

THE CONSTITUTION OF THE UNITED STATES

ARTICLE II , SECTION 1.[1]

"The executive Power shall be vested in a President of the United States of America."



THE CONSTITUTION OF THE UNITED STATES

ARTICLE II , SECTION 1.[8]

"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

THE CONSTITUTION OF THE UNITED STATES

ARTICLE II , SECTION 3.

"...he shall take Care that the Laws be faithfully executed..."

GUILTY

of GENOCIDE at WACO, TEXAS – 19 April 1993

JANET RENO, ATTORNEY GENERAL, DEPARTMENT OF JUSTICE

*I heard Koresh was hittin' the babies
---so we wasted 'em all.*



GUILTY

of GENOCIDE at WACO, TEXAS – 19 April 1993

UNITED STATES CODE

TITLE 18

CRIMES AND CRIMINAL PROCEDURE

PART I—CRIMES

CHAPTER 50A-GENOCIDE

Sec.

§ 1091. Genocide

(a) **Basic offense.**—Whoever, whether in time of peace or in time of war, in a circumstance described in subsection (d) and with the specific intent to destroy, in whole or in substantial part, a national, ethnic, racial, or religious group as such—

- (1) kills members of that group;
- (2) causes serious bodily injury to members of that group;
- (3) causes the permanent impairment of the mental faculties of members of the group through drugs, torture, or similar techniques;
- (4) subjects the group to conditions of life that are intended to cause the physical destruction of the group in whole or in part;
- (5) imposes measures intended to prevent births within the group; or
- (6) transfers by force children of the group to another group; or attempts to do so, shall be punished as provided in subsection (b).

(b) **Punishment for basic offense.**—The punishment for an offense under subsection (a) is—

- (1) in the case of an offense under subsection (a)(1), a fine of not more than \$1,000,000 and imprisonment for life; and
- (2) a fine of not more than \$1,000,000 or imprisonment for not more than twenty years, or both, in any other case.

(c) **Incitement offense.**—Whoever in a circumstance described in subsection (d) directly and publicly incites another to violate subsection (a) shall be fined not more than \$500,000 or imprisoned not more than five years, or both.

(d) **Required circumstance for offenses.**—The circumstance referred to in subsections (a) and (c) is that—

(1) the offense is committed within the United States; or

(2) the alleged offender is a national of the United States (as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)).

(e) **Nonapplicability of certain limitations.**—Notwithstanding section 3282 of this title, in the case of an offense under subsection (a)(1), an indictment may be found, or information instituted, at any time without limitation.

UNITED STATES CODE

TITLE 18

CRIMES AND CRIMINAL PROCEDURE

PART I—CRIMES

CHAPTER 50A-GENOCIDE

Sec.

§ 1092. Exclusive remedies

Nothing in this chapter shall be construed as precluding the application of State or local laws to the conduct proscribed by this chapter, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any proceeding.

UNITED STATES CODE

TITLE 18

CRIMES AND CRIMINAL PROCEDURE

PART I—CRIMES

CHAPTER 50A-GENOCIDE

Sec.

§ 1093. Definitions

As used in this chapter—

- (1) the term “children” means the plural and means individuals who have not attained the age of eighteen years;
- (2) the term “ethnic group” means a set of individuals whose identity as such is distinctive in terms of common cultural traditions or heritage;
- (3) the term “incites” means urges another to engage imminently in conduct in circumstances under which there is a substantial likelihood of imminently causing such conduct;
- (4) the term “members” means the plural;
- (5) the term “national group” means a set of individuals whose identity as such is distinctive in terms of nationality or national origins;
- (6) the term “racial group” means a set of individuals whose identity as such is distinctive in terms of physical characteristics or biological descent;
- (7) the term “religious group” means a set of individuals whose identity as such is distinctive in terms of common religious creed, beliefs, doctrines, practices, or rituals; and
- (8) the term “substantial part” means a part of a group of such numerical significance that the destruction or loss of that part would cause the destruction of the group as a viable entity within the nation of which such group is a part.

TEXAS DEPARTMENT OF PUBLIC SAFETY

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July 31, 1995

Honorable William H. Zeliff, Jr.
Chairman, Subcommittee on National Security
International Affairs and Criminal Justice
Congress of the United States
House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515-6143

FAXED
7-31-95

Dear Congressman Zeliff:

This will acknowledge receipt of your letter wherein you request certain information which would expand on my recent testimony before your committee.

As you note in your letter, I did testify the Governor furnished a number to the White House should I need to address certain concerns with regard to cooperation from the F.B.I. Since no one asked who the White House contact was, such testimony was not volunteered.

You now request to know the name, which was Vince Foster at (202) 456-6611. I might also add that I had not looked at the name or telephone number of the White House contact until the morning of my testimony to the subcommittee. Only then did I realize, or recognize, the name as the White House contact.

I hope this will further assist you in your efforts to review the events surrounding the Branch Davidian affair.

Thanks for the courtesy you and the subcommittees afforded Captain Byrnes and myself during our recent appearance. The time and effort Congress has contributed to the hearing surely will have a positive impact on law enforcement in general.

Sincerely,

Maurice C. Cook

Maurice C. Cook, Senior Captain
Commander
Texas Ranger Division

MCC:kh

THE WHITE HOUSE
WASHINGTON

July 31, 1995

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

Dear Chairman Zeliff:

I am writing in response to your comments on "Meet the Press" regarding the President's involvement in events at Waco. Your comments were nothing short of irresponsible, intent on creating a story without any news and alleging a scandal without any basis.

The facts relating to the President's involvement in the decision to end the siege at Waco are a matter of public record. The President has never shied away from, indeed has repeatedly acknowledged, his knowledge and ultimate approval of that decision. Respecting and giving due deference to the judgment of the FBI and the Attorney General, the President accepted their recommendation in a discussion with the Attorney General on April 18. Prior to that time, the President learned of the proposal, expressed his confidence in the Attorney General, but also noted a desire to review any decision of this kind. All this is spelled out in the Justice Department's Report on Waco, specifically at pages 108 and 241-48.

I am distressed that you would go on national television, recite nothing other than these facts, but then suggest that you are exposing hidden misdeeds. That is a disservice to the American people. Statements such as these undermine your stated goal of holding open and honest hearings to review the facts and make credible policy recommendations as to how to avoid such tragedies in the future.

Sincerely yours,



Abner J. Mikva
Counsel to the President

The White House

Office of the Press Secretary

For Immediate Release

April 20, 1993

Remarks By The President
In Question And Answer Session With The Press

The Rose Garden

1:36 P.M. EDT

The President: On February the 28th, four federal agents were killed in the line of duty trying to enforce the law against the Branch Davidian compound, which had illegally stockpiled weaponry and ammunition, and placed innocent children at risk. Because the Batf operation had failed to meet its objective, a 51-day standoff ensued.

The Federal Bureau of Investigation then made every reasonable effort to bring this perilous situation to an end without bloodshed and further loss of life. The Bureau's efforts were ultimately unavailing because the individual with whom they were dealing, David Koresh, was dangerous, irrational, and probably insane.

He engaged in numerous activities which violated both federal law and common standards of decency. He was, moreover, responsible for the deaths and injuries which occurred during the action against the compound in February. Given his inclination towards violence and in an effort to protect his young hostages, no provocative actions were taken for more than seven weeks by federal agents against the compound.

This weekend I was briefed by Attorney General Reno on an operation prepared by the Fbi, designed to increase pressure on Koresh and persuade those in the compound to surrender peacefully. The plan included a decision to withhold the use of ammunition, even in the face of fire, and instead to use tear gas that would not cause permanent harm to health, but would, it was hoped, force the people in the compound to come outside and to surrender.

I was informed of the plan to end the siege. I

discussed it with Attorney General Reno. I asked the questions I thought it was appropriate for me to ask. I then told her to do what she thought was right, and I take full responsibility for the implementation of the decision.

Yesterday's action ended in a horrible human tragedy. Mr. Koresh's response to the demands for his surrender by federal agents was to destroy himself and murder the children who were his captives, as well as all the other people who were there who did not survive. He killed those he controlled, and he bears ultimate responsibility for the carnage that ensued.

Now we must review the past with an eye towards the future. I have directed the United States Departments of Justice and Treasury to undertake a vigorous and thorough investigation to uncover what happened and why, and whether anything could have been done differently. I have told the departments to involve independent professional law enforcement officials in the investigation. I expect to receive analysis and answers in whatever time is required to complete the review. Finally, I have directed the departments to cooperate fully with all congressional inquiries so that we can continue to be fully accountable to the American people.

I want to express my appreciation to the Attorney General, to the Justice Department, and to the federal agents on the front lines who did the best job they could under deeply difficult circumstances.

Again, I want to say as I did yesterday, I am very sorry for the loss of life which occurred at the beginning and at the end of this tragedy in Waco. I hope very much that others who will be tempted to join cults and to become involved with people like David Koresh will be deterred by the horrible scenes they have seen over the last seven weeks. And I hope very much that the difficult situations which federal agents confronted there and which they will be doubtless required to confront in other contexts in the future will be somewhat better handled and better understood because of what has been learned now.

Q Mr. President, can you, first of all, tell us why, after 51 days, you decided --

Q Mr. President, can you describe for us what it is that Janet Reno outlined to you in your 15-minute phone conversation with --

The President: I can't hear you both. If one will go first and then the other.

Q Sorry. Can you describe what Janet Reno --

Q Mr. President --

The President: I'll answer both your questions, but I can't do it at once.

Q Can you describe what she told you on Sunday about the nature of the operation and how much detail you knew about it?

The President: Yes. I was told by the Attorney General that the FBI strongly felt that the time had come to take another step in trying to dislodge the people in the compound. And she described generally what the operation would be -- that they wanted to go in and use tear gas which had been tested not to cause permanent damage to adults or to children, but which would make it very difficult for people to stay inside the building. And it was hoped that the tear gas would permit them to come outside.

I was further told that under no circumstances would our

people fire any shots at them even if fired upon. They were going to shoot the tear gas from armored vehicles which would protect them and there would be no exchange of fire. In fact, as you know, an awful lot of shots were fired by the cult members at the federal officials. There were no shots coming back from the government side.

I asked a number of questions. The first question I asked is, why now? We have waited seven weeks; why now? The reasons I was given were the following:

Number one, that there was a limit to how long the federal authorities could maintain with their limited resources the quality and intensity of coverage by experts there. They might be needed in other parts of the country.

Number two, that the people who had reviewed this had never seen a case quite like this one before, and they were convinced that no progress had been made recently and no progress was going to be made through the normal means of getting Koresh and the other cult members to come out.

Number three, that the danger of their doing something to themselves or to others was likely to increase, not decrease, with the passage of time.

And number four, that they had reason to believe that the children who were still inside the compound were being abused significantly, as well as being forced to live in unsanitary and unsafe conditions.

So for those reasons, they wanted to move at that time. The second question I asked the Attorney General is whether they had given consideration to all of the things that could go wrong and evaluated them against what might happen that was good. She said that the FBI personnel on the scene and those working with them were convinced that the chances of bad things happening would only increase with the passage of time.

The third question I asked was, has the military been consulted? As soon as the initial tragedy came to light in Waco, that's the first thing I asked to be done, because it was obvious that this was not a typical law enforcement situation. Military people were then brought in, helped to analyze the situation and some of the problems that were presented by it. And so I asked if the military had been consulted. The Attorney General said that they had, and that they were in basic agreement that there was only one minor tactical difference of opinion between the FBI and the military -- something that both sides thought was not of overwhelming significance.

Having asked those questions and gotten those answers, I said that if she thought it was the right thing to do, that she should proceed and that I would support it. And I stand by that today.

Q Mr. President --

The President: Wait. Go ahead.

Q Can you address the widespread perception -- reported widely, television, radio and newspapers -- that you were trying somehow to distance yourself from this disaster?

The President: No, I'm bewildered by it. The only reason I made no public statement yesterday -- let me say -- the only reason I made no public statement yesterday is that I had nothing to add to what was being said and I literally did not know until rather late in the day whether anybody was still alive other than those who had been actually seen and taken to the hospital or taken into

'custody. It was purely and simply a question of waiting for events to unfold.

There was -- I have -- I can't account for why people speculated one way or the other, but I talked to the Attorney General on the day before the action took place. I talked to her yesterday. I called her again late last night after she appeared on the Larry King Show, and I talked to her again this morning. A President -- it is not possible for a President to distance himself from things that happen when the federal government is in control.

I will say this, however. I was, frankly, surprised would be a mild word, to say that anyone that would suggest that the Attorney General should resign because some religious fanatics murdered themselves. (Applause.)

I regret what happened, but it is not possible in this life to control the behavior of others in every circumstance. These people killed four federal officials in the line of duty. They were heavily armed. They fired on federal officials yesterday repeatedly, and they were never fired back on. We did everything we could to avoid the loss of life. They made the decision to immolate themselves. And I regret it terribly, and I feel awful about the children.

But in the end, the last comment I had from Janet Reno, is when -- and I talked to her on Sunday -- I said, now, I want you to tell me once more why you believe -- not why they believe -- why you believe we should move now rather than wait some more. And she said, it's because of the children. They have evidence that those children are still being abused and that they're in increasingly unsafe conditions, and that they don't think it will get any easier with time -- with the passage of time. I have to take their word for that. So that is where I think things stand.

Q Can we assume then that you don't think this was mishandled in view of the outcome, that you didn't run out of patience? And if you had it to do over again, would you really decide that way?

The President: No -- well, I think what you can assume is just exactly what I announced today. This is a -- the Fbi has done a lot of things right for this country over a long period of time. This is the same Fbi that found the people that bombed the World Trade Center in lickety-split, record time. We want an inquiry to analyze the steps along the way. Is there something else we should have known? Is there some other question they should have asked? Is there some other question I should have asked? Can I say for sure that no one -- that we could have done nothing else to make the outcome come different? I don't know that. That's why I want the inquiry and that's why I would like to make sure that we have some independent law enforcement people, not political people, but totally non-political, outside experts who can bring to bear the best evidence we have.

There is, unfortunately, a rise in this sort of fanaticism all across the world. And we may have to confront it again. And I want to know whether there is anything we can do, particularly when there are children involved. But I do think it is important to recognize that the wrong-doers in this case were the people who killed others and then killed themselves.

Q Mr. President, were there any other options presented to you for resolving this situation at any point from February 28th until yesterday?

The President: Well, yes, I got regular reports all along the way. There were lots of other options pursued. If you go back -- you all covered it very well. The Fbi -- you did a very good

job of it. I mean, the Fbi and the other authorities there pursued any number of other options all along the way, and a lot of them early on seemed to be working. Some of the children got out, some of the other people left. There was a -- at one point, there seemed to be some lines of communication opening up between Koresh and the authorities. And then he would say things and not do them and things just began to spin downward.

Whether there were other -- in terms of what happened yesterday, the conversation I had with the Attorney General did not involve other options except whether we should take more time with the present strategy we were pursuing -- because they said they wanted to do this, because they thought this was the best way to get people out of the compound quickly before they could kill themselves. That's what they thought.

Q Did the government know that the children did not have gas masks?

Q -- congressional hearings once the situation -- are you in agreement with that?

The President: That's up to the Congress. They can do whatever they want. But I think it's very important that the Treasury and Justice Departments launch this investigation and bring in some outside experts. And as I said in my statement, if any congressional committees want to look into it, we will fully cooperate. There is nothing to hide here. This was probably the most well-covered operation of its kind in the history of the country.

Go ahead, Sarah.

Q There are two questions I want to ask you. The first is, I think that they knew very well that the children did not have gas masks while the adults did, so the children had no chance because this gas was very -- she said it was not lethal, but it was very dangerous to the children and they could not have survived without gas masks. And on February 28th -- let's go back -- didn't those people have a right to practice their religion?

The President: They were not just practicing their religion, they were -- the Treasury Department believed that they had violated federal laws, any number of them.

Q What federal laws --

The President: Let me go back and answer -- I can't answer the question about the gas masks, except to tell you that the whole purpose of using the tear gas was that it had been tested; they were convinced that it wouldn't kill either a child or an adult but it would force anybody that breathed it to run outside. And one of the things that I've heard -- I don't want to get into the details of this because I don't know -- but one of the things that they were speculating about today was that the wind was blowing so fast that the windows might have been opened and some of the gas might have escaped and that may be why it didn't have the desired effect.

They also knew, Sarah, that there was an underground compound -- a bus buried underground where the children could be sent. And they were -- I think they were hoping very much that if the children were not released immediately outside that the humane thing would be done and that the children would be sent someplace where they could be protected.

In terms of the gas masks themselves, I learned yesterday -- I did not ask this fact question before -- that the gas was supposed to stay active in the compound longer than the gas masks themselves were to work. So that it was thought that even if they

all had gas masks, that eventually the gas would force them out in a nonviolent, nonshooting circumstance.

Ms. Myers: Last question.

Q Mr. President, why are you still saying that --

Q Could you tell us whether or not you ever asked Janet Reno about the possibility of a mass suicide? And when you learned about the actual fire and explosion what went through your mind during those horrendous moments?

The President: What I asked Janet Reno is if they had considered all the worse things that could happen. And she said -- and, of course, the whole issue of suicide had been raised in the public -- he had -- that had been debated anyway. And she said that the people who were most knowledgeable about these kinds of issues concluded that there was no greater risk of that now than there would be tomorrow or the next day or the day after that or at anytime in the future. That was the judgment they made. Whether they were right or wrong, of course, we will never know.

What happened when I saw the fire, when I saw the building burning? I was sick. I felt terrible. And my immediate concern was whether the children had gotten out and whether they were escaping or whether they were inside, trying to burn themselves up. That's the first thing I wanted to know.

Thank you.

Q Mr. President, why are you still saying it was a Janet Reno decision? Isn't it, in the end, your decision?

The President: Well, what I'm saying is that I didn't have a four- or five-hour, detailed briefing from the Fbi. I didn't go over every strategic part of it. It is a decision for which I take responsibility. I'm the President of the United States and I signed off on the general decision and giving her the authority to make the last call. When I talked to her on Sunday, some time had elapsed. She might have made a decision to change her mind. I said, if you decide to go forward with this tomorrow, I will support you. And I do support her.

She is not ultimately responsible to the American people; I am. But I think she has conducted her duties in an appropriate fashion and she has dealt with this situation I think as well as she could have.

Thank you. (Applause.)

End.

1:55 P.M. Edt

UNITED STATES CODE

TITLE 18

CRIMES AND CRIMINAL PROCEDURE

PART I—CRIMES

CHAPTER 67—MILITARY AND NAVY

Sec.

§ 1385. Use of Army and Air Force as posse comitatus

Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined not more than \$10,000 or imprisoned not more than two years, or both.

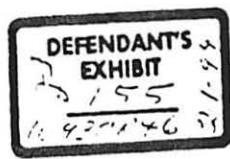
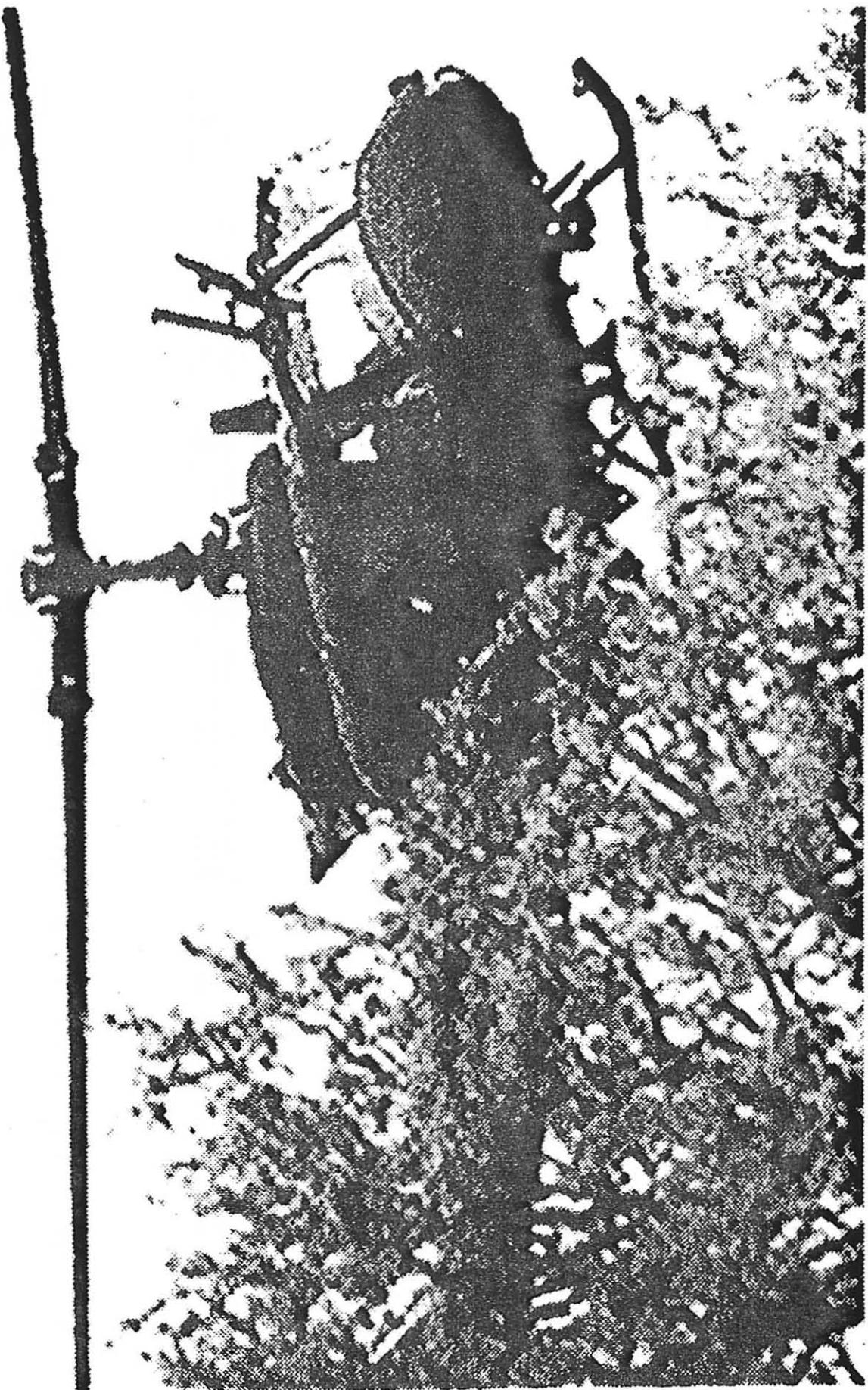


EXHIBIT H



UNITED STATES CODE

TITLE 18

CRIMES AND CRIMINAL PROCEDURE

PART I—CRIMES

CHAPTER 79—PERJURY

sec.

§ 1622. Subornation of perjury

Whoever procures another to commit any perjury is guilty of subornation of perjury, and shall be fined not more than \$2,000 or imprisoned not more than five years, or both.

THE WHITE HOUSE

WASHINGTON

April [redacted], 199[redacted]

To the Members of the [redacted]:

I am very pleased by your accomplishments since presenting me with your report, "[redacted]," in [redacted] of last year. The remarkable consensus and recommendations contained in that report will serve us well for years to come in our pursuit of [redacted] and a healthy environment for all Americans.

Your latest report, "[redacted]," points to many exciting efforts now being undertaken by [redacted], state and local governments, and [redacted] throughout America. I share your excitement about this work, which continues to have my full support.

[redacted] For this reason, I have asked you to continue your important efforts.

The 21st century holds great promise for our nation, and your continued vision and leadership are vital in helping us to reach our potential. As we look to the future, I pledge that the federal government will do its part to [redacted], and I encourage you to seek a similar commitment within your organizations and among your colleagues. I am confident that, working together, we will succeed in this crucial effort.

I thank you for your continued dedication, and I look forward to your future recommendations.

Sincerely,

Bill Clinton

PREPARED STATEMENT OF JANET RENO, ATTORNEY GENERAL, DEPARTMENT OF
JUSTICE

Three days after the Waco standoff began, David Koresh promised the FBI that he and his followers would surrender immediately after a tape he had made was broadcast on the radio. The tape was broadcast. What did Koresh do? He broke his word. He didn't surrender. In fact, while the tape was being broadcast, Koresh and his followers were not gathering their belongings and preparing to surrender peacefully; instead, they were busy rehearsing a plan to blow themselves up and take as many agents as possible with them by walking out of the compound with explosives strapped to their waists.

*I heard Koresh was hittin' the babies
---so we wasted 'em all.*



On March 19 and 20, Koresh said he would come out "soon." He didn't. In early April, he said he would come out after Passover. He didn't. On April 14, he let his lawyers believe he needed only a few days to complete his manuscript on the Seven Seals and would then surrender. The FBI showed Koresh's April 14 letter to an expert at Syracuse University, who concluded it was another ploy, another delaying tactic. But the FBI kept negotiating. They kept asking Koresh when he would finish the Seven Seals and come out. On April 15, the negotiators asked Steve Schneider, Koresh's second-in-command, whether he had seen any finished pages of the manuscript. Schneider said he hadn't. On April 16, the negotiators asked Steve Schneider again whether Koresh had completed the First Seal. Schneider said no. On the 17th, Schneider said he couldn't say whether it would be "six months or six years."

It is easy, in hindsight, to suggest the so-called "surrender offer" of April 14 was a missed opportunity. But we considered it carefully. We didn't dismiss it casually.

Even though Koresh broke every promise he made, and even though he never gave the FBI any reason to believe he would surrender peacefully, the FBI kept negotiating, kept trying, every way they knew how, to talk Koresh into leaving. But he never gave them a specific date. When I took office on March 12, 1993, the most urgent issue I faced was how to bring the standoff to a safe and peaceful end.

Remember why we were in Waco in the first place: Four federal agents had been killed trying to arrest Koresh and to seize illegal explosives and illegal weapons—including hand grenades, grenade launchers and machine guns. We couldn't just walk away from it.

Day after day, FBI negotiators tried to arrange a surrender. During the standoff, the FBI had 949 conversations with Koresh or his lieutenants, totally almost 215 hours. At the urging of the FBI, the local sheriff attempted to get Koresh to surrender. So did several lawyers and others, who were given extraordinary access to the compound.

We faced an impossible situation. Koresh wouldn't leave, period. He had told the FBI as early as March 7 that no more children would be released. What to do next? We studied intelligence reports. We met with outside experts. The perimeter was becoming increasingly unstable, with frequent reports of outsiders, including at least one militia group, on the way either to help Koresh or attack him. The FBI's Hostage Rescue Team was nearing its seventh week at Waco, and experts had advised me that they would soon have to be pulled back for retraining if they were to maintain their state of readiness. We checked on the Davidians' food and water supplies, and I was advised they had provisions to last a year. I asked the FBI to check the water supply again, and I was advised that the water supply was plentiful, and was constantly being replenished.

Clearly, a dangerous situation was becoming more dangerous, especially for the children. We had received allegations that Koresh had sexually abused the children in the past, including Kiri Jewell, when she was just ten years old. We also had received allegations that Koresh had physically abused the children. For example, a former Davidian alleged that Koresh had once spanked a young child for forty minutes, so hard that her bottom was bleeding. That child was only eight months old. During the standoff, the environment in which Koresh forced those children to remain continued to deteriorate. Human waste was being dumped into the courtyard.

The FBI submitted a plan to use an irritant gas incrementally, beginning at one end of the compound, to shrink the usable space to induce Koresh to start letting his people go. I asked whether the gas could cause permanent harm, especially to the children and the elderly. Dr. Harry Salem told me, as he told you again last week, that CS was the safest, best-studied tear gas in the world. He told me the gas would not cause any permanent harm to the children and the elderly.

The April 19 operation began with clear announcements of our intentions, repeated time and time again, aimed at giving the Branch Davidians opportunities to leave safely. The Davidians responded with heavy gunfire from the tower and other parts of the compound. Yes, we had hoped the Davidians might not react violently if we used the gas in a slow, incremental manner. But those hopes were dashed by the Davidians and their guns. Our response was measured. We inserted gas, then waited, then inserted more gas. We were very careful never to insert more gas than a fraction of the safe limit. Six hours went by. Six hours. Still, no one came out.

The rest, you know. The Branch Davidians' words were recorded while they spread the fuels used to ignite the fire that resulted in the deaths of all but nine. FBI agents risked their lives to rescue several of them. Others emerged through holes the tanks had made in the walls after it was learned that other exits had been blocked from the inside.

We will never know whether there was a better solution. Had we not acted when we did, and Koresh brought things to a sudden and violent finish, as he had re-

hearsed, we would probably be here today anyhow, and you would be asking why we had not done something sooner; why we had not tried to use tear gas to resolve the situation. Everyone involved in the events of April 19 made their best judgments based on all the information we had. We all mourn the tragic outcome. But the finger of blame points in one direction—it points directly at David Koresh.

We didn't misunderstand Koresh. We didn't suffer from misinformation. I wasn't misled. The fate of the Branch Davidians was in David Koresh's hands, and he chose death for the men and women who had entrusted their lives to him. And he, David Koresh, chose death for the innocent children of Waco.

We have tried as hard as we can to study what happened at Waco, to learn from our experience, and to make changes so that as we go forward we can be as prepared as possible to deal with future situations. Let me describe briefly some of the steps I have directed the FBI to take to improve our capacity to respond to complex hostage/barricade incidents in the future:

The FBI has selected a group of more than 30 Senior Agents for additional training in hostage/barricade situations, and these "crisis managers" will be called upon to assist the on-scene commander during a crisis. This system was used very effectively in the immediate aftermath of the Oklahoma City bombing, and I am very proud of the results.

The FBI is increasing the size, composition, and equipment of the Hostage Rescue Team, or HRT, to permit the replenishment of resources and personnel during long-term hostage/barricade situations.

The FBI has increased the number of negotiators stationed at HRT headquarters, and additional training seminars have focused on identifying negotiating psychology and strategies.

The FBI has formed a Critical Incident Response Group to deal with crisis situations. This group has also been used successfully in the investigation of the Oklahoma City bombing. In addition, they have provided training to key officials in the Justice Department and the FBI.

The FBI's Special Weapons and Tactics, or SWAT teams, are now better able to assist the HRT in a crisis. The FBI has increased its SWAT Team capabilities. There are now 9 enhanced SWAT teams strategically placed around the country. SWAT Teams now cross-train with the Hostage Rescue Team, and the SWAT Training Unit is now under the direct supervision of the HRT commander.

The FBI is in the process of establishing a long-term relationship with the crisis resolution centers at both Michigan State University and George Mason University to call on their behavioral science expertise during a crisis incident. The FBI has also created a resource list of experts knowledgeable about both mainstream and non-mainstream religions, and will be in a position to tap both their expertise and their contacts within the religious community in the event of a future crisis.

The FBI is continuing its research into non-lethal and less-than-lethal technologies, such as CS gas, as alternatives to the use of deadly force.

Ladies and gentlemen, Chairman McCollum and Chairman Zeliff, and members of the subcommittees: This was an event that began with the murder of four government agents, and ended with the self-inflicted death of David Koresh and his followers inside the Compound.

I would do anything to change what happened. I welcome your constructive suggestions, so that we can be as prepared as possible to deal with any situation like this in the future. But we must never forget the most important truth about Waco: David Koresh bears the responsibility for the deaths of his followers, for the deaths of four federal law enforcement agents, and for the deaths of 25 children. Those innocent children, and those brave law enforcement agents, are the true victims of Waco.

Thank you very much.

~~REF ID: A6712~~

(U) Dec 92 - Jan 93: BATF engaged in contact with Operation Alliance, over "case in Central Texas." Idea of SOT/CQB training by SF for BATF first surfaces. (No hardcopy available on this request.)

(U) 23 Jan 93 - Ltr from BATF to Operation Alliance, requests MOOT site in central Texas for 3 days, training in Bradley Fighting Vehicles, and loan of seven Bradleys for two weeks in February. Also requested various other items of military equipment, including sleeping bags, tents, generators, 2 1/2 ton truck with operator, telephones, smoke generators, gas masks, etc.

(U) 2 Feb 93 request from Op Alliance to CJTF-6, requests JTF-6, and Texas Nat Guard assistance, in serving federal search warrant "to a dangerous extremist organization believed to be producing methamphetamines." Assistance "is in direct support of interdiction activities along the southwest border." Specific request is for medical evac contingency planning, on-site trauma medical support, and "to assist ATF in planning, training and equipping LKA forces." Texas Nat Guard requested to assist in C2.

(U) 2 Feb 93, USASPC (A) SJA advises that RSU assistance in actual planning and rehearsal of proposed "takedown" could violate posse comitatus law, expose RSU to liability. Question also arises as to appropriateness of RSU giving non-MFTL, i.e., SOT/CQB training to BATF.

(U) 3 Feb 93, Mission revised to include only coordination on army ranges and teaching BATF how to develop OPORD.

(U) FRAGO 8 to OPORDER JT002-93, promulgated for ODA 381(+), limited to training for company level emergency/tactical med evac, tac communications net planning, tac assault dismounts.

(U) 172145Z Feb 93, CJTF 6/CB message requests RSU to establish a training site for approximately 85 BATF agents to conduct rehearsals prior to tactical execution of a warrant in Waco, TX. Suspect group "is an extremist cult/survivalist organization" with intelligence indications of an active methamphetamine lab and deliveries of required chemicals to produce synthetic methamphetamines. RSU will not accompany BATF teams on either operation or any site visit within AOR. "RSU assets will not become directly involved in BATF operational planning, nor assume responsibility for the BATF plan. Observing and critiquing the rehearsal of the operational plan is authorized, particularly in the areas of safety. Rehearsal critique comments will be provided as the opinion of trained military observers, not an official DoD endorsement of the soundness of the plan."

(U) 22 - 23 Feb 93: ODA 381, Company C, 3d Battalion .

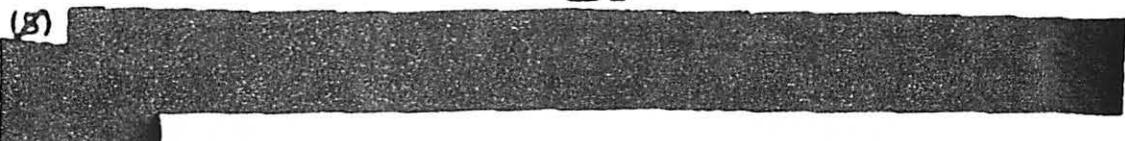
44-341-7000 [0118]

sa bFG (A), arrives, ~~performs pre-employment tasks at Ft.~~
Hood.

~~SECRET~~

(U) 25-27 Feb 93: CDA 381 conducts MTT for BATV at Ft Hood, TX. Work included assistance in constructing mock-up of site at Hardgrove MOUT site, company level communications net planning, tactical evacuation planning, transport of sick and wounded, IV training and ABC's. In addition, CDA personnel assisted in coordination with ranges, range safety, and acted the part of target group in ATP walk-through rehearsals at MOUT site.

(S)



(S)



(S) 14 May 93: Meeting at DoJ with AG Janet Reno. In attendance is [REDACTED], FBI Director, [REDACTED] opine that CS would be effective in making the compound uninhabitable, but that "some people may panic." [REDACTED] refuses invitation to "grade the FBI paper," as this was not a military mission. However, [REDACTED] did obliquely suggest that if it were a military mission, they "would focus on the leadership," meaning "[f]ind the right moment and capture or kill Koresh and hope that the situation ended there."

[0119]

UNITED STATES CODE
TITLE 18
CRIMES AND CRIMINAL PROCEDURE
PART I—CRIMES
CHAPTER 13—CIVIL RIGHTS

Sec.

§ 241. Conspiracy against rights

If two or more persons conspire to injure, oppress, threaten, or intimidate any inhabitant of any State, Territory, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured—

They shall be fined not more than \$10,000 or imprisoned not more than ten years, or both; and if death results, they shall be subject to imprisonment for any term of years or for life.

UNITED STATES CODE

TITLE 18

CRIMES AND CRIMINAL PROCEDURE

PART I—CRIMES

CHAPTER 51—HOMICIDE

Sec.

§ 1111. Murder

(a) Murder is the unlawful killing of a human being with malice aforethought. Every murder perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious, and premeditated killing; or committed in the perpetration of, or attempt to perpetrate, any arson, escape, murder, kidnapping, treason, espionage, sabotage, aggravated sexual abuse or sexual abuse, burglary, or robbery; or perpetrated from a premeditated design unlawfully and maliciously to effect the death of any human being other than him who is killed, is murder in the first degree.

Any other murder is murder in the second degree.

(b) Within the special maritime and territorial jurisdiction of the United States,

Whoever is guilty of murder in the first degree, shall suffer death unless the jury qualifies its verdict by adding thereto "without capital punishment", in which event he shall be sentenced to imprisonment for life;

Whoever is guilty of murder in the second degree, shall be imprisoned for any term of years or for life.

SOP ASSISTANCE TO FEDERAL LAW ENFORCEMENT
IN WACO, TEXAS

(U) DESCRIPTION:

- (U) JANUARY, 1993, BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS (BATF) REQUESTED, THROUGH OPERATION ALLIANCE, CJTF-6, ASSISTANCE IN SERVING FEDERAL WARRANTS ON "CULT/SURVIVALIST" GROUP "BELIEVED TO BE MANUFACTURING SYNTHETIC METHAMPHETAMINE".
- (U) BATF INITIALLY WANTED BRADLEYS, SOME SOT/CQB TRAINING, ON-SITE MEDICAL EVACUATION ASSISTANCE, AND ASSISTANCE IN PLANNING
- (U) LEGAL RESERVATIONS CAUSED REQUEST TO BE DOWNSCOPED TO MTT TRAINING IN COMPANY-LEVEL TACTICAL C2, MEDICAL EVACUATION TRAINING, IV ABC'S, ASSISTANCE WITH RANGE AND MOUT SITES
- (U) JT002-93, ODA 381, COMPANY C, 3D BATTALION, 3D SFG(A) CONDUCTS MTT WITH BATF AGENTS 25-27 FEB 93. NO NON-METL TRAINING, SOT/CQB, OR DIRECT INVOLVEMENT IN ACTUAL PLANNING
- (S) MARCH, 93, [REDACTED] SENDS REPRESENTATIVE TO WACO TO OBSERVE, AND CJCS APPROVES LOAN OF MILITARY [REDACTED] WITH OPERATOR, FROM [REDACTED]
- (S) 14 MAY 93, [REDACTED] MEET WITH FBI DIRECTOR, ATTORNEY GENERAL, OVER PLAN TO END SIEGE. BOTH AGREE THAT TEAR GAS CAN BE "EFFECTIVE" BUT THAT SOME PEOPLE MAY PANIC. THEY DECLINE INVITATION TO PASS ON PLAN, BUT DO VOLUNTEER THAT, IF IT WERE A MILITARY MISSION, THEY WOULD "FOCUS ON THE LEADERSHIP."

(U) FUNDING: N/A

(U) ISSUES/CONCERNs:

- (U) [REDACTED]

-- (U) [REDACTED]

-- (U) [REDACTED]

(U) IMPACT: N/A

RED BY USCI/NPSOC
ISIFY ON OAKR

~~CONFIDENTIAL~~
~~CLASSIFIED~~
~~COMINT~~

D-1116A

(b) RECOMMENDATIONS:

~~SECRET~~

• (U) ODA 381 SCrupulously observed limitations of law prohibiting use of armed forces for domestic law enforcement. As a general principle, what SOF do does not lend itself to most law enforcement situations

-- (U) Possibility that drug-connection was overstated to secure cost-free SOF training and assistance. No mention of drugs in public media

-- (U) ODA 381 neither formulated, approved, nor critiqued BATF plan for execution of warrants. Only assisted them in rehearsing for it

- (S) [REDACTED] WERE PRESENT AT MEETING AT DIRECT REQUEST OF ATTORNEY GENERAL, [REDACTED]. THEY RESPONDED ONLY TO SPECIFIC QUESTIONS, AND DID NOT APPROVE, CRITIQUE, OR ATTEMPT TO INFLUENCE "TEAR GAS" PLAN

(ENCLOSURE) CHRONOLOGY

~~SECRET~~

U.S. Department of Justice



United States Attorney
Western District of Texas

P.O. Box 528
Waco, Texas 76703

817/757-4343
FTS/728-4343

March 23, 1993

Honorable Janet Reno
Attorney General of the United States
Washington, D.C.

Dear General Reno:

After much deliberation, I write you concerning a crisis within our District having to do with the Branch Davidian cult case.

I was hired about six years ago to open this small Waco Division of the Western District of Texas. I have prosecuted some 1000 defendants in Federal Court in Waco with one acquittal. I now have a small staff and am "chief" of the Division. After the tragic events of Sunday, February 28, 1993, our U.S. Attorney, Ronald Ederer of San Antonio came to Waco and began to make decisions affecting every aspect of the investigation. I believe that his poor judgement and entire lack of leadership have damaged the investigation. Because anyone's decisions could be subject to dispute in such a situation, let me be factual and set forth below a few of the specific instances which depict the problem:

- Mr. Ederer has apparently deemed the leak investigation unimportant. In all of the planning meetings the leak is neither listed in the work priorities, nor tasked for investigation.
- Cellular telephone conversations between agents have been intercepted by local media. Clear evidence exists on this. Much of the interception occurred during the critical first hours of the situation. I spoke with Department Attorneys concerning this matter and received direction on how to handle the situation. After my call, Mr. Ederer spoke with the Department and stated that the interception was merely a nuisance. This "nuisance" has continued to the point that cellular telephone use by dozens of agents working on the case had to cease almost entirely.
- Soon after the shootings, and after consultation with the ATF and FBI, I tried to assemble some sort of investigative team to work the homicide. It was believed that the Texas Rangers would be a qualified, objective agency to lead the investigation. It was proposed that they would work in conjunction with other agencies and with crime laboratories. Mr. Ederer instructed me to

halt any efforts in that regard, and stated that the issue would be decided high above my level. He never again gave me guidance or permission in this regard. His remarks helped to lose one participating agency, and caused hesitation on the part of others.

- Our local District Attorney's Office, with which we have enjoyed a great relationship with for years, has offered to assist by making its forum available for Capital Murder charges, should the facts qualify. Mr. Ederer has expressed no interest in this. He has not consulted with the District Attorney nor asked anyone else to do so.

- Two elderly women were the first to be released from the compound soon after the siege began. Mr. Ederer made the decision to charge the women with conspiracy to murder. There was no evidence to support this charge other than the fact that the women were in the compound. Because of this, and complaints by the FBI that negotiations would be harmed, Mr. Ederer dismissed the charge. We looked silly, inept and confused.

- The FBI is using tanks to push vehicles away from the compound. This is destroying important trajectory evidence because these vehicles were being used by the agents during the shootout as cover and were riddled with defendant gunfire. The FBI's position is that the vehicles are being moved for tactical reasons. This may be so, however, our concerns about the preservation of evidence go unheard, and Mr. Ederer has done nothing to help us express our position to the FBI.

- This past weekend, three individuals who left the compound spoke with Texas Rangers about the gun battle. Two of these elderly people identified cult member Brad Branch as a shooter (Branch came out of the compound Friday). One witness said she observed Branch running from room to room shooting. She twice heard Branch say "I got one!" I planned to present this case, along with a couple of others to our Grand Jury later this week. I had one of my assistants here notify the FBI of our intentions. Although we did not hear back from the FBI, we did hear from our San Antonio office. Apparently the FBI became upset and called Mr. Ederer, who instructed us not to charge anyone with anything (other than being a material witness) until further notice.

As stated above, anyone's judgement could be questioned in such a difficult situation. However, the problems caused by Mr. Ederer's lack of good sense may impede prosecution of a case which is seen by many as vital to federal law enforcement. I hope that this letter has not seemed disrespectful. I recognize that the U.S. Attorney is the boss. I feel, however, compelled to express my concerns to you and am willing to face any consequences for doing so.

Respectfully,

William W. Johnston
WILLIAM W. JOHNSTON
Assistant U.S. Attorney