And I know that the Posse Comitatus law does maintain that distinction between patrol and the like. And yet, as I have listened to the detailed efforts -- collaborative efforts that were made that were clearly consistent with what the law requires, it occurs to me to what extent you all were invited to suggest alternatives to the plan that you were asked to collaborate on or train for, prepare for.

Earlier, the panel preceding you, I asked whether, given the fact situation, as I think any reasonable person would have known by the time of the final day in April we were dealing with a cult figure who had pretty obviously beaten babies and had raped children, and had charge -- had control of really the will of people, and whether or not an armed assault was likely as to resolve the situation, I think it was engaged in in good faith, but it obviously didn't work -- and whether you were asked for advice on alternative plans, given the vast resources the military has in the psychological fields and the like, and probably greater than what is available to civilian authorities? And if you were not asked that, do you think that is a proper training role for the military to consider in the future? General Huffman, do you have a comment? Or whoever has a comment, I would appreciate --

GEN. HUFFMAN: I have no knowledge that the military was asked for any alternative plans. I certainly do not know whether the military advised any alternative plans. As has been pointed out, this was a civilian law enforcement agency operation. They have the expertise. They asked us for specific support under the law --

REP. LOFGREN: And you gave it.

GEN. HUFFMAN: -- which was provided.

REP. LOFGREN: Ambassador Holmes, do you think that given this was a training and a resource inquiry, in the future do you think it would be inappropriate to include the larger resources of the armed forces in terms of psychological understanding? I understand there is some depth in our armed forces in that field, and to deal with a cult situation such as this in the future. Or do you think that would cross that line that none of us want to cross in America?

MR. HOLMES: I don't think it would necessarily cross the line, but I feel it important to just say before this committee that -- just to remind everybody the obvious: that the primary role of the armed forces of the United States is to fight and win our nation's battles; and where we can provide support to civil authorities across a range of activities, which we have been doing for many years. We will always try to do that and play our part. But we are not looking for additional roles. (Laughs.)

REP. LOFGREN: No, I understand that -- and I'm a newcomer to the Congress. But I've just been reviewing some of the things that Congress has asked you to do in the last number of years: get
involved in drug interdiction, get involved in certain other consultative -- you know, it's not coming from you --

MR. HOLMES: Right.

REP. LOFGREN: -- but the Congress is asking the military to be a resource. Frankly, the terrorism bill that is on its way to the floor expands that role to some extent. So these are things that --

MR. HOLMES: That's an important bill for the administration, obviously.

REP. LOFGREN: Does anyone else on the panel have a comment? If not then, Mr. Chair, I yield back what is left of my time.

REP. MCCOLLUM: Thank you very much, Ms. Lofgren. Mr. Mica?

REP. MICA: Thank you, Mr. Chairman. And I know we have a vote pending, but I wanted to take just a minute or two. First of all, I want to commend all of you that serve in the military, and apologize in a way that you have to be here, but this is the way the system works. And it's really kind of a neat system to see it work, as -- of all the protections that are built in. And that's really the reason for this hearing. As you know, you heard earlier some of the members testify that from the very beginning Americans have been concerned about the military becoming involved in civilian law enforcement. The only instance I understand that you can become involved is when there is a drug case -- and we have set some parameters from that. Is that correct, ambassador, pretty much -- except in disasters and things like that?

MR. HOLMES: No, I was going to say it really isn't. I mean, there is a wide panoply of activities established under law --

REP. MICA: Right.

MR. HOLMES: -- for support, and they can be anything from man- made to natural disasters, emergencies --

REP. MICA: Exactly, but in this particular instance the pretense under which you went into this Waco situation was under a drug --

MR. HOLMES: Well, yes, that legislation began in 1989 --

REP. MICA: Right.

MR. HOLMES: -- and that is under the counter-drug support legislation.

REP. MICA: But the thing that disturbs me -- and you know we had the sheriff sitting at the other end -- or deputy sheriff -- and he had said there had been no evidence of a drug lab there for some time. Don't you all feel a little bit sort of duped by the information that you were given? Now, I don't want to say anyone here acted improperly -- because you all did, and you followed a chain of
command. But now that it's taken place, it doesn't appear that there was that threat.

MR. HOLMES: Well, based on my second-hand knowledge of the situation, I have to say our people have to react to the situation, to the circumstances at the time. And at the time they did receive advice from Operation Alliance based on the --

REP. MICA: They took orders, and they did --

MR. HOLMES: No, they took a request. I --

REP. MICA: Well, let me talk about the request if I may for just a second. You said, you know, that you have this alliance or council that makes this decision --

MR. HOLMES: Operation Alliance.

REP. MICA: Is this a committee decision, or is there a military or a civilian person that really signs on the dotted line? I kept hearing say, "Well, Washington approved," or "the alliance approved it. "Is it the military -- who makes that decision? Who is the --

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MR. HOLMES: I would ask General Pickler to answer that question, because he was the man --

REP. MICA: Can you tell me? I don't know. I really want to find out.

GEN. PICKLER: Sir, there is a comprehensive process, as you might expect, for the receipt and processing of support requests for military.

REP. MICA: But, sir, who signs -- who is the ultimate signatory to that? I mean, or the -- is there many signatures if I look at it or are there many people that sign off on it?

GEN. PICKLER: There should be an audit trail of signatures, but requests can also come into Operation Alliance on a verbal nature. But when we received the request from Operation Alliance, the military support working group, which consists of four primary representatives from Operation Alliance -- it is headed by one of the principal top level law enforcement agents -- that is, DEA, Customs or Border Control heads up the military support working group. There is another federal agent in that working group. There is a state agent and there is a local agent.

REP. MICA: There is no one, then, that we can pinpoint like a single responsibility? Everyone signing off?

GEN. PICKLER: Sir, I have that -- that support request for that particular operation was signed off from Operation Alliance by a member of the organization.

REP. MICA: Who? Was he military or civilian?
GEN. PICKLER: Civilian, sir.

REP. MICA: Okay. See, what I am trying to get at is is the procedure correct. Are we doing things -- is somebody looking at this? God forbid we should have -- there were women and children here, totally innocent, and four agents who were killed. And our intent is to see that that doesn't happen again. So I appreciate -- again, I appreciate what you all have done. You have been put in a terrible predicament. But the process and the system is -- and the reason that we are here today -- is to make sure it doesn't happen again, and to construct it so that we have those protections in it. And I thank you, and I yield back to the chairman. Thank you.

REP. MCCOLLUM: Well, thank you very much, Mr. Mica. I think we're about at the point of a vote at this juncture, and most of your time has expired at that time. I have a couple of questions I think I'll get to ask later on down the road, but thank you for yielding. I am going to recess this hearing, but we are going to have a vote -- I understand there are going to be four votes -- one 15-minute vote followed by three, I believe, other five-minute votes. So I would suggest that we are going to have a break of at least 30 minutes here -- maybe a little longer. But the witnesses should know that. We'll get as back as quickly as we can, and I ask the members to be back within five minutes of the conclusion of the final vote.

Ambassador Holmes, yes? Mr. Ambassador?

MR. HOLMES: I just wondered how -- if the chairman could give us some indication of how long we'll be here? I am supposed to be going to Special Operations Command for an important strategic conference this evening --

REP. MCCOLLUM: I can understand that. I would believe we probably wouldn't have more than 30 minutes more -- roughly -- when we get back. But I would guess that you're talking though because of these votes not getting out of here before 6:00. If that presents a major problem, we can discuss it.

MR. HOLMES: If we can get out by 6:00, I can make my plane. Thank you.

REP. MCCOLLUM: We'll do our best. Thank you. This hearing is in recess. I guess I didn't say the magic word: The hearing is in recess.

(Recess.)

REP. MCCOLLUM: (Sounds gavel.) This hearing of the joint subcommittees will come to order. When we had our recess a few moments ago we were in the process of completing questions of this panel of the military relative to their knowledge of the Waco incident. And I believe at this point in time we are ready to ask if Mr. Heineman has a question or two. You have five minutes if you'd like, Mr. Heineman.

REP. HEINEMAN: Thank you, Mr. Chairman. At this time I would like to yield my time to the gentleman from Tennessee, Mr. Bryant.
REP. BRYANT: I thank my colleague, a lifetime career law enforcement officer from New York and North Carolina, presently serving the Congress out of North Carolina, for yielding time to me.

Let me ask Major Petree, if I could, are you familiar with the term -- and is it a military term that you are used to using -- "dynamic entry"?

MAJ. PETREE: No, sir.

REP. BRYANT: You're not? It's not a military term?

MAJ. PETREE: No, sir, it's not.

REP. BRYANT: And are you familiar with it now?

MAJ. PETREE: Yes, sir, now.

REP. BRYANT: As a result of these hearings?

MAJ. PETREE: What do you understand that -- that you -- have you heard about that through the ATF or anything?

MAJ. PETREE: I don't recall. I don't remember hearing the phrase "dynamic entry" through ATF.

REP. BRYANT: Okay.

MAJ. PETREE: This is the first time I heard of it really.

REP. BRYANT: All right. Let me -- I met most of you during the break, and I want to add my congratulations and commendation to all of you, especially some of you who may not be as familiar with testifying before a congressional committee as your superiors are. You are all holding yourselves very accountable, and I appreciate that very much. You're a fine example of our new volunteer Army, and you have all obviously progressed a great deal in the military.

I wanted to ask, because I was out just briefly during the testimony of Staff Sergeant Fritts -- I understand you're trained -- your MOS is paramedic.

SGT. FRITTS: (A close equivalent of a paramedic ? ), yes, sir.

REP. BRYANT: Okay, and I'm going to ask you, if you would, to pull that a little closer and lean over. You have medical training, and as a part of this process, your dealings with ATF, I understand you were assigned to draft up a plan under the contingency that there would be a raid, and perhaps there was a -- let's see, an methamphetamine lab in there, and what should occur in case there was an accident.

SGT. FRITTS: My planning for the ATF did not include a methamphetamine lab. It was just for the day's events, establish some sort of network to get the wounded out of the area and back to a --
REP. BRYANT: Okay, as I understand you were tasked with that job by your superior officer to draw up a contingency plan from the medical standpoint, because there is a high risk or danger, is there not, to raiding, if you will, using a dynamic entry into a facility that has a methamphetamine laboratory in it?

SGT. FRITTS: Yes, sir.

REP. BRYANT: It's kind of a long question, but you understand. And that the risks are associated with it -- if there were a bullet shot into it, or some type of -- causing it to explode -- it could be a danger, especially to children, to older people, to people around it?

SGT. FRITTS: I think there would be an equal danger to all people, regardless of age.

REP. BRYANT: Okay. And you did draft up this plan of evacuation, medical treatment, or whatever. And, as I understand, you presented it to certain ATF people at a meeting?

SGT. FRITTS: Sir, the thing that we presented at the meeting at Houston was a research paper that I had done previous to that about the dangers and cautions a detachment, a special forces detachment should take if they encounter an methamphetamine lab. The setting up the medical evacuation network was there after the Houston meeting, and that concerned mainly distributing points of contact and giving my advice of what I thought they needed as far as the medical evacuation network concerned.

REP. BRYANT: So the paper that you gave to the agents with ATF concerned the dangers that we have talked about already of --

SGT. FRITTS: Yes, sir, in terms of dangers.

REP. BRYANT: And then I understand you had a subsequent meeting on the heels of this meeting at which there was never a discussion during that meeting, and as far as you were concerned it was never discussed again in terms of that laboratory?

SGT. FRITTS: Sir, the meeting was over a two-day period in Houston. I consider it was one meeting. And, no, I never again discussed a methamphetamine lab with any of the agents.

REP. BRYANT: And I guess my question was: Did you ever hear the agents, the ATF agents, talk to you about the lab in there any more? I got the impression basically you understood that subject just dropped -- dropped off the earth?

SGT. FRITTS: That was my impression, sir. But, as I stated earlier, I was trying to research with the -- (inaudible) -- they had, listing the people inside the compound, so I would know what kind of medical evacuation -- extraordinary measures that might be needed at the site when the (raid, for better lack of terms, went on ? ).
REP. BRYANT: I think that's fair enough. You all were not here yesterday when I expressed my concerns -- much as many on this side have -- that no one here is condoning what went on at Waco in terms of Mr. Koresh and how he responded to this. It was totally irresponsible in terms of firing back at these agents. That should not have occurred, and he should not have abused these children, if that's what he did, and I assume he did -- we have got testimony there. But, on the other hand, there were mistakes made on the other side. There were 20 other children that died as a result of the second dynamic raid on that. And as Congress we have oversight. It is our job to oversee these federal agents and make sure that what was done was proper, if there was error or if there was mistake that we correct that so that we don't have another Waco. And that's the intent of this hearing, and I think we're making some good progress on that, and I want to commend each one of you for our testimony, and thank you for making your appearance today. You have added a great deal to this hearing. I would yield back the balance of my time --

REP. MCCOLLUM: That's all right, Mr. Bryant, your time has expired -- or Mr. Heineman's has, in this case. Mr. Barr, you are recognized for five minutes.

REP. BARR: Thank you, Mr. Chairman. I would like to yield my time to the gentleman, Chairman Zeliff.

REP. ZELIFF: Thank you, Mr. Barr. General Pickler, just one quick question. I overheard you say something about verbal approvals -- is that the case, or did I misunderstand in terms of some requests for military assets?

GEN. PICKLER: No, sir, I did not say "verbal approvals." I believe I intended to say that there were verbal requests and discussions of missions that took place, but --

REP. ZELIFF: But not verbal approvals?

GEN. PICKLER: Not verbal approvals, no, sir.

REP. ZELIFF: You've made me feel a lot better about the process. Ambassador Holmes, did you ever receive any funding from the drug interdiction effort relative to Waco and the use of military assets at Waco, in terms of interdiction money?

MR. HOLMES: No, to the best of my knowledge -- I wasn't on board at the time, but I have no knowledge of that.

REP. ZELIFF: General, anything -- I guess my question is did any drug interdiction monies get used? Did any assets get charged off to the drug interdiction effort for the assets that were used at Waco? That you know of? If not, if you could get back to us?

GEN. PICKLER: The JTF-6 actions were all limited to general support training in the mobile training context that you have heard testified before -- all prior to the events of 28 February. From a JTF-6 perspective, I know of no counter-drug monies that were devoted to that --

REP. ZELIFF: Okay.
GEN. PICKLER: -- other than the ones that have been described in the context of JTF-6 support by the rapid-support unit, sir.

REP. ZELIFF: Thank you. Were there, in your knowledge, any foreign nationals military personnel on the scene at Waco?

GEN. PICKLER: I have no knowledge of that.

REP. ZELIFF: If that should change, if you'd let us know we would appreciate it.

Ambassador Holmes, the secretary of defense has indicated on May 17th, 1995 memorandum, the current system to provide DOD assistance to law enforcement agencies is encumbered by conflicting directives, multiple-entry points, and diverse funding authorities. The clerk will pass out document six. Were there any problems with the loaning of DOD equipment during the Waco incident?

MR. HOLMES: I'm not aware of any problems at either phase one or phase two.

REP. ZELIFF: Okay. Well, the clerk should also pass out document number five, and that is a message from the commander of Army Materiel Command, dated March 11, 1993. Relevant part says, "It now appears that the military has loaned equipment without the approval of the Pentagon. Yesterday the Pentagon and the White House were severely embarrassed because they heard the news first from CNN. "I guess we all find that out once in a while. "If queried by any agency, federal or otherwise, for assistance on any type in connection with Waco, Texas operation, you need to request approval from this headquarters; we will then coordinate with the Pentagon. "And I -- apparently there is also a document number four, which is a handwritten note -- and it's been redacted -- but there are some questions as to what the ground rules were, or what our involvement was. I guess I'll just -- in open comment, is there anything that you'd care to comment on on any of those documents?

MR. HOLMES: Well, the only document that I am very familiar with is 6(A) --

REP. ZELIFF: Six A?

MR. HOLMES: Which is the document signed by Secretary Perry on military support to civil authorities, and the attached document signed by immediate boss, Undersecretary Walt Slocombe, which basically assigns me the responsibility for conducting a review ordered by Secretary Perry.

REP. ZELIFF: Okay, thank you. This is my last question here. On the amount of assets that were used at Waco -- included two UH-1 helicopters, 10 M2-A1 Bradleys, two main battle tanks -- Abrams, two HMMWVs, and three CH-47s, and three UH-1 helicopters on standby. In addition, the Texas Army National Guard support included 10 Bradley Fighting Vehicles, five combat engineer vehicles, and 12 HMMWVs. I just would like to say that on September 14th, 1993, General Montgomery requested only four Abrams and 14 Bradleys for support of troops in Somalia, and the tragic end of that request was "no"; and we gave more military hardware to Waco than we did to
support -- and could have prevented perhaps those 18 deaths, which were tragic. I don't necessarily expect a comment, except anything that you would add to it. It just seems that it's a tragedy that the decision-making -- any?

MR. HOLMES: I have no comment.

REP. ZELIFF: Thank you very much.

REP. MCCOLLUM: Your time is up, Mr. Zeliff. Mr. Taylor is asking if you would yield, but his time is up, Mr. Taylor. He does not have time to yield. Mr. Souder?

REP. SOUDER: Thank you, Mr. Chairman. I do want to thank all of you for coming. I've always been proud of my Uncle Bud, who is a Green Beret, 18 special forces, and I am really proud that you are there to defend our liberty. I think part of the problem with this is that it's very scary to see all of you at a panel on a domestic issue, because that's one of the things that we are very concerned about in (founding ? ) of our country, because you are our best and our brightest fighters and our special forces, and that's partly why we're doing this examination -- not to critique you so much as to say were you used properly. And one of the concerns that I have, and I have been getting all kinds of calls in my office -- people handing me things, and I -- it's very difficult to verify what things are true and what things aren't true -- but I wanted to ask Mr. Moreland a very specific question. And, I'm sorry, I can't verify it -- I want to ask you personally, and under oath. Did you recently say to a fellow member of the Army something to this effect: I don't care, I am getting out of the Army anyway -- when I go up there and they put me under oath, I am going to tell everything that went wrong?

SGT. MORELAND: No, sir, not to my knowledge, no.

REP. SOUDER: Thank you, and I -- if -- I assume that that's actually an honest answer, and I'm sorry that I put you to that, but we get these in, and I wanted to ask you the question, and I appreciate your honesty in the answer. I yield the rest of my time to Mr. Schiff.

REP. SCHIFF: I thank the gentleman for yielding. Colonel Lindley, I'd like to go back to this scenario that you drew up -- and I understand it was for future training. But one of the premises here is that the domestic law enforcement agencies want to take down a lab, meaning a methamphetamine lab. Is that the premise of the Waco mission, as you understood it?

COL. LINDLEY: Yes, sir. In fact, that was the only issue -- was the issue of the methamphetamine lab. The guns came up later.

REP. SCHIFF: The guns came up later?

COL. LINDLEY: Yes, sir.

REP. SCHIFF: Right. (Off mike remarks. ) Excuse me -- I'm sorry for that. I just wanted to say that I think that that shows one smoking gun here at least -- and I can assure everyone I am making no pun in that. We have the fact that although no law may have been violated, the fact is that the
Alcohol, Tobacco and Firearms department were in so much of a hurry to get military support, that they knew that they were not going to get military support, at least from Joint Task Force-6, unless there was a drug connection. What they did was create a drug connection, because without the drug connection there would have been no military support for their operation. I think we have established that through these two panels.

I think taking it further for just a second here, we can add to that that if you add other factors you show that the Alcohol, Tobacco and Firearms department could not wait to hold a military-style raid, that that was their goal at a certain point and nothing could dissuade them. We have the fact just established, I think, that they misrepresented the mission as a drug mission to get the military support and the joint task force. Second, that they made no effort to arrest David Koresh outside of the compound, which by the way would have provided the best opportunity to save the children inside the compound, which we started hearing in these panels was a major -- became a major thought in this fray. Well, of course that wasn't their major intention. Their major intention was a firearms violation; that's what the arrest warrant and the search warrant say. They turned down the offer made by David Koresh to come into the compound and look around, which they should have done, even if they weren't going to find any illegal firearms -- just to look at the inside of the premises. Their preparation was so poor that their surveillance team was spotted because a bunch of 40-year-olds in expensive cars don't look like college students. They went ahead even when surprise was lost. They were rushing to get the media there, because the tip to the mailman, who was a Koresh supporter, was from a news truck that was looking for the Waco site -- and it's only ATF who could have told the news media, "Be there."

I think if you put all of this together it shows exactly like what Mr. Morrison of the Los Angeles Police Department essentially said, that poor management by the Bureau of Alcohol, Tobacco and Firearms put their own agents into an unconscionably dangerous situation. With that, Mr. Chairman, I yield to you any remaining time.

REP. MCCOLLUM: Thank you very much for yielding. I wanted to ask one question of you, General Pickler. With respect to JTF-6, if I understand you correct, from the very beginning of these hearings, and I think it's an important point to be made, if it were not for the drug connection, your particular unit, JTF-6, would not have been, under the rules of the Army, or your rules, been permitted to be training ATF as they did before the Waco raid. Am I correct that's what you said to us early on in this process?

GEN. PICKLER: Yes, sir, I did say that. If it were not for some kind of drug connection, we would not have been participants, or we would not have trained the agents in this --

REP. MCCOLLUM: Yes, Mr. Taylor?

REP. TAYLOR: Mr. Chairman, that seems to contradict the answer that I received when I asked if a local law enforcement agency were to ask them with some help in training into how to best storm a building that they suspected was heavily armed. The answer was, "Yes, we would provide that" -- with or without a drug connection --

REP. MCCOLLUM: (?) Well, I think we'll get that clarified.
REP. TAYLOR: Is that not also correct? And don't they kind of contradict each other?

GEN. PICKLER: The answer that was given, I believe by the DOD representative, was that there is support that can be provided. And in the context of this particular mission, if it had come to our attention we would have referred that support properly to the Department of Defense for their consideration of support.

REP. MCCOLLUM: But this particular unit was not, under the rules of the Army or DOD, permitted to give training to anybody that didn't have a drug support connection like this? Is that right? I mean, that's what we're talking about. They came to you -- if it hadn't been for the drug support, your particular unit wouldn't have been permitted to train them?

GEN. PICKLER: That's correct, sir.

REP. MCCOLLUM: All right. I think that's a very important clarification.

The time on this particular round has --

REP. TAYLOR: Mr. Chairman?

REP. MCCOLLUM: Yes, Mr. Taylor?

REP. TAYLOR: Again, for the record, for parliamentary inquiry, you specifically said his particular unit, JTF-6, would not have been used. Is it also not correct to say though that DOD in general support would have been available --

REP. MCCOLLUM: All right, let me do this -- reclaiming the time of the chair for a minute, for the purposes of clarification, and not to yield to Mr. Taylor, but I think I'll satisfy -- I would like to ask unanimous consent to have three minutes specifically to clarify this point. Is there any objection to that? If not, I would like to ask the questions of Ambassador Holmes and General Pickler. Let's go over this step by step very, very briefly.

Anybody coming to you from another law enforcement community, asking you for assistance, would not be illegal for the Department of Defense to provide that, whether it had a drug connection or not, under the Posse Comitatus laws -- is that correct, Ambassador Holmes? In general.

MR. HOLMES: Yeah, in general that's correct. But I think I can clarify. JTF-6 is specifically set up to respond to requests from law enforcement in the prosecution of the drug war.

REP. MCCOLLUM: All right, what happens if somebody comes to you as a matter of policy -- now, we talked about law -- let's clarify that -- is there any policy in the Department of Defense, or in the Department of the Army, which perhaps General Pickler or somebody else would know about more definitive than you would, Ambassador Holmes, that would prohibit any unit other than this particular one, JTF-6, from responding to a request for assistance as a policy matter -- not a legal matter -- whether or not there was a drug connection?
MR. HOLMES: You mean in the drug connection?

REP. MCCOLLUM: No, not in the drug war. Forget the drug war. Let's say there was no drug war -- no drug issue involved.

MR. HOLMES: Right.

REP. MCCOLLUM: And you get a law enforcement agency of the federal government -- FBI, ATF -- anybody coming to you asking for assistance, and there is no drug connection, in training or in preparation or in providing equipment -- not operationally -- would you be able to provide that under the policies that existed in DOD and in the Department of the Army at the time the request was made by the ATF concerning the Waco raid?

MR. HOLMES: Yes, to the best of my knowledge that is correct.

REP. MCCOLLUM: You would have been?

MR. HOLMES: Obviously every request is vetted and looked at, depending on the nature of the --

REP. MCCOLLUM: There is no inherent regulation or policy restriction, in other words?

MR. HOLMES: No. In fact, it's authorized by act of Congress for this kind of support.

REP. MCCOLLUM: But JTF-6 was a particular unit designed to work with the drug issue? Is that correct, General Pickler?

GEN. PICKLER: That's correct -- within the Southwest border region, whose limits are defined not only geographically, but the Southwest border -- high intensity drug trafficking area -- the Southwest border HIDTA.

REP. MCCOLLUM: And that's all you did, is work when there was a drug question?

GEN. PICKLER: At that time, sir, the limit of our support was to federal, state and local law enforcement agencies, Title 10 support within the Southwest border region.

REP. MCCOLLUM: But you had other missions besides that inside the Army? Or was that the sole mission of JTF-6?

GEN. PICKLER: That was the sole mission of JTF-6.

REP. MCCOLLUM: All right, that's what I wanted to know. I think that's clarified it. I think that's taken plenty of that time. Mr. Zeliff?

REP. ZELIFF: I just have one quick question.
REP. MCCOLLUM: On that same -- unanimous consent -- I will yield to you to clarify that.

REP. ZELIFF: Clarify one quick question -- and I think I may have asked the wrong person. Mr. Crane, was the money used for Waco training previously designated as counter-drug funds for JTF-6?

MR. CRANE: Sir, I'm not a budget guy. I'm not really able to talk about budget issues. I can state that our support to JTF-6, special forces command support to JTF-6, is funded by force com P2CD dollars. And --

REP. ZELIFF: Which is?

MR. CRANE: Drug money, sir.

REP. ZELIFF: Okay, that's -- I was just trying to get to the --

MR. CRANE: Okay. Any other support that we provide to other agencies is handled separately. But JTF-6 support is paid by --

REP. MCCOLLUM: I think the question Mr. Zeliff has needs one follow up to make it real clear: If an agency of the federal government, a law enforcement agency generally, Ambassador Holmes, or anybody else who can answer this -- comes to you seeking assistance, equipment or training -- forget the drug question for a moment -- does -- if the drugs are not involved, and it's not JTF-6 or whatever, is there a requirement in the inter-agency rules or regulations, or by law, that that other agency or its parent reimburse the Department of Defense or the military agency for the cost of that equipment or training?

MR. HOLMES: (? ) Generally speaking this kind of support is reimbursed. But under certain circumstances it can be waived.

REP. MCCOLLUM: But in the case of the drug support effort that JTF-6 provided, there would be no reimbursement required under law?

MR. HOLMES: That is funded by Congress.

REP. MCCOLLUM: Thank you very much.

REP. ZELIFF: So whatever we spent on Waco training costs came out of the drug interdiction component of the nation's drug war?

MR. CRANE: (? ) Funneled from the department, through the Army, as the funding mechanism to Joint Task Force-6 to pay for that support that was provided under the execute orders.

REP. MCCOLLUM: Thank you very much.

REP. ZELIFF: Thank you very much. The answer to that question is yes, for the record.
REP. MCCOLLUM: I want to recognize Mr. Bryant. Then you have your five minutes. Thank you.

REP. BRYANT: Thank you, Mr. Chairman. I yield my time to Mr. Buyer.

REP. BUYER: Thank you, Mr. Bryant, for yielding to me. In conclusion I have a few comments that I would like to make. First of all, I would like to thank each of you for coming. I know that Colonel Lindley you have come from Japan to be here. Major Petree, you have come from Hawaii -- you've come a long way also to be here. And, General Huffman, you've missed a wedding to in fact be here. And many of you missed other things. So let me extend a thank you to you -- also to -- is it -- Sergeant First Class Dunn. I think you probably have to be thankful to help clear your name -- your name has been in a lot of different magazines and stuff, and hopefully you've had that opportunity now to in fact clear your name -- and if you weren't there at the raid day, as a lot of some like to write. So that's the purpose of these hearings -- to get a lot of that out into the open, and I appreciate your candor and your willingness to testify here today.

I think part of the testimony has been very clear. And it's clear that today we had DEA testify, that they were never contacted for assistance, and that with regard to the use of a FLIR to detect a methamphetamine lab -- FLIR being the forward-looking infrared radar -- the use of the F-4 flying from Alabama to Texas -- they don't do this kind of thing. It also is clear that JTF-6 assumed at face value the presence of the drug lab. I also would say that it's easy to Monday-morning quarterback, and that's not really what our job here is to do. But I am concerned that when two of the witnesses did discover at a Houston meeting that really this (kind of ? ) was a ruse, that it perhaps was a fabrication, and they're really not concerned about the drug nexus, that maybe they should have kicked that up to JTF-6, to the command, to say, you know, they really shouldn't gain access to all of our training and expertise -- they have got other ways to being able to access that. Perhaps that should have been done. That's Monday-morning quarterback stuff. But that's something that definitely concerns me. And I am sure that future commanders of JTF-6, when they get an inquiry from BATF on a drug lab that maybe they might ask a few questions, and not just accept things on face value. I see a smile there.

The other issue is that I know that some questions were asked of Ambassador Holmes with regard to should we make any legislative changes, and his sort of -- gee, I like the way things are -- doesn't satisfy me, because I also know Dr. Perry has appointed you to the (up-line ? ) task force to look into the open access and how much access really is there to the military to participate in local law enforcement. And that's part of the role. So I think we do need that further review.

I'm also one that has some concern here with regard to the Posse Comitatus statute. We have this statute in place. It's good policy for our country. No one has ever been prosecuted under the criminal statute. And it's almost as if we have so many laws and regulations to know how to skirt around the issue in Congress -- that's partly to blame in part of this -- that we have learned that despite this ruse and fabrication to gain access to the military treasure trove, they didn't need to lie in the first place. That's what we learned here today - that there are all kinds of methods and ways to access that military treasure trove. So you didn't have to lie, but in fact we had that lie. So I am pretty concerned. I am concerned when we have the National Guard out there being able to say, "Well, we're the National Guard. We are outside the Posse Comitatus statute, and I want the federal government to pay for what I do. I want state control. I will help in a federal mission. And, by the
way, I'll pick up the phone and I'll call an adjutant general, where I have a memorandum of understanding, and he'll send fighter jets. "You see, when we created -- not we -- when the Founders created the Constitution, and when they had a well regulated militia in mind, you have to remember it was muskets back then -- had a range of a hundred yards -- you know, 150 yards maximum. Today we have states that have power-projection capabilities that go far beyond their own state borders. We have more power-projection capabilities than most countries. And now we have these state adjutant generals making decisions on memorandums of understanding, and never even picking up the phone and calling you, Ambassador Holmes! So I mean those kind of concern me -- or calling anybody else, whether it's a -- (inaudible) -- or whatever.

So I think it's pretty good for us to have a review -- and for you also in your process here. I compliment the secretary of defense for appointing you to this task force to look into the access issues, because I think America here has learned that there was no conspiracy here between you and the BATF -- there's no conspiracy. There was in fact some falsehood here to gain that military access that was unfortunate. But I think America can now be surprised at how much access there really can be to the military assistance of local law enforcement. And we here in the Congress can debate a lot of the policy perspectives to that.

But let me thank all of you for coming here today, for clearing the air. It's important, and let me finish by thanking each of you for your service and commitment to country. God bless you.

REP. MCCOLLUM: Well, I thank you very much. I think we have concluded the normal questioning here. I've got a couple of clarifications to announce. First of all, the written testimony I believe, Ambassador Holmes, that you gave, and I guess that General Huffman gave, will be admitted to the record -- so would any other written testimony that you wish to present today. I think there are some documents that have been asked to be put into the record that were used now by Mr. Shadegg and Mr. Buyer, and without objection they are admitted to the record. There was a question raised earlier about clarification on some of the equipment read off by Mr. Zeliff with relationship to the -- being supplied by the military. Those lists, for clarification, were of the equipment provided not only in connection with this raid on the 28th of February, but also with the final assault day on April the 19th. And I believe I'm just --

REP. BUYER: Mr. Chairman?

REP. MCCOLLUM: Mr. Buyer?

REP. BUYER: I can't recall -- I want to make sure that the National Guard after-action report is submitted for the record.

REP. MCCOLLUM: If no objection, the after-action report will be submitted to the record. You need a clarification, Ms. Thurman? A parliamentary inquiry?

REP. THURMAN: Mr. Chairman, I just -- yeah, I do have a clarification, because there has been two characterization here by Mr. Schiff and by Mr. Buyer, and I think we ought to have it on record, because I don't think they ever got an opportunity to respond to their characterization of what happened, and I'm kind of curious if they agree or disagree with the way it was characterized.
REP. MCCOLLUM: Well, I think that the clarification of some of the members' characterization --

REP. THURMAN: I understand --

REP. MCCOLLUM: -- is a little different than the factual part of this. I don't know how --

REP. THURMAN: But I thought we were trying to get to the facts.

REP. MCCOLLUM: Well, we do. But I mean members do tend to give their comments, and I think they have a right during their five minutes to make the comments. We're just trying now to do the administrative process. Mr. Taylor, do you have an administrative clarification?

REP. TAYLOR: Going back to Mr. Zeliff's list of equipment that was used, I think for the record, since this the subject of much debate out amongst the people of this country, for the record it is very important that there be a delineation about equipment that was made available on the first day, February 28th --

REP. MCCOLLUM: Well, let's see -- let's make we know. Do we know -- do we have that here, Mr. Zeliff? Or maybe you know -- I think the equipment involved three helicopters that were used came from the National Guard units -- what else?

REP. ZELIFF: Why don't we read the list, and then we'll have the experts tell us which ones were for which --

REP. TAYLOR: Because obviously, Mr. Zeliff, let's face it, by the time the second raid had occurred there were four dead ATF agents and 20 people --

REP. MCCOLLUM: Well, whatever the background is, let's clarify it. Mr. Zeliff, I yield just so you read it. Just the clarification.

REP. ZELIFF: Read the list, right?

REP. MCCOLLUM: Just read the list, and see if we can get anybody to tell -- if anybody knows on the panel -- they may not know that.

REP. ZELIFF: Two UH-1 helicopters, 10 M2-A1 Bradleys, two main battle tanks --

REP. MCCOLLUM: (? ) Well, now, the Bradleys and the battle tanks would have been provided for the -- not this but for the second raid. The helicopters presumably for this one.

MR. : Two main battle tanks, Abrams, 2 HMMWVs.

MR. : Presumably, that would be for the second one, too. Does anybody here got any information --

MR. : (Off mike. )
MR. : I was asking yes or no.

MR. : These are not -- (inaudible) -- to say that on the first day, the only equipment that was made available --

MR. : Well, Mr. Taylor, let me --

REP. MCCOLLUM: Why don't you let them answer the question.

REP. TAYLOR: I'm asking the question.

REP. MCCOLLUM: Mr. -- Ambassador Holmes, can you clarify this?

MR. : Mr. Chairman, may I make a suggestion? Why don't we submit for the record this equipment?

REP. MCCOLLUM: That would be a good suggestion. We'll accept that very quickly. Last thing on clarification, Major Petree, flash bangs. Are you familiar with flash banks and what they are?

MAJ. PETREE: Yes, sir, I am.

REP. MCCOLLUM: Were flash bangs which this unit, for clarification, actually that they came -- ATF came to you and the training and all? Did they get involved with you in the training and the connection with that? Was that part of their training, to use flash bangs?

MAJ. PETREE: Yes, sir. During their -- what they needed was approval to throw them, to utilize them in their training versus --

REP. MCCOLLUM: Am I correct that the rules and regulations regarding flash bangs that normally you would train them to do would involve caution in the case of use with children and fire around fire and that sort of thing? Is that correct?

MAJ. PETREE: Sir, that was a -- the only contact I had with the flash bang issue there at Fort Hurd was --

REP. MCCOLLUM: All right, that's fair enough. I just wanted to know. It had come up earlier and I wanted to clarify it. That's it.

REP. : Mr. Chairman.

REP. THURMAN: Mr. Chairman.

REP. MCCOLLUM: Yes, Ms. Thurman.

REP. THURMAN: Because of this last round of questioning that I kind of think happened here, I
would like to ask for unanimous consent to give these folks two minutes to respond to what I asked in the beginning on the characterization.

REP. MCCOLLUM: What I would like to know -- yes, as far as I'm concerned, you can have unanimous consent. Any objection?

REP. : (Off mike. )

REP. THURMAN: Well, then, we'll start objecting when we see this kind of nonsense.

REP. : Mr. Chairman.

REP. MCCOLLUM: All right, we have finished the rounds of questions. I simply was trying to get things that were loose ends clarified. Chairmen typically do that at the end of one of these hearings. We are the point now where we've got people wanting to get in and questioning characterizations and so forth. That was not the purpose of what I was doing.

So at any rate --

REP. : Mr. Chairman, I'm confused. I thought you had agreed to allow the gentlelady's question to be answered.

REP. MCCOLLUM: Well, there was an objection down here.

REP. : Well, did he express his objection so that we --

REP. MCCOLLUM: We had a unanimous consent earlier. They objected to this particular one because this question, I gather, was one of asking a response to characterizations that two members had made down here. So we're getting into the point where we -- I just have to be stricter than I have been, that's all.

REP. : Mr. Chairman, may I make a parliamentary inquiry? Can an answer be forthcoming from these gentlemen in writing, then, to the committee in order to receive --

REP. MCCOLLUM: They're -- the witnesses are free to submit written testimony, and that has been already put into the record. We have agreed to accept it, and they have done so, I think.

REP. : Mr. Chairman, I need a clarification. I in the midst of my questioning referred to the -- I want to get the correct name -- the Department of the Treasury on the Bureau of Alcohol, Tobacco and Firearms, the investigation. And I would like unanimous consent to put in pages 211 to 214. It's only four pages. It has to do with the National Guard support and military contact, and it refers to the --

REP. MCCOLLUM: There would be no objection, but I would say, without objection, but I would say that that entire report is already part, as far as we're concerned, of this record. The reports of both the Treasury and the Justice Department are received as a part of our record, for your
reference, without objection.

REP. : And, Mr. Chairman, if I could make special emphasis on pages 211 to 214.

MR. : Mr. Chabot.

REP. CHABOT: By way of clarification, it was difficult to understand whether you said Chabot or Shadegg when you talked about documents being admitted before. I think mine were already previously admitted.

REP. MCCOLLUM: I had said Shadegg before, that is correct, but when I did what I did just a moment ago, I was acknowledging, I think, Mr. Shadegg and Mr. Buyer had documents they had referred to. They asked for unanimous consent they be admitted. We did that. Individual documents have not been, but my recollection is, if it's not true, I will do it myself right now. Without objection, both the reports on the Waco raids of the Treasury Department and the Justice Department in their totality will be admitted as a part of this record. They should be for reference purposes.

REP. : Mr. Chairman --

REP. MCCOLLUM: Having not heard an objection, that's fine.

REP. : -- as well as the documents that we have referred --

REP. MCCOLLUM: Well, you've already -- those have been admitted. The documents you've referred to, each of you have submitted those, and we got unanimous consent on that. Mr. Conyers.

REP. CONYERS: May I be granted five minutes under the --

REP. MCCOLLUM: You walked in seeking the five minutes. Now, Ambassador Holmes has to make a plane. He's sitting there ready to run out.

REP. CONYERS: I don't want him not to make his plane.

REP. MCCOLLUM: You can ask the rest of the panel. Do you need to ask him?

REP. CONYERS: Well, we would be delighted, Ambassador, that you make your plane, and I would be very privileged if I would get five minutes.

REP. MCCOLLUM: Well, I'm going to yield you the five minutes, but then you have to make the decision on Ambassador Holmes' plane.

REP. CONYERS: I understand that I'm going to yield to the gentlelady from Florida, so if she doesn't mind him leaving, I'd be perfectly delighted if he were excused. Thank you, Mr. Chairman.

REP. MCCOLLUM: You're welcome, I think, and --
MR. : May I make a point? With respect to the statements that were made and you were asking about, we don't consider that a question. We have no comment to make. That's a statement, and so--

REP. THURMAN: But it characterized what they thought that they heard today and what was happening, and all I'm questioning is, do you agree with that or don't you?

MR. : We have no comment on it. We don't receive it as a question.

REP. MCCOLLUM: Anything else?

REP. THURMAN: That's fine.

REP. : I yield over my time.

REP. CONYERS: Well, no. I -- (inaudible) -- to yield to Mr. Taylor.

REP. TAYLOR: Thank you, Mr. Conyers. Mr. Ambassador, go catch your plane because this can be directed to the military guys. I'm serious. If you have to catch your plane, I don't want to be the one to hold you up. What I want is a clarification on the day of the first raid, because Mr. Zeliff ran off a very long list of heavy military equipment. Is it not accurate that on the first day, the only outfits made available were Texas National Guard helicopters, that the Bradleys, that the tanks, all the heavy things that he refers to were used only after four ATF agents had been murdered, 20 more had been wounded, when the ATF guys were outgunned by the Branch Davidians. Is that not an accurate statement? And if it is not an accurate statement, please tell me.

MR. HOLMES: Yeah, that's essentially accurate, and I think it will be clarified definitively when we submit for the record, as I suggested we would do, the full list of equipment.

REP. TAYLOR: Mr. Ambassador, the American people won't get the chance to read that record. I mean, it could be published, but they won't read it.

MR. HOLMES: Well, I said that is essentially accurate.

REP. TAYLOR: Thank you, sir. I yield to Mr. Schumer.

REP. SCHUMER: Thank you. I would just like to first thank all of the gentlemen here for testifying. And I would also like to say we've heard some summaries that were made at the end by our colleagues that I don't think matched anything that you said in terms of the methamphetamines, in terms of the military use or anything else. And I would simply urge anyone who is interested in this in some detail to look at what the witnesses said and not at what the summaries, which didn't give any of the witnesses a chance to tell their veracity.

We all have our views here. My views are known. I think everyone's views are known. But at the end of the long testimony, to have a few people summarize and the summaries don't fit what the witnesses say, I think the public should beware of that. We did not hear from any of the witnesses
the summaries that were made by two of my colleagues at the end. And I yield back my time to the gentleman from Michigan.

REP. CONYERS: (Inaudible. )Are there any of my colleagues that would like time? Mr. Chairman, I would yield back whatever time I have remaining.

REP. MCCOLLUM: Thank you very much. Mr. Ehrlich has come in. Mr. Ehrlich, would you like to be recognized?

REP. EHRLICH: Yes, Mr. Chairman. And I appreciate that, and I will yield my five minutes to the chairman.

REP. MCCOLLUM: Well, I thank you, Mr. Ehrlich, and I won't take it. But Ambassador Holmes, I'm going to let you go. You will catch the plane. I have a couple of comments I want to make on the time, and I'd like to ask Major Petree one or two questions. But they do not require your presence if you need to go.

MR. HOLMES: Thank you, Mr. Chairman.

REP. MCCOLLUM: Major Petree, I just wanted to follow up, because I was seeking clarification and some of my colleagues over here thought that I was broaching the subject of flash bangs in appropriately, I suppose. I did not mean to do that, but as long as I've got the time from Mr. Ehrlich, I want to make sure we didn't leave that just hanging out there in the air. Tell us what a flash bang is.

MAJ. PETREE: This won't be out of a technical bulletin, this answer, but --

REP. MCCOLLUM: I understand. I don't want it from a book.

MAJ. PETREE: A flash bang, essentially, is a non-destructive device, or a device that has very limited destruction to its environment normally initiated by a fuse -- pull-fuse system. It does have the capability of a spoon with a cook-off (? ). It explodes. Essentially, a flash bang is exactly what the name implies. It creates a very brilliant flash, it creates a very large noise. This noise and the flash both disorient the inner drum.

MR. CRANE: Mr. Chairman, I'd like to give you some help on that.

REP. MCCOLLUM: Yes, Mr. Crane, please.

MR. CRANE: A flash bang is simply nothing more than a diversionary device used in a context of like CQB that we talked about earlier, where a forced-entry scenario requires the assault force to obtain the -- the better hand, if you will, when they go through a door or if they enter a facility.

A diversionary device basically gets the attention of those people inside the room, whether they be hostages or friendlies or whether they be the bad guys.
REP. MCCOLLUM: All right. Are there times, Mr. Crane or Major Petree, where you have
cautions or red flags about using those where there could be -- where they could be hazardous, if
you have rules of engagement? I think we're going to have testimony, and we have already had
some, that ATF had some of those rules. I'm not asking you to tell me what their rules are. I'm
curious to know if you in your training advise them, law enforcement agencies, of this, or if you
would advise your own military personnel, there are times to be careful, particularly with the use of
such devices as flash bangs?

MAJ. PETREE: With regards to advising military, yes. With regards to advising LEAs, I think the
circumstances --

REP. MCCOLLUM: What do you tell the military?

MAJ. PETREE: Well, certainly if you're going to be around flammable material, either flammable
or volatile material and you have knowledge of that material, generally within a certain area, you'd
certainly want to be careful before you tossed it in there.

REP. MCCOLLUM: Do you state anything about children or being careful if there are children in
the area, if you're using this, say, in the urban warfare environment that you described earlier in
answering someone's question? Is there a hazard particularly that you know of for using these flash
bangs more around kids than it is around adults?

MAJ. PETREE: I'm not medically really capable to --

REP. MCCOLLUM: Okay, no, that's all right. I just wanted to know if you had any. That's all I
asked.

Now, we've clarified it. I'm going on to make a closing comment I would like to make. And I want
to thank all of you for coming today.

People have been talking about characterizations. We get a lot of that here. I think it's very clear that
you came forward, all of you on this panel today -- Ambassador Holmes who's just left and every
one of you -- and given us very straight testimony. Some of it has clarified clearly the role of the
military.

There's a lot of confusion around what posse comitatus allows and doesn't allow. It is, as you
testified very ably legally for quite some time today, a rule of law that has some parameters and
restrictions on where the military can be involved. Apparently under the rules of engagement, as
you understood it and I think as you've explained it today, you could give the assistance that you
gave to the ATF prior to the time that they made the raid, the February 28th raid, and the equipment,
at least, used in that raid.

We have not gotten to the questions really surrounding the second event, and that's not why you
were here today.

With respect to the issues that are raised about the drug question, I think it's also equally clear that
from your perspective, the drug issue was explored adequately and you had for JTF 6 permission to go ahead and make the training. I think there is some question, though, very serious question, that's not your responsibility to answer. It's ours, and to get the answer from ATF about their providing potentially misleading material to those who did make that decision and screen it for you about the involvement of drugs. Whether that would have made any difference for any other unit, it certainly is clear from your testimony, General Pickler, it did make a difference technically for you. So that's the way I see it. I want to thank all of you for coming today. The time that's been yielded to me has expired. We need to move on to another panel, and we thank you very much for spending your time. Thank you.

REP. CONYERS: Mr. Chairman, I have a unanimous consent request, that when I questioned Commander Pickler about the chain of command, I had -- I did not have this information relating to approval to execute counter-drug mission. And I have some information to that effect that I would ask to be made part of the record.

REP. MCCOLLUM: It's the document from the Treasury that's been provided to us, the committee, is it?

REP. CONYERS: Yes.

REP. MCCOLLUM: Then that will be accepted without objection.

####END OF PANEL