SUBJECT: REVIEW OF SIEGE OF BRANCH DAVIDIANS' COMPOUND IN WACO, TEXAS
CHAIR: REPRESENTATIVE BILL MCCOLLUM (R-FL) AND REPRESENTATIVE BILL ZELIFF (R-NH)
WITNESS: ALLEN HOLMES, ASSISTANT SECRETARY OF DEFENSE FOR SPECIAL OPERATIONS AND LOW INTENSITY CONFLICT
2154 RAYBURN HOUSE OFFICE BUILDING WASHINGTON, DC
2:45 P.M. AFTERNOON SESSION MONDAY, JULY 31, 1995
REP. ZELIFF: Ambassador Holmes, if you'd be willing to take your seat at the table. Are we all set? The Joint Oversight Committee studying the Waco situation will now come to order. I'm very happy to welcome back Ambassador H. Allen Holmes. Mr. Holmes currently serves as the assistant secretary of special operations and low intensity conflict. In his current capacity he is responsible for the overall supervision including oversight of policy and resources of the special operations and low-intensity conflict activities at the Department of Defense. Mr. Holmes previously served as a U. S. Ambassador to Portugal from 1982 to 1985. I know you appeared before us last week. We have some additional questions that we'd like to ask you and we thank for coming back. I understand that you have an opening statement. Okay, before you start if you would it's customary to swear you in so if you'd please stand, raise your right hand. Do you solemnly swear that the testimony your about to give these subcommittees is the truth, the whole truth and nothing but the truth?

MR. HOLMES: I do.

REP. ZELIFF: Thank you very much. Please be seated. Let the record show that the answer is in the affirmative. Ambassador, please proceed with your statement.

MR. HOLMES: Thank you, Mr. Chairman. I'm here before you again to help you and the American people understand fully the role of the Defense Department in supporting civil authorities --

REP. ZELIFF: Excuse me one second, there's a --

REP. : (Off mike. )

REP. ZELIFF: Do you have copies of the statement that you can pass out?

MR. HOLMES: I can -- we can make copies subsequently.

REP. ZELIFF: All right, thank you very much. Please proceed.

MR. HOLMES: I'm here before you again to help you and the American people understand fully the role of the Defense Department in supporting civil authorities in general and, in particular, the support that the Department gave to the Federal Bureau of Investigation in Waco, Texas, in March and April of 1993.

As I explained during my testimony on July 20th, the Congress has vested the Secretary of Defense with several means of providing assistance to civilian authorities and law enforcement agencies. You will recall that during the session on the 20th, the focus was on the so-called drug Nexus (sp) and the fact that certain types of the Department's support may be available on a non-reimbursable basis. I noted at the time though that much of the day-to-day support that the department gives to federal, state and local law enforcement agencies is provided pursuant to statutes that require agencies to reimburse the department for their use of our equipment and the services of our personnel. As is the case with many departments of the federal government, DOD has well-defined authority, for example in chapter 18 of title 10 of the U. S. Code, we're under the economy act in title 31 of the Code to provide support to other agencies on a reimbursable basis.
On February 28th, 1993, and during the weeks that followed the Department received numerous requests for support from the Department of Justice, specifically from the FBI for assistance at WACO. We responded to these requests by providing the equipment and expert advice pursuant to the Secretary's statutory authority. The support included two M-1 Abrams tanks, five combat engineer vehicles and 10 Bradley fighting vehicles that were operated by FBI personnel. While DOD personnel were present at Waco, they did not perform law enforcement functions. The support provided was totally consistent with our statutory authority and with the Congressional intent that DOD's equipment be used in a manner that ensures its return to the Pentagon in a combat-ready status. We are still working on a response to the chairman's request for a list of the equipment provided by DOD to law enforcement. But I can give you the following general summary.

As I mentioned, DOD support to the FBI, including tanks, CEVs and Bradleys. Additionally, we provided about 12 HMMWVs, helicopters for both observations and possible medical evacuation and some heavy trucks. They were either loaned to the FBI under the economy act and operated by FBI personnel or in the case of stand-by medical equipment, offered with the understanding that DOD's costs would be reimbursed. Although DOD personnel provided maintenance and training with respect to those vehicles, no DOD personnel operated these vehicles as part of the FBI's law enforcement activities during this period, including on April 19th.

In fact the department was meticulous in advising the military personnel who provided support as to the legal limitations on that support.

We also provided some specialized support. The FBI asked for and we provided certain specialized equipment. We provided special video equipment and prototype automated reconnaissance equipment, again operated by FBI personnel to assist the FBI in its operations. Although throughout the period as many as 10 DOD technicians, active military or civilians, advised the FBI on the installation, capabilities or use of this equipment, no DOD personnel directly participated in any law enforcement operations involving the use of this equipment. In addition, from March 10 to 17, we provided equipment to interfere with television reception within the compound and we provided civilian personnel support to operate that equipment. The equipment was removed from Waco on March 18.

Finally, at the FBI's request, recognizing the potential for injuries resulting from the FBI operations, the department, as it does in other civilian operations ranging from natural disasters to crisis situations, provided medical support to the FBI. Under a 1991 Memorandum of Agreement between the Uniformed Services University for Health Sciences, which is DOD's medical school, and the FBI's hostage rescue team, we provided a team of medical specialists who would be ready to provided emergency medical care to any casualties of the law enforcement operations. These medical professionals were located in the vicinity of the Branch Davidian compound but did not directly participate in the law enforcement operations. As an added precaution, the FBI requested and we made available three medical evacuation helicopters and medical personnel on standby at Fort Hood, Texas should they be needed. They never left Fort Hood.

The department provided other support to the FBI during March and April of 1993, such as gas masks, night vision devices and training. I reiterate, though, that no DOD personnel performed any law enforcement functions. For example, we provided essential driver training to ensure that the
FBI personnel were properly qualified to operate the vehicles we provided. We also provided maintenance support and emergency medical support. Our support to the FBI was within congressionally directed limits and in keeping with Congress' intent that we share our specialized expertise and resources with civil authorities.

Finally, I know there are questions among members of the joint committee concerning a meeting of four DOD personnel with the attorney general and others on April 14, 1993, and particularly the role of two Army officers consulted by the attorney general.

The Department of Justice requested that the two Army officers attend the meeting, and DOD approved the request. Before coming to Washington, one of the officers flew to Waco, visited the area adjacent to the compound, and met with an FBI representative. They then overflew the compound in a helicopter before boarding an FBI aircraft to fly to Washington.

At the meeting the attorney general's questions centered on two general areas: the effects and risks associated with CS gas, and the plan that the FBI had prepared. You have received testimony from one of the four DOD participants in that meeting, Dr. Harry Salem, a civilian employee of the Army, as to the information he provided about CS gas.

As for the two Army officers, they related that they had experience with CS as a result of their military training. They advised the attorney general that people's reactions to CS will vary. Some may panic. Others may try to continue to function normally by using expedients such as wet cloths to overcome the effects of the gas. When asked by the attorney general about the FBI's plan, one of them pointed out that they were not qualified to pass judgment on law enforcement operations. They were not authorized to, and they did not approve or disapprove the plan.

The two officers did point out that the plan differed from what they would plan if this had been a military operation. They emphasized that military operations call for the application of surprise, speed, and violence of action. In that light, they pointed out that in military operation CS gas would be inserted into the whole compound at once, not incrementally, as planned by the FBI.

With respect to these Army officers, I am convinced that they acted professionally and appropriately at all times.

I will conclude by stressing that the department takes its statutory authority seriously. We are fully aware of the special charge given us by the Congress and the American people to support civil authorities. In this case, our support complied with that charge, and none of the DOD personnel who assisted law enforcement agencies during this difficult episode participated directly in any law enforcement operations.

I'm ready to answer your questions.
REP. ZELIFF: Thank you. Thank you, Ambassador. The chair yields to Mr. Clinger.

REP. WILLIAM CLINGER (R-PA): I thank the chairman for yielding to me, and I would be delighted to yield back to the chairman my time.

REP. ZELIFF: Thank you.

Ambassador, one -- I'm trying just to clear up the record, when you were here with a panel last week, JTF-6 forces, the request that was made, was that made directly to the drug czar?

MR. HOLMES: No. The request came from Operation Alliance, the committee -- the clearinghouse of law enforcement agencies, to the commanding general of JTF-6.

REP. ZELIFF: And I'm trying to remember exactly what the answer was that was given. There was some confusion. Was the money that was used at Waco charged to the drug effort?

MR. HOLMES: During that period -- let's be clear here. During the first phase leading up to February 28, when the ATF was involved, there was a so-called drug connection and the request was received through that channel. And there is -- we do have funds to spend on counter-drug operations, and so that was not -- that activity was not reimbursable.

REP. ZELIFF: While that -- you know, I think the military responded based on the information they were given, and I understand that. But the significance here is that if there was no drug connection -- and I think we've pretty well proved that there wasn't one -- then charging the nation's drug war for the resources they have, the limited resources, for those kind of operations needs to be avoided in the future. And I was just really concerned. We covered all that ground before, but I just wanted to make sure.

Why was the jamming equipment used at Waco? You indicated in your testimony, your opening statement, March 10th to March 17th, then it was removed on the 18th. Does the use of such equipment need presidential approval or anybody's approval?

MR. HOLMES: That equipment that was used to interfere with the TV reception is approvable by normal DOD authorities. I mean, it is equipment that was requested and we respond to that under existing authority.

REP. ZELIFF: We -- you had a partial list, and our subcommittees have asked repeatedly for a full accounting of all military personnel and assets used at Waco.

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It's been two years now since the incident, and we're still trying to come up with an accounting. Do you have any idea how long this will take?

MR. HOLMES: We're very close to completing that. We just want to be absolutely certain that it is totally accurate, and we have circulated our reply among various parts of the Defense Department,
so that we are able to give you a totally accurate accounting. And we will send it to you.

REP. ZELIFF: Because I think, as we try to do our report, it's vital that we have very definite, specific information on not only assets, but -- not only fixed assets, from tanks to HUMVEEs and everything else, but also personnel itself needs to be diagrammed.

MR. HOLMES: We will do our best to get an accurate accounting of personnel as well.

Let me hasten to add here that it may be extremely difficult to give you an exact accounting of the number of people on any given day, but I think we can come very close to giving you a total picture of the personnel that were there essentially to provide maintenance and training and so forth.

REP. ZELIFF: In your advice to Attorney General Reno, can you just describe what the folks there said to her relative to their assurance that CS gas was harmful or not harmful to children, any information relative to the military's experience?

MR. HOLMES: Well, based on the experience of the two military -- the two Army officers concerned, who have used CS gas in training on many occasions, their response to the attorney general's question was that reactions vary according to the individual person concerned. Some people panic and want to leave the vicinity as quickly as they can. And others are able to exercise more control and stay there and use such expedients as might be at hand, such as a wet cloth, to try to overcome the effects of the gas.

But basically their point was there is no way of knowing exactly how any two people would react to it.

REP. ZELIFF: But specifically -- and I know the red light's on -- my question is -- to little children, people who were very little, less than two years old. Any reference to your concerns

MR. HOLMES: I'm not aware that they were asked nor did they respond directly to the effects on children, which, obviously, from the point of view of their military training and experience, would not have been relevant.

REP. ZELIFF: So, just to make the record clear, you were never asked the question to comment relative to children. You were just asked the use of CS gas?

MR. HOLMES: With respect to people. To the best of my knowledge --

REP. ZELIFF: Assuming adults, and your experience has been with adults, and you would assume that, you know, adults could have gas masks and work them, but you weren't looking at children.

MR. HOLMES: To the best of my knowledge, that was the extent of their exchange.

REP. ZELIFF: Mr. Scott, of Virginia.

REP. SCOTT: Thank you, Mr. Chairman. Ambassador Holmes, as I understand it, you can get
military assistance on a number of different ways, and, depending on which category you ask, you have to reimburse or not reimburse. As you do this accounting will that include who is reimbursed, who for what -- so that we can figure out under what category the assistance was obtained?

MR. HOLMES: Well, if I understand your question, if you would like a basic division as between the support --

REP. SCOTT: Well, let me ask it another way. Has the military been reimbursed for any expenses at Waco?

MR. HOLMES: I can't answer that. I assume --

REP. SCOTT: Who could answer?

MR. HOLMES: Well, I'll have to ask the question at the Department of Defense. But I believe a great deal of the accounting has taken place but I can't give you a definitive answer as to who and what and how much.

REP. SCOTT: Okay. If you could follow up on that I'd appreciate it. Does the military have experience dealing with cults and people who you're engaging with that might have beliefs that are totally different than --

MR. HOLMES: I didn't understand the first word you said. Experience with --

REP. SCOTT: Dealing with people involved in cults.

MR. HOLMES: Oh. Cults. Oh.

REP. SCOTT: So that the reaction may not be what you expect it to be. Is there any expertise in that area?

MR. HOLMES: Not to the best of my knowledge.

REP. SCOTT: You indicated that the military would have gone in all at once and not incrementally. Has anyone evaluated the possibility of that working, as opposed to what was actually done, to your knowledge?

MR. HOLMES: Not in the Department of Defense.

REP. SCOTT: Okay, back to the gas. We were told that -- by a number of different people who had a background in CS gas, that in the annals of history they don't know anybody who has experienced long-term medical problems or death as a result of CS gas and it's the safest thing out there. It is very traumatic while you're under the CS gas, but as soon as it's gone everybody recovers. Did -- was anything told to the attorney general different than that?

MR. HOLMES: I don't believe so, but I'm not sure that the question as you posed it was posed to
the two Army officers in that way.

REP. SCOTT: Okay. The question I think that you answered was that the psychological reaction is totally unpredictable, that people under gas, you just don't know what they might do.

MR. HOLMES: Well, yeah, I didn't use the word psychological, but I just simply related that the two officers said that any two individuals could react in totally different ways. Some might panic and some might be more controlled and attempt to use expedience for controlling the effects of the gas.

REP. SCOTT: And it is your recollection that because of that, there's just no way to predict what people might do?

MR. HOLMES: Yes.

REP. SCOTT: That is your recollection?

MR. HOLMES: That is what -- basically what the Army officers were saying to the attorney general.

REP. SCOTT: Okay. You indicated the military were not involved in the law enforcement. Do military officers have expertise in civilian law enforcement?

MR. HOLMES: Generally not. Although clearly within the military police function for carrying out the Uniformed Code of Military Justice on military bases, obviously military police and their officers are schooled in those techniques. But --

REP. SCOTT: But that's not appropriate for civilian type use?

MR. HOLMES: No, it is not appropriate and it's not used.

REP. SCOTT: Okay. Thank you, Mr. Chairman. I yield back.

REP. ZELIFF: Thank you, Mr. Scott.

The chair yields to Mr. McCollum.

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REP. MCCOLLUM: Ambassador Holmes, I'd like for you to confirm for us, or corroborate the fact that I believe is correct, that all of the vehicles you provided to the FBI for the Waco siege period, the Combat Engineering Vehicles, the Bradley Fighting Vehicles and the M1- A1 tanks had had their weapon systems disabled or removed before you provided them to the FBI, is that correct?

MR. HOLMES: That is correct, Mr. Chairman.
REP. MCCOLLUM: Thank you. I also want to go back to the meeting that the two Army -- senior Army officers had with Attorney General Reno in discussing the CS gas and the plan. Am I not correct that among other things that they said to her with regard to the CS gas plan was a statement that there are risks associated with it and that mothers may leave their children when it's inserted?

MR. HOLMES: I do recall that one of the officers concerned -- involved did say -- in the context of explaining the different reactions said something like some mothers might abandon their children.

REP. MCCOLLUM: All right. Also, I am concerned about the question about whether or not they gave any advice to the attorney general regarding taking out the leader at the beginning of the operation. Am I not correct that in a military operation, as opposed to law enforcement operation, these two Army officers advised the attorney general there would be that type of action?

MR. HOLMES: The two Army officers concerned did not advise the attorney general in this regard, they simply stated that were it a military mission that they would use speed, surprise, violence of action, and go for the leader.

REP. MCCOLLUM: All right, thank you.

Also in that same discussion, am I not correct that these two Army officers advised the attorney general their opinion that the hostage rescue team needed to be pulled off line at some point to restore their perishable skills so that they would not deteriorate further, both mental and physical?

MR. HOLMES: Let me rephrase that in replying. They didn't advise the attorney general that they should do that -- that she should do that, they said that, again, if it were a military operation, they would have their soldiers rotated off the site in order to maintain their perishable skills.

REP. MCCOLLUM: All right, that's all I wanted. I'm not trying to put your words in your mouth, I just need to get it out somehow or another.

MR. HOLMES: No, I just want to get it accurate.

REP. MCCOLLUM: That's -- I want you to, too. And with regard to the meeting itself and its initiation, am I -- let me ask it this way. Do you know who actually asked the two Army officers to come to this meeting with Attorney General Reno, who the contact point was?

MR. HOLMES: The contact point was an FBI official.

REP. MCCOLLUM: Was it Dick Rogers?

REP. MCCOLLUM: And I believe it was -- Rogers was the head of the hostage rescue team; I believe it was Rogers who was the contact point.

REP. MCCOLLUM: Now, with regard to the jamming equipment that was used to prevent the Davidians from receiving television signals, you indicated that the operation of this equipment was by civilians. Did you mean the FBI? You did not mean civilian military personnel, did you?
MR. HOLMES: No, I -- let me just check something here. (Pause.) The equipment to interfere with the reception of the TV signals was operated by DOD civilians.

REP. MCCOLLUM: It was by DOD civilians?

MR. HOLMES: Yes.

REP. MCCOLLUM: Let me ask you another question. Just to express an explanation here on the Hostage Rescue Team perishable skill issue, did at any time, to you knowledge, after the comment was made about how they would be pulled back in the military operation to -- if -- it was the military's team out there -- to renew their skills, was there a response from the attorney general or from any of the FBI present as to what their position was with respect to their team, that the military officers (remember?)?

MR. HOLMES: Yes, I recall that the two -- that the Army officers concerned -- that they mentioned that the FBI officials in charge said that in -- that they were confident that their people were prepared, because they had used makeshift training facilities in the vicinity to keep their training up -- something to that effect. I would not try to characterize precisely how the FBI replied, because I work for the Defense Department. (Chuckles.) I think to be absolutely accurate on that, you might want to ask the FBI. But I --

REP. MCCOLLUM: Well, I thank you. I just wanted to get the response --

MR. HOLMES: I recall it pretty much that way.

REP. MCCOLLUM: -- response of how the military officers observed or remembered their conversations --

MR. HOLMES: Yeah.

REP. MCCOLLUM: -- all I was trying to get. Thank you, Mr. Chairman.

REP. ZELIFF: Time has expired. Thank you. Mrs. Slaughter, from New York, for five minutes.

REP. LOUISE SLAUGHTER (D-NY): Thank you, Mr. Chairman. Mr. Ambassador, it's nice to see you again.

MR. HOLMES: (Thank ?) you, ma'am.

REP. SLAUGHTER: I'm not altogether clear why you're back, either to try to prove once again the attorney general didn't understand this issue -- what I hear more and more is that she tried every way in the world to consult everybody that she could find about the gas, and that then, given every kind of -- and frankly, we heard it all here.

There were a couple of people who said that nobody really knew, but experts who have really
worked with it had said, as what we've pointed before and is on the record, that no person has suffered any debilitating conditions or death at the use of CS gas. As a matter of fact, I'm not sure you're aware that this morning it was put into the record that of the autopsy reports from all the people who died on that unfortunate day, that not a single one died from CS gas. Did you know that?

MR. HOLMES: I did not.

REP. SLAUGHTER: No matter how often we say it, we seem to still come back to see what -- did CS gas kill anybody. It's sort of like Alice in Wonderland, we'll believe six impossible things before breakfast, I guess.

One of the things that concerns me is the difference in law enforcement and the Defense Department, I think you're trying to make this very clear, and that the chain of events here sometimes gets forgotten, because we talk all the time about whether you need to know all about cults, does law enforcement need to understand all about cults. You were not there because this was a cult. In the first place, the law enforcement was called in by the local sheriff because of illegal weapons. Isn't that correct?

MR. HOLMES: I only know from -- frankly, from publicly-available information.

REP. SLAUGHTER: Is it your understanding that they were called in because they were stockpiling machine guns and hand grenades and other weapons that were illegal to have?

MR. HOLMES: That's what I've heard, but, I mean, I don't have any direct personal knowledge of that.

REP. SLAUGHTER: Well, my concern is if every law enforcement agency decides it has to understand every cult, that's going to be a pretty difficult problem because we've heard from numbers of various experts here who have disagreed completely with each other and who are to this moment still giving me reports on how they differ from what other members have said. But the Defense Department -- I think we need to restate what you had said before -- you feel that you were there on legitimate grounds.

MR. HOLMES: We feel that we were responding, according to our statutory authority, to request from civil authorities, from law enforcement, for help from DOD because of our specialized expertise and resources.

REP. SLAUGHTER: And as we keep talking about the two officers who spoke to the attorney general, it was not their position to tell her how to run the operation because the military itself was not in charge of it; isn't that correct?

MR. HOLMES: Absolutely true, they were not in charge and they were not trying to tell her how to run the operation.
REP. SLAUGHTER: They -- I mean the advice on whether she should take out Koresh or this kind of thing would not be the kind of advice that we would expect from the military, is that correct?

MR. HOLMES: Well, they did not advise -- they did not seek to advise her on whether to take out Koresh or not.

REP. SLAUGHTER: Isn't it the absolute truth that there is a wall between civilian, military and the control that they have over population and that they're -- the roles and missions that they have are entirely different and that the military is not allowed to do civilian police patrolling in the United States?

MR. HOLMES: It is true that the military are enjoined by statute, particularly the Posse Comitatus Act from acting as law enforcement in -- they're prevented from arresting, arrests, search, seizures --

REP. SLAUGHTER: (Inaudible) -- particularly National Guard which in time can be called in by a governor for riot control some sorts of things is not normal for the Department of Defense in any way to be involved?

MR. HOLMES: Well, it's no normal for the Department of Defense under title 10, but it is my understanding that under title 32 that National Guard working under the authority of a governor has more latitude in that regard.

REP. SLAUGHTER: Correct, and I had stated that already. But what I'd like to hear you say, Ambassador Holmes before my time expires, are you satisfied to the best of your knowledge that everything that was done, was done here was done correctly and was done by the books and was done by the law of the United States and under no kind of conspiracy theory?

MR. HOLMES: A hundred percent, I totally agree and I am satisfied that everything was done according to statute and according legal delegated authority of the officials of the Department of Defense that responded to the request for support.

REP. ZELIFF: Gentlelady's time has expired.

REP. SLAUGHTER: Thank you, Mr. Ambassador.

REP. ZELIFF: I assume, Mr. Ambassador, that that includes the question of ATF's request for the military with the drug connection as well?

MR. HOLMES: Well, yes, because that request came through operation alliance which was a clearing house of all law enforcement agencies who were -- who's responsibility it was to pass requests vetted by them to the joint task force.

REP. ZELIFF: The chair now recognizes Mr. Buyer.

REP. BUYER: I have several questions but I have to state a particular confusion I have at the
moment by the gentlelady's questions of New York to say that isn't it the reason there were automatic weapons is why the DOD was brought in. That kind of discounts the fact that we went through all these hearings about a drug -- I'll yield to the gentlelady to help me.

REP. SLAUGHTER: Mr. Chairman -- just a moment, sir. I did not say that. I said that the law enforcement of the county Sheriff called in law enforcement ATF specifically because of the stockpiling of illegal weapons. It was not the fact that there was a cult there.

REP. BUYER: Cult? I never even said that. I'll take back my time.

REP. SLAUGHTER: Well, I --

REP. BUYER: I never said that there was a cult.

Let me move in because I think part of the problem that we went through was is this whole thing about whether there was a ruse of a drug nexus to gain access to the military treasure trove.

Let me move into the other thing that bothered me about your opening statement when you referred to M-1 tanks, 10 Bradleys, 12 Hummers, some CEVs and helicopters, when you say DOD, are you putting National Guard under that umbrella?

MR. HOLMES: Yes.

REP. BUYER: Okay, because I think that's important

MR. HOLMES: That's because the 10 Bradleys were actually from the Texas National Guard at Fort Hood.

REP. BUYER: I think it would be very helpful for the committee, Mr. Holmes, if when you provide the list to us that you make a separation between that which is provided from the active and that which is coming out of the national Guard. And especially on the issues of reimbursement, because I know that, looking at the National Guard "After Action" report, it says in here that federal LEAs have agreed to reimburse the Texas National guard for consumables and lost damaged and repair to Texas National Guard equipment in the amount of $205,752.00.

So it would be helpful for us to know whether or not there -- were active duty equipment that were damaged or lost and that you'd sought reimbursement. And then, hopefully you'll begin to ask this question too, that, you know, now that we're learning that there was this ruse to create access -- I said the military treasure trove, that you, sir, will analyze that. I know that the president -- or the secretary of defense has appointed you to this task force to look at the access question, but hopefully you'll begin to look at also this question about -- I know you don't always want to say, well, geez, is this federal agency asking me -- or are they being truthful in their request -- but now that we know that perhaps it wasn't as up front, are you going to be seeking reimbursement or are you just going to say, well, had they asked for the request through other access means they could have gotten it, and therefore we'll just discount it.
So I appreciate -- you'll look into that, Mr. Holmes.

MR. HOLMES: We will look into that. We will include that for the record in our response. I'd like to point out, however, that the more detail that is required in this response of that sort means that it will take longer.

REP. BUYER: All right. One thing that I do also want to get into is that the military did in their advice to Miss Reno advise to bring the -- the advice to withdraw the HRT team. Now that in fact happened. Correct? The advice to withdraw the team happened.

MR. HOLMES: No, they did not advise her to withdraw the HRT team.

REP. BUYER: So, the justice report is incorrect.

MR. HOLMES: What they -- I covered this earlier. Let me re-phrase it. The question was asked and they responded that if it were

a military operation that they would rotate their people off the site in order to maintain perishable skills.

REP. BUYER: But you see, the --

MR. HOLMES: But they did not advise her to do the same with the HRT. That was not --

REP. BUYER: Mr. Holmes, what we have here is situation where Mr. Hubbell, even though Mr. Sage says that it was, quote, "overstated", Mr. Hubbell is advising the Attorney general, that on the scene in Waco law enforcement personnel in Waco were getting tired, their tempers were fraying -- even in the "After Action" report for the National Guard, they said that, "Considering the magnitude, severity and scope of the particular support mission, few if any major problems were encountered. However, personalities, vanities and opinions did surface to near problematic degrees that can be attributed to stress and sleepless and concerned personnel." So what we have is in fact that predicament where you have the highly perishable skills are in fact perishing. And the military says, you know, if this was one of our actions, when we move in with speed and violence of action and surprise, we would do it now. But I'll tell you what, because of the readiness concern, we recommend withdrawing from the scene. Now that in fact occurred, correct?

MR. HOLMES: No.

REP. BUYER: Gees! Then -- then --

MR. HOLMES: No, I -- don't --

REP. BUYER: Then convey it, please.
MR. HOLMES: Congressman, don't expect me to comment on the nature of the conversation between Mr. Hubbell and the attorney general. I will comment on what our military officers advised. They did not advise them to withdraw the HRT. And I repeat, they said: If it were a military operation and these were our people, we would rotate them off so as to train and maintain their perishable skills.

REP. BUYER: Well, I was hopeful that others wouldn't have to come in and testify. I prefer to consult with the chair here in just a moment. Thank you.

(Pause. )

REP. ZELIFF: Jackson-Lee?Jackson-Lee?

REP. SHEILA JACKSON-LEE (D-TX): Thank you very much, Mr. Chairman.

And I'm sorry, Ambassador, that we seem to have a directed effort to put words in your mouth and allegations of who's pro and con. I hope I'm just here to get facts and to help us be able to recoup for, on behalf of the American people, both the truth and ways to avoid the loss of these terrible -- this terrible tragedy and loss of lives, both with ATF and certainly members of the Branch Davidians.

I want to ask you to call off what your actual title is. I'm reading it here, and I want to make sure that I've got the right information. Listed as Ambassador H. Alan Holmes, and what is your title, sir?

MR. HOLMES: Well actually, I'm Mr. H. Alan Holmes --

REP. JACKSON-LEE: (Laughs. )Well --

MR. HOLMES: -- and I am assistant secretary of defense for special operations and low-intensity conflict.

REP. JACKSON-LEE: All right. Mr. Holmes -- and we certainly confer it upon you maybe because of your demeanor, ambassador -- but what the American people I understand are sensitive to is the fact that we are in a democracy, and whether or not we are in a situation where the military can be put out into the field to put the American people under siege.

Is this title that you've just given to me and the responsibilities thereunder, a covert operation to put the American people under siege?

MR. HOLMES: Certainly not.

REP. JACKSON-LEE: And would that be absolutely not?

MR. HOLMES: The special -- special operations and low-intensity conflict has to do with my oversight responsibilities for policy and the resources of the special operations forces. I should add that beyond that, I also have responsibility for the counter-drug operations of the program of the
Department of Defense, and humanitarian and refugee affairs.

REP. JACKSON-LEE: So we should not read into that a concerted and directed effort to move about these contained United States and territories and act upon American citizens lawfully following the law?

MR. HOLMES: Absolutely not. The Department of Defense is there to provide national security, to fight and win our nation's wars. And, I mean, obviously we're not operating against the American people, we're operating in support of the American people.

REP. JACKSON-LEE: Did you have -- not you, but do you have an understanding when the military came on the scene after Oklahoma City?

MR. HOLMES: Yes, I have an understanding.

REP. JACKSON-LEE: Were they -- what mode were they in? Were they in an assistance mode? What mode do you understand that they might have been in?

MR. HOLMES: Absolutely in an assistance mode. There had been -- there had been a terrorist attack. They were basically helping with the, what we call consequence management of that great tragedy and provided a range of support that was requested by civil authorities to help with the people, look for people, dog teams, ambulance --

REP. JACKSON-LEE: Assistance mode.

MR. HOLMES: -- I mean all kinds of assistance to help with that tragedy.

REP. JACKSON-LEE: A quite different set of circumstances, but many of us in the South remember it, Hurricane Andrew, a great loss of life.

MR. HOLMES: Yes.

REP. JACKSON-LEE: Do you believe that the military might have been on the scene there after the fact?

MR. HOLMES: That is another -- another one of -- another category of support that we provide to civil authorities, when there are natural and man-made disasters and -- yes, we --

REP. JACKSON-LEE: Not in any conspiratorial way. Let me get my last question in and get back to the drug nexus question. That seems to have been the draw on what would have drawn military assistance. Let me give you my understanding, sir, and you can give me your answer. I understand that the drug nexus emphasis was that if you provided assistance then because of legislation that you would operate under, the agency would not have to reimburse. It does not mean that that was the only basis upon which you could enter upon the scene, it had to be with not having to reimburse. I want to finish my question so you can answer. And there was a variety of activities, including past felons or convictions of people that were inside and various other indicia that the ATF may have
brought to the military's attention. But in any event, if you can again explain the drug nexus situation that would have caused the military to be involved.

MR. HOLMES: Let me -- let me -- maybe it would be helpful to approach it from a different direction.

REP. JACKSON-LEE: I welcome that.

MR. HOLMES: There is -- since 1989, we have been -- we have been given legislation to participate in the national fight against drugs. And for five years we have received appropriations from the Congress to do this. And so these appropriations cover the -- a wide range of activities of military support to law enforcement in going after the drug dealers. Joint Task Force Six is solely engaged in that activity. And so when they receive a request from Operation Alliance, which includes all of law enforcement agencies, because all law enforcement agencies in one way or another, at one time or another are involved in going after drug dealers, when they receive a request for assistance which has been vetted, they take that, they examine it, they look at it from the legal point of view, from the command point of view -- there's always a general officer that looks at it, and when they are satisfied, they then execute that military support to civil authorities for that purpose.

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REP. JACKSON-LEE: Joint Six was the one that --

MR. HOLMES: And it is -- it is not reimbursed -- it is not necessary to reimburse because there is a program to pay for that which is appropriated by Congress.

REP. JACKSON-LEE: And that's the nexus that we were talking about? That's the door that was open for the participation in Waco?

MR. HOLMES: Yeah. That's correct.

REP. JACKSON-LEE: Thank you, Mr. Chairman.

Thank you, Mr. Holmes.

REP. ZELIFF: The problem is is that the money gets charged to the drug war.

REP. JACKSON-LEE: Mr. Chairman? Mr. Chairman, I understand that, and I appreciate you saying that. And that's why I wanted Mr. Holmes to say that, that the efforts were in good faith. They tracked the inquiry, they looked at what was provided and they made a good faith effort. And you're right, it came out of dollars legislated for the drug war, and that's what I understand the ATF's inquiry was, that they thought there might be drug activity going on inside the compound -- whether that was accurate or not, but that was the basis upon which the first inquiry was made to the military.
REP. ZELIFF: And I think -- I think it's since been proved that it was rather inaccurate. But anyway --

REP. JACKSON-LEE: With hindsight, Mr. Chairman, I hope we can fix all of that for the American people, I really do. I'll work with you to do so. Thank you.

REP. ZELIFF: Thank you.

Mr. Schiff, New Mexico.

REP. STEVEN SCHIFF (R-NM): Mr. Chairman, I'd just like to use part of my time to continue what the chair and Ms. Jackson-Lee are talking about. I think the evidence is overwhelming that this was never a drug raid by the Bureau of Alcohol, Tobacco and Firearms, it was always a raid for alleged violations of firearms laws. And the reason BATF told the military that this was drug involved is that was the only way that they were going to get the training that they received from Joint Task Force Six, because Joint Task Force Six only helps in drug interdictions. And what I think that further shows is the fact that the Bureau of Alcohol, Tobacco and Firearms was committed to this idea of a military raid to be followed by a press conference, regardless of the risk to children inside and regardless to the risk of their own agents who they sent forward.

And, Ambassador Holmes, I didn't mean to make you sit through that, but I think that needs to be clarified, particularly when I see from the Associated Press that Secretary of the Treasury Rubin is throwing verbal bombs at this committee saying that we might be undermining law enforcement, not supporting law enforcement. I think that the Treasury Department didn't support law enforcement to abrogate its oversight responsibility of the bureau for what the bureau helped do to its own agents.

Mr. Holmes, I'd like to ask you this question. I believe you said that Department of Defense civilian personnel were operating some surveillance equipment at the Waco site?

MR. HOLMES: No, I said that DOD civilians were operating equipment that interfered with the reception of TV signals in the compound for approximately five days in mid-March.

REP. SCHIFF: All right. Were they operating from some location other than right around the Waco compound?

MR. HOLMES: It was -- they -- that was operated -- it was operated right there in the vicinity. I don't recall exactly where it was, but it was definitely right there in the Waco vicinity, yes.

REP. SCHIFF: What agency did those -- within the DOD, what agency, what service did those civilians come from?

MR. HOLMES: They came from the Air Force.

REP. SCHIFF: And if we need their names, are you able to provide that at some point?
MR. HOLMES: I think we could do that.

REP. SCHIFF: Thank you.

MR. HOLMES: I don't see why not.

REP. SCHIFF: There have been some questions that have come up about what the attorney general was told and how this plan was proposed, and I'd like to ask you from your knowledge of the military's discussion if you're able to respond. One issue is how likely it was that the first vehicle that went forward might receive hostile gunfire from inside the compound, because it's been testified that would trigger an all-sides assault on the building to put gas in from many different sides at once. Do you have an understanding of whether the FBI said this was likely to occur, that is gunfire was likely to occur to this first vehicle or was not likely?

MR. HOLMES: I can't really reply to whether it was likely for the first vehicle. But I can say that the reason that the FBI requested and the Defense Department provided some armored vehicle was for force protection and, therefore, it's clear that they were expecting to receive gunfire and they were interested in protecting the lives of the agents.

REP. SCHIFF: Well, I want to say the reason that it's important -- and we'll take this up with the attorney general tomorrow, is whether there'd be gunfire, and it could only be from one person necessarily in the compound, that would change the whole scenario of what was about to happen. And that's why I emphasize the point.

On the use of CS gas, I wonder if the military civilians or members who were advising the attorney general had any examples from anywhere in the world of where they knew CS gas has been planned to be pumped into or was pumped into a building continuously for 48 hours, or was deliberately inserted to a building where children and infants were present. Do you know of any such examples of either of those?

MR. HOLMES: I only know that in training, that the military -- the Army, all the services do, the Marine Corps uses CS gas in training and so they're quite familiar with its effects -- to basically to train their soldiers in how to react in these situations.

REP. SCHIFF: Well that's soldiers. My -- just to follow-up briefly, do you know of any examples of either a plan to put CS gas into a building for 48 hours straight against inhabitants who might be there, anywhere, or a plan to insert gas into the building in any amount for any duration of time where there's children or infants present?

MR. HOLMES: I don't know of any such claim.

REP. SCHIFF: Okay, thank you. Thank you very much, Mr. Holmes. I yield back, Mr. Chairman.

REP. ZELIFF: Thank you, Mr. Schiff. Mr. Schumer for five minutes.

REP. CHARLES SCHUMER (D-NY): Thank you. And thank you, Ambassador, for your patience
here. I guess the fundamental question is, let us say there was no drug nexus at all, and let us say that the ATF, just suppose, said we don't have any drug nexus and we need your help. Isn't it true that every one of the actions that the military officers and advisors did would have still been able to have been done even if with different personnel?

MR. HOLMES: Yeah, I think I may have even said that in my first day of testimony --

REP. SCHUMER: You did. But, you know --

MR. HOLMES: -- that even without a drug connection, just as in the case of the Pentagon's response to the FBI in Phase Two, there are many ways that military support to law enforcement can be requested and granted.

REP. SCHUMER: That is exactly right. That is the point I'm making. So we may have a question here of the credibility of whoever in the ATF asked the military for help in terms of the drug connection, but we have -- there is not the slightest scintilla of a doubt that no law was broken, is that correct?

MR. HOLMES: Certainly from -- certainly from the Defense Department's standpoint we did certainly not break any laws.

REP. SCHUMER: And nothing was done that couldn't have been done with or without a drug nexus, is that right?

MR. HOLMES: Well --

REP. SCHUMER: Am I asking too convoluted a question here?

MR. HOLMES: No, I'm just -- I will just say simply that the Defense Department will always receive --

REP. SCHUMER: No, but that's not my question. My question is -- I'll ask you again. You know, there's a -- I asked it initially.

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Aside from the fact that there is a sort of bureaucratic way of paying for these things and some comes out of the war on drugs and some comes out of the defense budget, every single action that any military officer did in connection with Waco would have been allowed whether there was a drug nexus or not, under the present law, is that correct?

MR. HOLMES: I believe in general that's correct. The reason I'm hesitating is that every request for support that comes from law enforcement -- I mean, obviously we don't just blindly execute it. I mean, we would always --

REP. SCHUMER: No, I meant this one --
MR. HOLMES: -- want to examine every request very carefully from the point of view of law and command control.

REP. SCHUMER: Sure.

MR. HOLMES: So that's the reason it's difficult for me to give you a blanket response --

REP. SCHUMER: I didn't say in every -- I mean in regards to this particular incident, the training that went on with ATF and with FBI for preparation of the siege in Waco.

MR. HOLMES: I think -- I think that's probably so. I mean, if those requests had come in and there had been no connection with drugs, they probably -- I mean, they certainly would have been treated as honest, you know, straightforward requests and they would have been looked at. But I can think of no reason why --

REP. SCHUMER: I'm not asking would it have been approved, I'm saying let's say now in hindsight we know that there was no drug nexus. Could, not would, but could every single action been allowed under present law?

MR. HOLMES: Well, I --

REP. SCHUMER: If not, we should know about it, too.

MR. HOLMES: I haven't -- I haven't done that kind of an analysis. But let's say for example -- I mean, hypothetically, let's say that they had requested some armored vehicles to protect their agents, I think it's safe to say that that would have been granted, whether or not there was a drug connection.

REP. SCHUMER: Right. And how about some training, not for a specific operation, but on sort of siege type --

MR. HOLMES: Well certainly -- certainly in terms of training for medical -- for medical emergencies and for communications and that sort of thing, I think that would have all been responded to in a positive way.

REP. SCHUMER: Well certainly, summing up, I have not heard a single jot come out of any member of this committee or anywhere else, other than, again, you know, some of the conspiracy type theorists and allegations made or implied in "Soldier of Fortune" and other places like that -- not my Bible on what is proper and improper -- but I haven't heard a single, single allegation that talks about any violation of law.

REP. ZELIFF: The gentleman's time has expired.

REP. SCHUMER: Thank you.

REP. ZELIFF: Mr. Coble from North Carolina.
REP. HOWARD COBLE (R-NC): Thank you, Mr. Chairman. Mr. Ambassador, I'm going to reiterate a point I made earlier this week. Earlier -- last week, rather, I met with a friend of mine who's one of the foremost attorneys in North Carolina who was up here for a meeting. And responding to our Waco hearings, he voluntarily told me, he said, "When I first saw the report on television I called my wife into the den and said, 'Have the federal agents lost their minds?'"

We've been in the process of applying 20-20 hindsight for the past seven or eight days. This was his instinctive response. He was applying no hindsight at all. "Have they lost their minds?" Not being critical, necessarily, just a gut feeling that something was wrong. And I think, Mr. Ambassador and Mr. Chairman, I think that's why we had these hearings. I think many Americans responded in that same vein, not because Koresh was doing things properly, but because they feared the federal government was doing things improperly.

And since we have saddled you, Mr. Ambassador, with the idea of compiling information, I have one more request for you, and this is one of these things, Mr. Chairman, that nags at you. Hearings like this -- now and again something will stand out that nags at you. Damage to the tank -- tanks. It was reported in the FBI report that one of the reasons why they accelerated the insertion of the gas was because they were being fired upon from inside. The folks inside, conversely, deny that they were firing upon the tanks.

Here is what bothers me. On June the 8th, this subcommittee requested a copy of the damage report to the tanks. There was obviously no gunfire between March 1st and April 18th, so any damage sustained by the tank would have to have occurred on the 19th, and that would -- common sense tells me, would be reflected in the damage report. I'm at a loss why we haven't gotten that report. Almost two months ago we requested it. Over two years have elapsed since this occurred. Surely the damage report had been compiled. I realize -- and this is not your fault, Ambassador, but I realize the wheels of bureaucracy turn awfully slowly in this town, but after two years, number one, can you illuminate for me, and if you can't you get that information for us as to why we haven't gotten a report yet?

MR. HOLMES: I wasn't aware that there was a request for a damage assessment but --

REP. COBLE: And I'm not whipping up on you, Ambassador.

MR. HOLMES: But I'll be -- I'll be glad to look into it and see -- see what we can produce.

REP. COBLE: Now I presume that the report was -- I assume it was directed to DOD. And I'm not blaming you for the fact that we don't we have it, but I'm blaming somebody, because it seems to me after two months we ought to have that report in hand and examine that -- what damage, if any, did occur. I thank you, Mr. Ambassador, for being here. Mr. Chairman, that's the only question I had. If you want to -- anybody want my time?

REP. ZELIFF: Okay, thank you, Mr. Coble. Mr. Ambassador, the fact that you indicated that the Air Force used jamming devices and I believe that was for about a week, and then they left on the 18th, why did they leave?
MR. HOLMES: I really don't know why they left, but they did. (Chuckles. )

REP. ZELIFF: You mean they just thought it was a good idea to do it for a week and then leave?

MR. HOLMES: I don't know, let me consult some of my colleagues here.

(Confers off mike. )

REP. ZELIFF: And I understand they were DOD civilians?

MR. HOLMES: I think probably -- probably the answer to that question should be directed to the FBI. I mean, they -- you know --

REP. ZELIFF: Okay, we'll do that.

MR. HOLMES: -- they must have asked -- said they didn't need them, so --

REP. ZELIFF: And my question really is, is they were DOD civilians, I think I heard you say?

MR. HOLMES: Yes.

REP. ZELIFF: And they were actually -- they were manning those devices?

MR. HOLMES: Yes, they ran that equipment.

REP. ZELIFF: Unlike --

MR. HOLMES: And I think there were perhaps a mixture of DOD civilians and perhaps contractors. I'm not quite sure of the breakdown.

REP. ZELIFF: But unlike the situation where the FBI was actually manning the tanks and --

MR. HOLMES: That's right. Everything else, all other equipment was run by the FBI.

REP. ZELIFF: Thank you very much. Mr. Taylor?

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REP. TAYLOR: Mr. Chairman, I would like to reserve my time.

REP. ZELIFF: Mr. Conyers?

REP. JOHN CONYERS (D-MI): Thank you, Mr. Chairman. Good afternoon, Ambassador Holmes. We've met before. This is your second time here?
MR. HOLMES: Yes.

REP. CONYERS: You're lucky. There -- some have been back more than twice. (Laughter.) You've been here -- the last panel you were on, were you here for six hours or more?

MR. HOLMES: I think it was about four hours.

REP. CONYERS: About four hours.

MR. HOLMES: On the 20th.

REP. CONYERS: All right. And so we're sputtering along here, we're just about almost out of gas. We brought back all the witnesses we could think of to take them through their paces one more time. Believe me, I had nothing to do with this.

Do you have any new and final information that upon this eager two committees of Congress you would give us your last and final parting words about this whole sorry incident?

MR. HOLMES: I really thank you for that invitation, Congressman, but I really don't have anything to add to the statement that I made at the beginning and to the questions that I've answered during this hearing.

REP. CONYERS: Well, I had that feeling every since you've been here this afternoon, that there was -- we were plowing through the same sort of thing. And I would yield my time, thanking you very much for your courtesy and cooperation with these committees. And if there is no request for my time, I'd yield it back, Mr. Chairman. Thank you.

REP. ZELIFF: Thank you very much.

MR. HOLMES: Thank you.

REP. ZELIFF: Mr. Chabot?

REP. STEVE CHABOT (R-OH): Thank you. I'll yield my first 30 seconds to Mr. Schiff.

REP. SCHIFF: I thank the gentleman for yielding. As a still recognized judge advocate in the Air Force Reserve, I want to take just a minute to clarify the issue of drugs and training. The plain fact is this: Although there may not have been a violation of a statute like the Posse Comitatus Act, Joint Task Force Six, which provided the training to the Bureau of Alcohol, Tobacco and Firearms, would never have done so unless they believed that this was a drug mission, because that was their mission.

MR. HOLMES: That's correct.

REP. SCHIFF: And the argument has -- thank you, Ambassador. The argument has been made, "Well, BATF could've gotten this training for its agents through another part of the military, if
they'd been willing to reimburse the military. "That is true, but I think the most probable response on that is BATF did not have the budget it wanted to commit to reimburse the military, and that's why they misled the military into believing that this was a drug raid. And I believe they did that so they'd get the training, so that they could go ahead with their plan for a military assault on this compound, even though it was a grave risk to the people who were inside and it was a grave risk to their own agents, some of whom paid with their lives for that decision. With that, I yield back to Mr. Chabot and thank him.

REP. CHABOT: Thank you. Ambassador Holmes, first of all, were there any military personnel from any other countries other than the U. S. at Waco? (Pause.)

MR. HOLMES: I'm not aware of any military other than the U. S. that were there -- certainly not at the invitation of the Department of Defense.

REP. CHABOT: Okay. Let me be a little more specific. When you say you're not aware, I'm not talking about on February 28th. I'm talking about, say, from the 1st of March through April 19th, and I don't mean necessarily taking part in any of the activities that occurred there.

MR. HOLMES: Yeah.

REP. CHABOT: But have you had any discussions with any of our military personnel that might indicate that there were any military personnel from any other countries there?

MR. HOLMES: It's my understanding that, at the invitation of perhaps the FBI Hostage Rescue Team, that there may have been one or two personnel from the British SAS there at some point as observers, at some point during the long siege.

REP. CHABOT: So there were military personnel there from another country.

MR. HOLMES: I mean, that is what I have been led to believe. I don't have any direct knowledge of that. What I do know is that there were -- that if there -- that the SAS -- one or two people that are supposed to have been there were not there as a result of a DOD invitation, so it really --

REP. CHABOT: Okay. Well, I wasn't specifically getting at who invited them there.

MR. HOLMES: So that's what I don't have -- I can't give you, you know, sort of direct confirmation of that from the point of view of the Department of Defense. But it is our understanding that there were a -- one or two, I think, SAS personnel there at the invitation of the FBI.

REP. CHABOT: Okay.

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Let me get away from that for a minute. My time's running out here, but the two officers that you mentioned that went and met with Attorney General Reno -- what rank were they?
MR. HOLMES: One was a colonel and one was a brigadier general.

REP. CHABOT: Okay, a colonel and a general.

MR. HOLMES: Mmm-hmm. (In affirmation. )

REP. CHABOT: Okay. Now you mentioned that they -- I believe they flew in a helicopter around the compound at one point.

MR. HOLMES: One of them did.

REP. CHABOT: Okay. Was that in the daytime or at nighttime?

MR. HOLMES: It was in the daytime.

REP. CHABOT: And then, from that helicopter, they then got on --

MR. HOLMES: They then --

REP. CHABOT: -- on another flight and then --

MR. HOLMES: Yes, that officer then flew, after flying briefly over the area, over the compound area, the Waco area, just to have a look --

REP. CHABOT: And did they land several times?

MR. HOLMES: -- that officer then flew --

REP. CHABOT: Did they land several times at the compound site?

MR. HOLMES: I don't think so. I mean, I don't really know. But I think basically they just did one quick fly-around in the helicopter, and then they got an FBI aircraft and flew to Washington.

REP. CHABOT: And immediately met with the attorney general?

MR. HOLMES: And then met with the attorney general at FBI headquarters --

REP. CHABOT: Okay. Well, my time's out.

MR. HOLMES: -- on April 14th.

REP. CHABOT: I'd like to follow up, but -- okay, thank you very much.

REP. ZELIFF: Thank you very much. Mr. Watt?

REP. MELVIN WATT (D-NC): Thank you, Mr. Chairman. Ambassador Holmes, for -- in some of
our communities, where we have seen the National Guard on various occasions, we never realized that there was this dichotomy between the military and the law enforcement personnel. I wonder if you might spend a minute or two just informing the America people who may be watching today what this -- the philosophy of posse comitatus is and what in fact it -- that law consists of.

MR. HOLMES: Well, for a really authoritative reading, I would refer you to General Huffman's statement that was entered in the record on the hearing on he 20th. But based on what he explained to me, my understanding is that the posse comitatus act was passed in -- I think it was 1878, and basically the purpose was during the Reconstruction period to insure that military personnel were not carrying out civilian law. And therefore, the law proscribes military personnel from carrying out such law enforcement functions as arrests, searches, and seizures.

REP. WATT: I take it that we have maybe taken a tiny step or two back from that philosophy in our efforts to deal with the drug situation in this country, in our efforts possibly in the upcoming statute to deal with terrorism, domestic terrorism and international terrorism in tandem with each other, I guess. Is my perception correct that that -- that maybe we've taken a tiny step back from that philosophy?

MR. HOLMES: Not in the prosecution of the counter-drug war. The Posse Comitatus Act remains in place and I would not say that it represents a step back, no. I mean, there is a clear separation here. And whether or not we -- our military are supporting law enforcement authorities within the United States or in those foreign countries where there is a drug problem and where we are working, for example, in the Andean region, we are very careful not to overstep that boundary. With respect to counter-terrorism, it is possible in a -- would there be a serious national crisis within the United States involving weapons of mass destruction, particularly nuclear weapons, I believe that the president would have the authority to send military units into action to support the FBI and the Justice Department in taking care of that kind of very grave threat to the American people.

REP. WATT: And how does the use of the National Guard in riot situations fit into this overall context?

MR. HOLMES: Well, if the National Guard is called out by the governor in a situation and is operating under Title 32, then there the National Guard is acting, I think, closer to a quasi-law-enforcement capacity than would be the case for normal military forces operating under Title 10, where there is clear separation.

REP. WATT: I've used this series of questions just to kind of get the public up to at least a generalized level of knowledge about the separation between the military and domestic law enforcement, and leading to the final question which I have, which is, have you had an opportunity since the Waco event to review in some detail the steps that the military took, whatever they might have been, and to determine whether or not the military in any respect engaged in any violation of the Posse Comitatus Act and this separation of authority? And if so, what have been your findings, if you would?

MR. HOLMES: Yes. I and many of my colleagues in the Defense Department have looked at this question very carefully. We have found absolutely no infraction of the Posse Comitatus Act. And
indeed, our finding is that at all times the military support that was provided was completely in accordance with statute and the procedures laid out in the Department of Defense.

REP. WATT: Thank you, Mr. Chairman.

REP. ZELIFF: Thank you, Mr. Bryant from Tennessee.

REP. BRYANT: Thank you, Mr. Chairman. If I might just add onto what Mr. Schiff, my colleague, said, as we have discovered, it is perhaps apparent that the Posse Comitatus Act was not violated here. But what was the problem was the fact that the ATF, while they may have used the wrong method to get the military there, the fact was they had to greatly overstate, exaggerate, perhaps even invent this idea that there was a methamphetamine lab on the premises to do that. So we're getting lost on whether Posse Comitatus applies or not and missing the clear point here that the ATF may have overstated their authority in their perhaps overzealousness to get this search warrant, and I think that's the main point we want to remember here.

Mr. Ambassador, thank you for being here today. I wanted to ask you, there's clear testimony from Mr. Hubbell that the military was involved in a meeting with the attorney general and several others to give advice on the 14th of April 1993. Was there -- were there other occasions that the military was used to brief people in the White House, perhaps even up to the president, in regards to this particular operation?

MR. HOLMES: Not to my knowledge.

REP. BRYANT: To your knowledge, the highest level then that would be involved would be the attorney general?

MR. HOLMES: The two Army officers that briefed her, yes.

REP. BRYANT: And I understand she was briefed following the siege, and that -- would that be -- of course that's after the April 14th -- or that would be -- that would be April 14th?

MR. HOLMES: April 14 was the date.

REP. BRYANT: At whose insistence and request was this done?

MR. HOLMES: Well, the request came from the Department of Justice and it was approved by the Department of Defense for these two Army officers to consult with her, yes.

REP. BRYANT: Okay. In reviewing the Department of Justice report on this Waco incident, at page 267 of that report it details this April 14th, 1993 meeting indicating that the military personnel were present and were talking about gas and so forth. And in that, it mentions the military officials also said that in a military operation the entire compound would be gassed at once, not gradually. And I understand the military's role is much different than law enforcement.
But here's some points I want to make. The military officials -- I'm sorry-- however, the law enforcement interest was to go step by step, and I want to ask you, after I read all this, was this your understanding of the way the FBI intended this gas insertion to be. However the law enforcement interest was to go step by step, increase the pressure, and make it increasingly uncomfortable inside the structure in an effort to drive them out.

After discussing the nature of the gas and varied tolerance levels to be expected from the occupants, the meeting participants were prepared to wait two or three days for everyone eventually to come out. The action was viewed as a gradual, step by step, process. It was not law enforcement's intent that this be D-Day.

Both the attorney general and Director Sessions voiced concern for achieving the end result with maximum safety. Clark, who would be the FBI, made it clear that the goal of the plan was to introduce the tear gas one step at a time, to avoid confusing the Branch Davidians, and thereby maintain the impression that they were not trapped. Would that be your basic understanding, through the military that were there, as to what the intent of the law enforcement side was?

MR. HOLMES: Well, I read the same report that you did, which is the report to the deputy attorney general, from within -- and I think that's a correct rendition, or at least as I can recall from reading it again this weekend. But basically, I can only attest to what the military officers -- how they responded to the attorney general on what they would do if it were a military operation. Which is, as I have indicated in my testimony today.

REP. BRYANT: And as the scenario developed on April the 19th, 1993, it was a very different one than the one described to the attorney general on April the 14th, 1993. Is that correct? It did turn out a lot different than what they had projected?

MR. HOLMES: Well, I mean, my knowledge of that is the same as yours. I mean, just from watching television and reading public accounts of it. I have no insider knowledge of how the FBI conducted the operation because basically our people were not only -- our military people that were in the vicinity were there only in a training capacity and in fact were enjoined by the FBI from not participating, not being in the area, not observing -- just basically staying away while they conducted the operation as a law enforcement operation.

REP. BRYANT: My last question -- you went a little long with the answer there -- but my last question would be, was there any other role that the military played in advising in Washington -- not at Waco but in Washington -- after April 14th, 1993 -- this particular meeting?

MR. HOLMES: Not that I'm aware of, no.

REP. BRYANT: Thank you, Mr. Ambassador.

REP. ZELIFF: Thank you, your time is expired. Mr. Heineman -- Chief.

REP. HEINEMAN: Thank you, Mr. Chairman. Getting back briefly -- and you may have answered
it and I apologize for my redundancy if you have -- but the support that ATF asked relative to that to that methamphetamine lab. Was there participation in that from the DEA?

MR. HOLMES: Yes. Let me explain. Frequently the questions directed to witnesses have indicated that this was sort of a direct ATF-JTF6 request, but that isn't the way it happened. Basically, the -- obviously the request was generated by the ATF and then it went into Operation Alliance, which was this committee, the clearinghouse of all the law enforcement agencies, of which the four principal permanent members, senior members, were -- the best of my knowledge were DEA, Customs, Border Patrol and ATF. And so that was -- obviously, when they reviewed the request, they did it collegially, within the Operation Alliance, and then they passed that request to Joint Task Force 6.

REP. HEINEMAN: Okay. At this time I'd like to yield the balance of my time to Mr. Chabot. Thank you, Ambassador.

REP. CHABOT: Thank you, Mr. Heineman. Just a couple brief questions. Just one follow-up, Ambassador, relative to the British military personnel that you mentioned. Do you have any reason why they were there?

MR. HOLMES: I don't really know, except that since there is a close relationship -- they train together and discuss things, I'm told -- between the FBI, HRT and the SAS, and since the SAS, I believe, in contrast to our military units, actually do participate -- do have a quasi-law-enforcement authority in certain circumstances when they operate within the United Kingdom -- I mean, don't take this as factual. This is what I've been led to believe. And so there is an association there, and I think it was probably a professional exchange that -- one of the professional exchanges that they have on a not-infrequent basis.

REP. CHABOT: Okay. Thank you.

MR. HOLMES: But I don't know exactly.

REP. CHABOT: Ambassador, the meeting that took place with the general and the colonel that was referred to before, and they met with the -- Attorney General Reno, do you know who else was present at that meeting? And if so, who?

MR. HOLMES: Do you mean on the military side?

REP. CHABOT: Well, any side. Who else was present, that you're permitted to talk about?

MR. HOLMES: Yeah. I mean, I think -- as I recall, I think we have a list here somewhere, but -- (pause). Let's see. Well, it was Director Sessions, Deputy Director Floyd Clark, Special Agent Danny Coulson, Special Agent Larry (Potts ?), Special Agent Dick Rogers.

And then -- that was from the FBI -- and then of course the attorney general, Mr. Hubbell and two other unidentified individuals. And then on our side, who are the two army officers I described, Dr. Salem and another -- a fourth DoD person who was an army officer who was basically there as --
who did not participate in the consultations. He was there as a liaison officer from the Department of the Army.

REP. CHABOT: Okay, and as you testified, the CS gas was something that was talked about at that particular meeting, is that correct?

MR. HOLMES: Oh, yes.

REP. CHABOT: And in addition to that, the military personnel indicated, did they not, that the one thing that they didn't particularly care about the plan that was being proposed was the military would have done it differently because they would have come in from all different sides very quickly rather than to drag this thing out over 48 hours? Correct?

MR. HOLMES: Well, they were asked. What they -- and they said --

REP. CHABOT: Well, I'm almost out of time, but isn't that correct?

MR. HOLMES: Yeah.

REP. CHABOT: Okay.

MR. HOLMES: Well, yeah. I mean, as I -- as I said --

REP. CHABOT: And once the firing started, isn't that basically --

MR. HOLMES: I'm sorry.

REP. CHABOT: Once the firing from the Davidians from the inside occurred, isn't that pretty much what happened, that they started coming from all sides and pumping gas in rather than over a 48-hour period, very quickly?

MR. HOLMES: I don't know. I don't know. I mean, we were not there on the scene, and everything I would say on that is hearsay. I mean, I have no direct knowledge of what happened.

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REP. CHABOT: I see I'm out of time. Thank you.

REP. ZELIFF: Thank you. Mr. Blute.

REP. BLUTE: Thank you very much, Mr. Chairman, and Ambassador, thank you very much for your testimony. I would just make a statement before I yield back to the chairman that I'm somewhat concerned about hearing that even without a drug connection, domestic law enforcement is able to access tanks, Bradley fighting vehicles, helicopters, training. Is that accurate, even without a drug connection?
MR. HOLMES: Yes.

REP. BLUTE: As it was in this case, you're saying that --

MR. HOLMES: That is accurate.

REP. BLUTE: -- domestic law enforcement could access all of this.

MR. HOLMES: Yeah. That's all according to statute.

REP. BLUTE: I think this is an area of the law that perhaps this committee and other committees of jurisdiction could take a hard look at following these hearings, and with that I'll yield back my time to Chairman Zeliff.

REP. ZELIFF: Thank you. Mr. Ambassador, you indicated, and I think I asked you the question, and I just want to be clear. The drug czar has responsibility for the nation's drug war. At any time did he get involved with the use of the drug czar's funds?

MR. HOLMES: Well, who do you mean by the drug czar?

REP. ZELIFF: Dr. Brown.

MR. HOLMES: Yes, Dr. Brown, head of the ONDCP --

REP. ZELIFF: Right.

MR. HOLMES: -- who does report to the president. He is the president's designated representative.

REP. ZELIFF: Right.

MR. HOLMES: And he certainly has an important responsibility --

REP. ZELIFF: Did he get invited to the meeting?

MR. HOLMES: No. His responsibilities generally revolve around policy, the president's overall policy, PDD 14, as well as looking at the overall national budget.

REP. ZELIFF: So --

MR. HOLMES: And we do submit our various budgets --

REP. ZELIFF: Right. But he's given a budget of some $14 billion, and --

MR. HOLMES: Mmm-hmm. (Affirmative.) That's about it.

REP. ZELIFF: But he has no -- nobody contacted him relative to the use of, for example, something
as big as Waco, where military operations, resources were used? He had no influence whatsoever?

MR. HOLMES: I'm not -- I don't believe so. I don't -- I'm not even sure that -- whether he was appointed at that time. But I -- but in any event, I do not believe that anybody in that office --

REP. ZELIFF: Would it be possible --

MR. HOLMES: -- was consulted.

REP. ZELIFF: I vaguely remember some correspondence somewhere -- I'm not sure, though, and I want to be very careful -- that went to the office of the drug czar. Could you check to see if in fact --

MR. HOLMES: Be glad to check.

REP. ZELIFF: -- he was involved, in the loop, and if in fact they notified you and brought the military in before it went to JTF?

MR. HOLMES: I can answer -- I -- first of all, yes, we will check.

REP. ZELIFF: I'd be happy to have you just check it.

MR. HOLMES: We will check. But it's -- first of all, the deputy assistant secretary for drug support -- for the drug program and support in the Defense Department did receive -- I know that -- did receive an information copy of the execute order that was signed off on by the general in charge of Joint Task Force Six. And so yes, there was that connection with the policy office in the office of secretary of defense.

REP. ZELIFF: So --

MR. HOLMES: I was not on board at that point.

REP. ZELIFF: That's called an information copy?

MR. HOLMES: Information copy, yes.

REP. ZELIFF: So that they were notified and, I guess, brought into the loop by getting a copy of a piece of paper which told them that --

MR. HOLMES: That this --

REP. ZELIFF: -- this was about to happen.

MR. HOLMES: Yes, that this operation -- (right?).

REP. ZELIFF: February 28th was the day of the original ATF raid. Did Texas Governor Richards consult with any military personnel on the 28th of February? Is this military -- and would the
MR. HOLMES: Let me answer that in two parts. These were two totally separate occasions. The officer who was asked by General Taylor (sp), who was the 3rd Corps commander at Fort Hood, to respond to Governor Richards' request to talk with a knowledgeable military officer about the ATF incident that evening was the assistant division commander of the 1st Cavalry Division at Fort Hood.

And that officer did go and talk with her that evening, answering questions about the kind of materiel that had been used, the kind of materiel that might be subsequently requested. And she asked him to please also consult with the adjutant general, who was relatively new on the job, as I'm told.

REP. ZELIFF: Thank you. I think my time is expired.

Mr. Mica.

REP. MICA: Thank you, Mr. Chairman.

Mr. Holmes, you are the assistant secretary of defense for special operations and low-intensity conflict, right?

MR. HOLMES: That's correct.

REP. MICA: Are you familiar with this document, the United States Department of Justice -- and this is the briefing book that was provided to the attorney general on April 12th. Are you somewhat familiar with this document?

MR. HOLMES: Is this the report, the after-action report?

REP. MICA: No, this is April 12th, 1993.

MR. HOLMES: No, I'm not familiar with that document.

REP. MICA: In it, it says -- and let me read from page 40. It says, "Experience with the effects of CS gas on children, including infants, has been extensively investigated." Are you familiar with this information being given to the attorney general?

MR. HOLMES: No, I'm not.

REP. MICA: You're not. Did you realize that this information was given by Dr. Salem to the attorney general in the briefing?

MR. HOLMES: No, I was not aware of that.

REP. MICA: Now, again, you're in the military, but can you tell me any incident in the history of
the United States where we have used CS gas in use of the military in some fashion in a civilian law enforcement incident where there have been children present in a confined area?

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MR. HOLMES: I'm not aware of any such incident.

REP. MICA: Now, you've also heard my colleagues here testify -- or comment, not testify -- my comments testify that the CS gas has dissipated in the bodies. Are you aware of the Department of Justice October 8th report? This is afterwards, not a briefing paper in advance, but afterwards. Page 312, it says: "It is impossible to know how many of the persons inside the compound inhaled the tear gas because the last gas insertion ended nearly an hour before the fire ended. That lapse of time could have been sufficient for the CS gas to have dissipated from any of the bodies in which it might have been present earlier." This is from that report. Are you familiar with that?

MR. HOLMES: I am not familiar with that.

REP. MICA: Did Dr. Salem -- was Dr. Salem consulting to -- was he a military individual? He works in the Department of Defense as a civilian employee?

MR. HOLMES: He's a civilian scientist who --

REP. MICA: But within the Department of Defense?

MR. HOLMES: He's a -- yeah, I believe he is a Department of Defense employee. Yeah.

REP. MICA: And was anyone outside of the military or a Department of Defense employee consulted on the use of CS gas where children are in a confined space?

MR. HOLMES: Consulted by whom?

REP. MICA: By the attorney general, by anyone that you're --

MR. HOLMES: I don't know. I don't know.

REP. MICA: Uh-huh. If the military were to use CS gas on where there are children and infant present, would he be the only one that would be consulted? I'd say within the military --

MR. HOLMES: I think that's a hypothetical situation. I wouldn't envisage the military being involved in a law enforcement situation where children would be involved.

REP. MICA: Do you think that we should have a change in our policy? Given the facts that are now present, we don't know -- we had a panel sit right at that same table, half of them said some of them may have died from CS gas, others said that they didn't. But in a civilian situation where the military is giving advice and counsel even with a civilian defense employee, do you think we should have a different policy or look at our policy where we have children and infants present?
MR. HOLMES: Well, I don't really have an opinion with respect to the civilian law enforcement in that respect. The only thing I could comment on is what has already been brought out in this hearing as to what -- as to the familiarity that many of our military personnel have with the use of CS gas in training.

REP. MICA: I think my time has expired. Thank you, Mr. Chairman.

REP. ZELIFF: Thank you.

Mrs. Lofgren.

REP. LOFGREN: Thank you, Mr. Chairman.

I just have one question. I think you've really answered everything, and in some cases more than once.

In the report from Edward Dennis in the Department of Justice on the whole Waco incident, he has recommendations. I don't know if you've had a chance to read the report, but --

MR. HOLMES: I have not.

REP. LOFGREN: -- the last recommendation that he has is to evaluate funding for the development of a chemical means to render individuals unconscious for a period of time without warning. And obviously, I could imagine, as a non-law-enforcement, non-military person, the utility of such a gas as opposed to what we currently have available. And I was just wondering -- I don't want you to get into anything that could be a national security issue, but whether there might be some potential in the R&D stage for, you think, for the Defense Department and civilians to really develop this kind of means or whether you think that that is really beyond the realm of possibility.

MR. HOLMES: I don't really have an opinion on that.

REP. LOFGREN: All right, fair enough. And I would like to yield the balance of my time to my colleague Sheila Jackson-Lee.

REP. JACKSON-LEE: I want to thank the gentlelady from California, and I probably would say the same thing that she said, is that you may have answered these time infinitum, but I again am reminded of the lives that are lost and the seriousness with which -- let me say to you that I appreciate the seriousness with which you have answered the questions, no matter how they have seemingly been pointed, that you've been fair in your response.

The question that I'd like to pursue again, maybe, is to the overlays of decision-makers, because I keep hearing maybe suggestions that there was a frivolous process and that the military may have come, either uninvited or without basis of coming, that their involvement was extremely extensive, and that's why I tried to draw out utilization of military in the tragedy of Oklahoma City and then the great loss of life and devastation of Hurricane Andrew, so that American people can understand
many occasions where the military might be present involved in a domestic situation. I have -- it's been brought to my attention --

MR. HOLMES: Can I --

REP. JACKSON-LEE: Go right ahead. Yes.

MR. HOLMES: Let me respond to that. And I think it is important for the American people to understand the extent of military help to communities throughout our country. Just as -- this is a rough statistic, but last year, 1994, the Department of the Army tells me there may have been as many as 7,000 requests for help from military bases and installations up and down the land, that range across the full -- you know, floods, firefighting, helping with incidents in communities.

REP. JACKSON-LEE: Coming from the civilian population?

MR. HOLMES: Coming from the -- yeah, military support to civilian communities. So it is extensive and it is -- has long been practiced. And judging from the letters we receive, it is greatly appreciated.

REP. JACKSON-LEE: Thank you. Let me move now to the Waco situation. There was -- now the calling out or the pulling out of Dr. Brown's name as the drug czar, making this even more potentially a clandestine operation than what one might think. And I want to at least try to -- this is the first time I've heard his name even being called up, and --

REP. ZELIFF: If I can just interrupt just for a second, I'll give you some extra time. I would like to correct -- I was in error when I said Dr. Brown. It should have been Mr. Martinez who -- but what I was referring to was, was the drug czar's office informed, no matter who it was. But I was incorrect in using Dr. Brown. When you had asked me who, I didn't realize at that point it was Mr. Martinez.

MR. HOLMES: Yeah, I didn't think he was on board at that point.

REP. ZELIFF: Right.

MR. HOLMES: Yeah.

REP. JACKSON-LEE: Thank you, Mr. Chairman, I was trying to determine that and I appreciate your clarification. Well then let me move quickly to the layers of decision-making. It's my understanding -- you keep saying alliance. I'd like, as I leave you time to answer this question -- you mentioned alliance. Name some of the law enforcers so we can understand just what you're talking about, and then answer this question: Isn't it true that the DEA might have been part of evaluating the evidence of a drug nexus presented by the ATF to Operation Alliance, primarily because they were involved in it? And then, is it your understanding that the DEA felt that there was a sufficient nexus to warrant military assistance? Again, you may speculate, but they were part of the alliance. And if you can answer those questions, I would appreciate it, bearing in mind the idea is, were there more decision-makers than just possibly the ATF, no matter how wrong or right it might have.
MR. HOLMES: Yeah, I can only -- I can only tell you that the request came to Joint Task Force Six from Operation Alliance. But -- but I do know --

REP. JACKSON-LEE: And name those, name those groups.

MR. HOLMES: -- that the senior members who participate in these discussions are DEA, Customs, Border Patrol, ATF and others.

REP. JACKSON-LEE: All right.

MR. HOLMES: I mean, there are many law enforcement agencies at the national level and local, state, that participate in this process. So it's a collegial decision --

REP. JACKSON-LEE: But it came from that group?

MR. HOLMES: -- they discuss it, and then they pass on -- we get several hundred of those a year that come to the Joint Task Force Six.

REP. JACKSON-LEE: Thank you very much.

Mr. Chairman, thank you.

REP. ZELIFF: Thank you very much. And Ambassador, I would just -- I would like to say that we appreciate your coming back. I know this is the second time. And some of these may have been repetitious, but we wanted to make sure we have all the facts before we move forward.

This concludes the ninth day of our joint subcommittee hearings. Tomorrow morning we will reconvene at 10: 00 a. m. And we stand recessed until 10: 00 tomorrow morning.

(Sounds gavel.) END