



U.S. Department of Justice  
Washington, D.C. 20530

# Recommendations of Experts for Improvements in Federal Law Enforcement After Waco

145688

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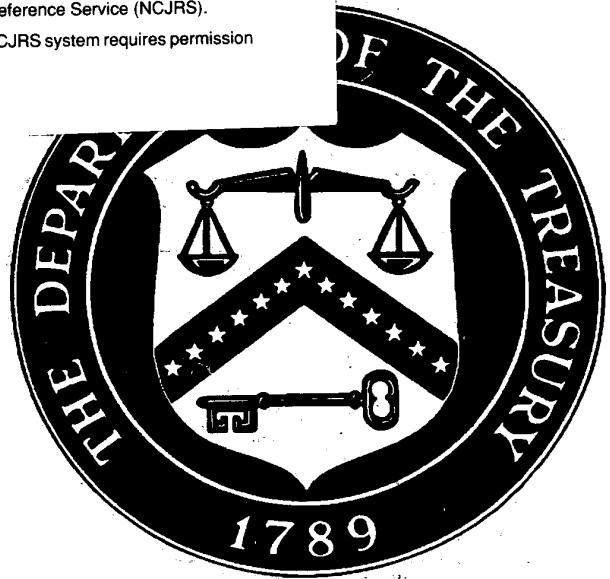
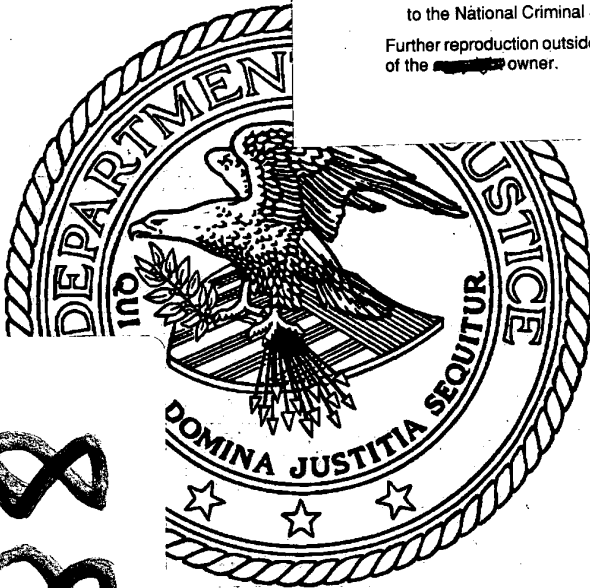
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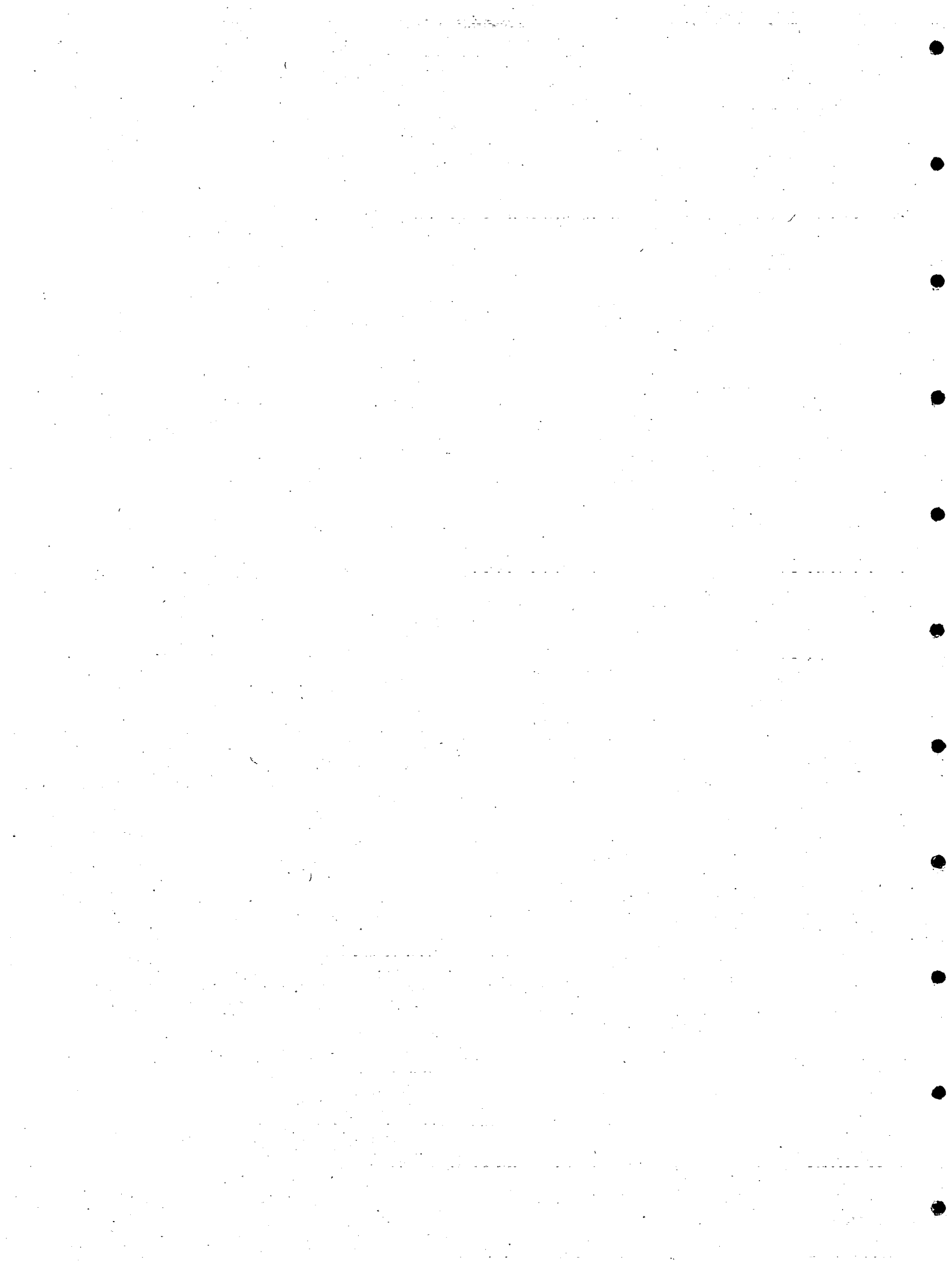
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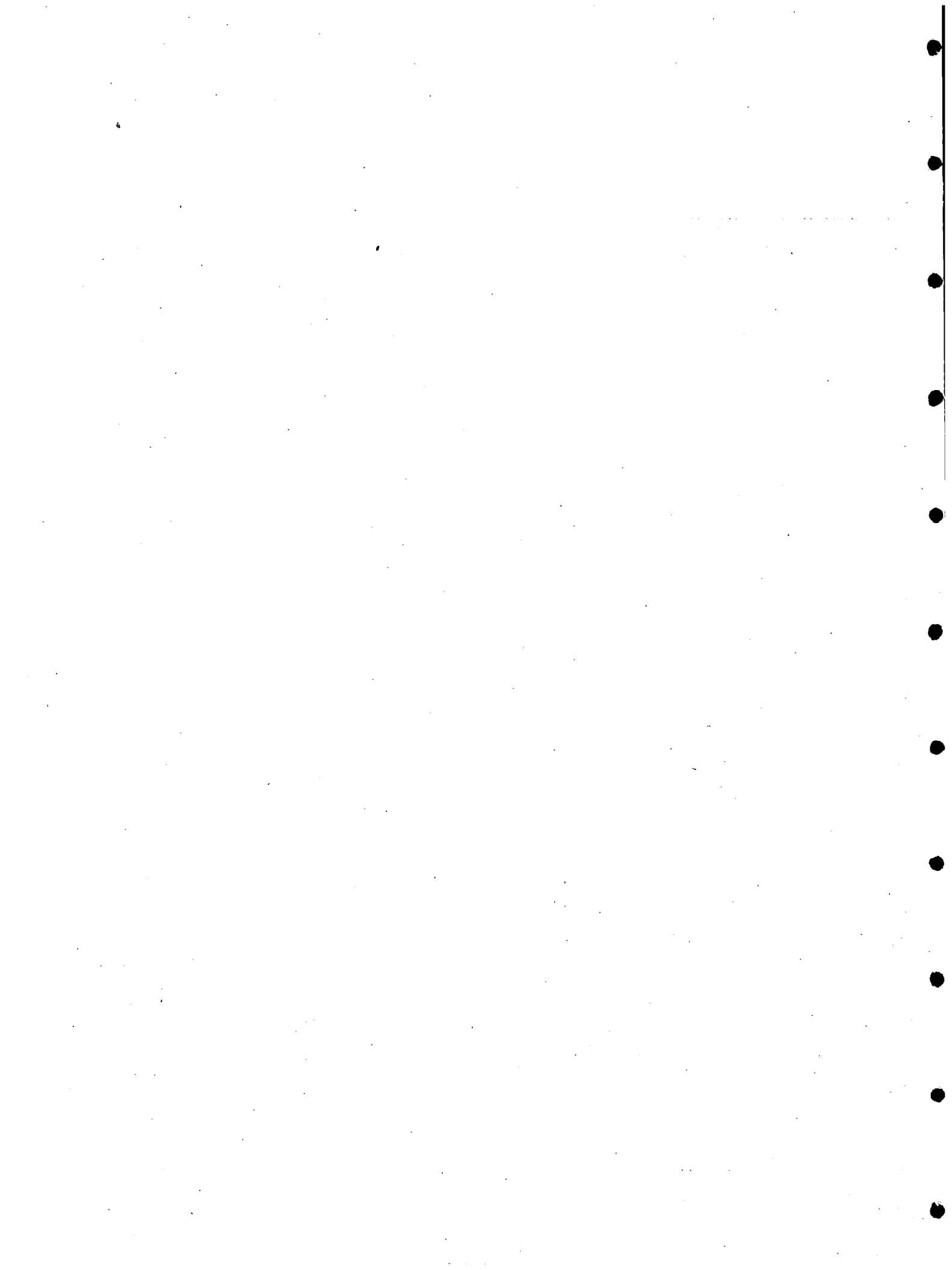
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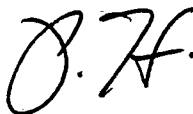
# UNITED STATES GOVERNMENT


## MEMORANDUM

June 25, 1993

TO: Dr. Nancy Ammerman  
Mr. Colin Birt  
Dr. Robert Cancro  
Mr. Richard J. Davis  
Mr. Robert J. Louden  
Mr. Ronald M. McCarthy  
Dr. Ariel Merari  
Dr. Alan A. Stone  
Dr. Lawrence E. Sullivan  
Mr. William H. Webster

FROM: Philip B. Heymann  
Deputy Attorney General  
Department of Justice



Ronald K. Noble   
Assistant Secretary (Enforcement)  
Department of the Treasury

SUBJECT: Your Role in Making Recommendations Concerning the Handling of Incidents Such as the Branch Davidian Standoff in Waco, Texas

### L MANDATE

We would like you to assist us in addressing issues that federal law enforcement confronts in barricade/hostage situations such as the stand-off that occurred near Waco, Texas, between February 28, 1993 and April 19, 1993. Such barricade/hostage situations are defined as incidents in which law enforcement is confronted with a person suspected of criminal activity who controls an environment, often with innocent persons under the suspect's control, and where law enforcement's efforts to assert control have been thwarted.

This is a prospective evaluation of federal law enforcement's capacity to handle barricade/hostage situations. It is intended to look beyond Waco to analogous situations that may arise in the future. Your recommendations will assist us in preparing to deal with such situations.

We would like to thank you for your willingness to provide your expertise and time to this important endeavor.

## **II. CATEGORIES OF INQUIRY**

There are three categories of issues faced in barricade/hostage situations about which we are particularly interested in obtaining your expert advice. We have placed each of you in a category where you have particular expertise in light of your professional background. The categories are as follows:

**A. Handling barricade/hostage situations  
(Louden, McCarthy, Merari)**

What methods should be used in efforts to deal with suspects who have barricaded themselves inside a structure and have innocent persons, including potential hostages, within their control? Do law enforcement agencies have adequate technology and training to handle such situations with a minimum use of lethal force?

**B. Dealing with persons whose motivations and thought processes are unconventional  
(Ammerman, Cancro, Stone, Sullivan)**

How should law enforcement agencies deal with persons or groups whose thought processes or motivations depart substantially from ordinary familiar behavior in barricade situations such as Waco? How should the motivations of the persons affect the law enforcement response? What assistance can be provided by experts in such fields as psychology, psychiatry, sociology and theology?

**C. Coordinating law enforcement efforts in barricade/hostage situations  
(Birt, Davis, Webster)**

How should the various local, state and federal agencies coordinate their activities, such as intelligence gathering, control of the premises, communication of information, operational plans, and public statements in barricade/hostage situations? What information should be provided from the field? How wide should the circle of decision-makers be?

## **III. PRODUCTION OF REPORTS**

It is our expectation that each of you, individually, will provide us with a written report based upon your expertise as well as your research into handling barricade situations. In order to inform your recommendations about how law enforcement should deal with barricade/hostage situations in the future, we will provide you with relevant facts regarding the stand-off near Waco from February 28 to April 19, 1993 as such facts are developed as part of the ongoing inquiries.

#### **IV. SECURITY CONCERNS**

During the course of your participation, you may have access to documents and information that concern sensitive law enforcement matters. You will be briefed about your obligations to safeguard such material and to avoid releasing it without specific advance permission from the Deputy Attorney General. Without such permission, the documents and information may not be released and must not be disclosed to anyone. This obligation of secrecy will extend beyond your participation in this inquiry, and attach to any information that you learn through your role.

#### **V. PROCEDURE OF INQUIRY**

Your first briefing, on July 1, will concern summaries of the internal reviews of the Waco incident by the Departments of Justice and the Treasury. On July 2, we will schedule targeted briefings that will address the particular subject matter about which we are seeking your advice. Subsequently, we will set up any meetings and briefings that are necessary in order for you to complete your research and make your recommendations.

After your recommendations are finalized, in late August, we will arrange a meeting at which we will receive your recommendations. Shortly thereafter, we will produce a final report and recommendations, relying in part upon your advice.

In the event that you require additional information or assistance at any time, please contact Rod Rosenstein, Office of the Deputy Attorney General, at 202/514-1180.





# HOW MUCH IS ENOUGH? HOW MUCH IS TOO MUCH?

ROBERT J. LOUDEN  
NEW YORK CITY  
SEPTEMBER 1993

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HOW MUCH IS ENOUGH ?

HOW MUCH IS TOO MUCH ?

**ACKNOWLEDGEMENTS**

I am indeed pleased to have been selected by the Department of Justice and Department of the Treasury to participate in this prospective review of Federal Law Enforcement hostage/barricade policy and procedure. I wish to thank Deputy Attorney General Philip B. Heymann and Assistant Secretary of the Treasury (Enforcement) Ronald K. Noble for their confidence in me and for the extraordinary access which they provided. They did not direct or even suggest an outcome. This is important to note since all too frequently there seems to be a belief that government cannot be trusted or that a study such as this is only a rubber stamp for some pre-determined view.

A note of appreciation must also go to my employer and colleague, Dr. Gerald W. Lynch, President of John Jay College of Criminal Justice of the City University of New York who encouraged and supported my efforts.

## INTRODUCTION

From February 28, 1993 through April 19, 1993 I closely followed the events concerning the Branch Davidians near Waco, Texas. I was constantly wondering, guessing, hypothesizing, hoping!!! My interest in hostage/barricade situations is as a concerned and informed citizen, a former practitioner who still trains and teaches in the field and as a student. The information available to me during the fifty-one day siege came from media reports which appeared in print and on radio and television. I received additional insight from journalists covering the story, many of whom were in Waco, when they contacted me for my thoughts and opinions about one aspect or another concerning the incident. My contact with and comments to the media was in keeping with one of my regular public service roles at John Jay College; to act as a source of information in matters relating to local and national criminal justice policy and procedure.

## PHILOSOPHY

During my several days of briefings, in Washington, in Quantico and in Glynco, I was informed - sometimes directly and sometimes subtly - by hard working and dedicated federal law enforcement professionals that they did not see this study as having much impact! Their message was delivered in a number of different ways; 1) we are already doing all or most of what can be done, 2) we are prepared for worst case scenario but some events will invariably be even worse, 3) we would like to do more but are limited by time or money or resources or institutional support, and 4) this is today's crisis which will be replaced by a new emergency with nothing having changed.

I do not report these comments in a cavalier or derogatory manner but with appreciation for honesty and openness. These individuals have been frustrated in the past by 'do-gooder' reviews and empty promises of change. My answer to them, simply stated, is that not only must we continue to re-define worst case scenario but we must also capitalize on windows of opportunity which can sometimes break traditional bureaucratic log-jams and political obstacles. We must, as it has been said before - study and learn from history or be doomed to repeat its failures.

A discussion of the reality based cynicism of law enforcement professionals prompts me to state the philosophy which guided me operationally through hundreds of hostage/barricade situations and

theoretically during the sixty days of this review :

- modern law enforcement has an obligation to respond to life threatening situations in such a way as to provide maximum safety for 1) innocent victims, 2) law enforcement and other helper personnel, and 3) even the perpetrators, when possible.

- the expenditure of resources is worthwhile as long as there is reasonable hope to save lives.

- a hostage/barricade situation should be over as quickly as possible, as long as that takes.

This philosophy and the frank comments noted above have dictated my choice of a working title for this review: **How Much Is Enough? How Much Is Too Much?**

Figure '1' and figure '2', attached, are new versions of graphics which I have used in training programs many times in the past. I offer them here in an attempt to streamline the written explanation which may have been needed to connect my theoretical philosophy to my operational philosophy. Hopefully they will also help to illustrate how my philosophy and my recommendations come together. The key to successful hostage/barricade operations may be summed up in two words, **SAFETY AND CONTROL.**

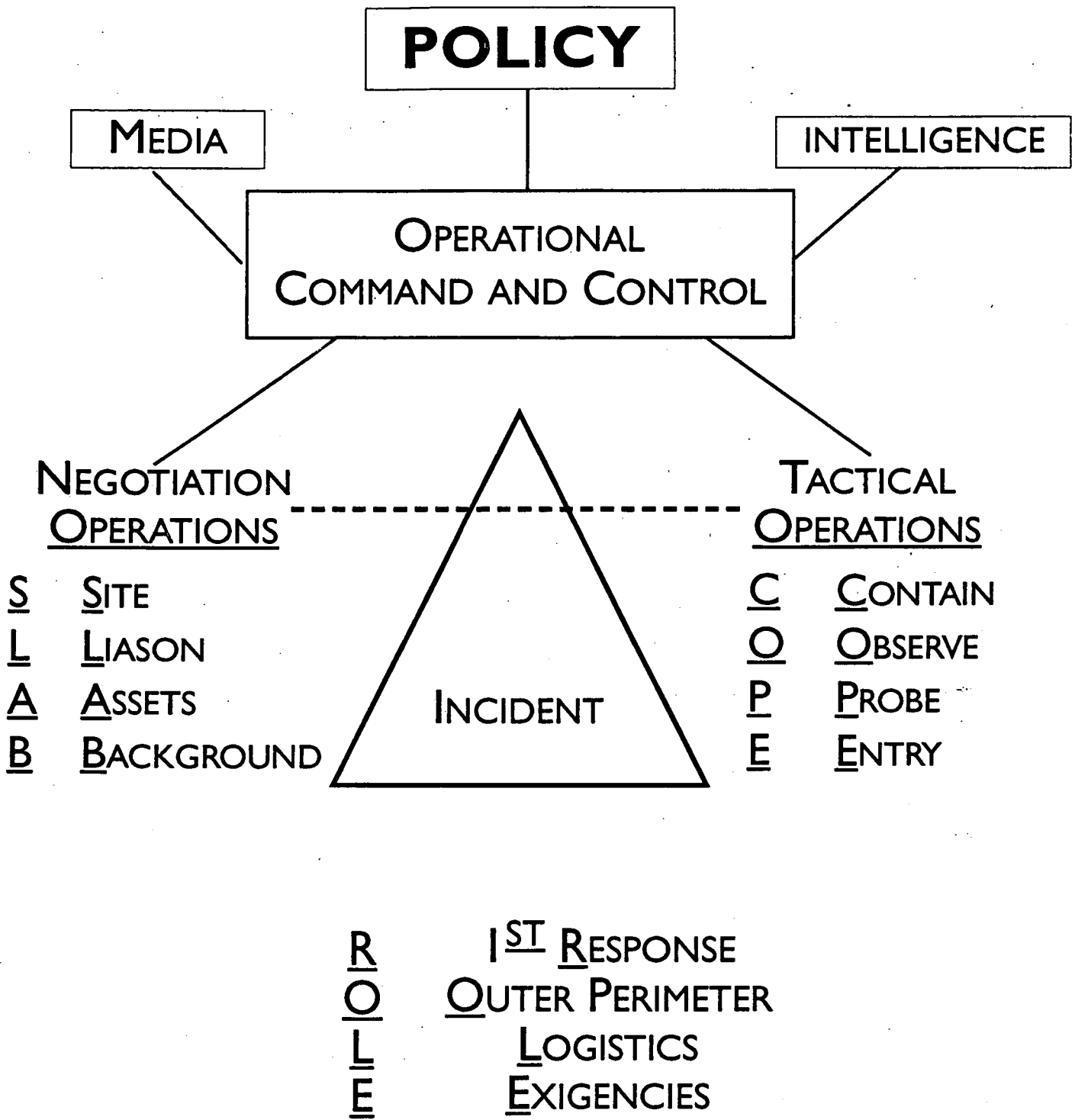


Figure 1

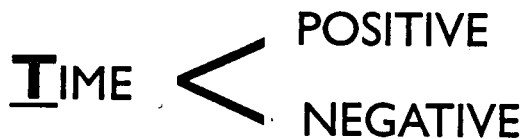
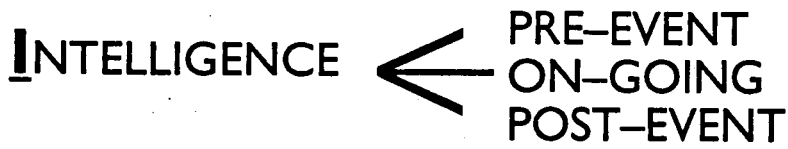
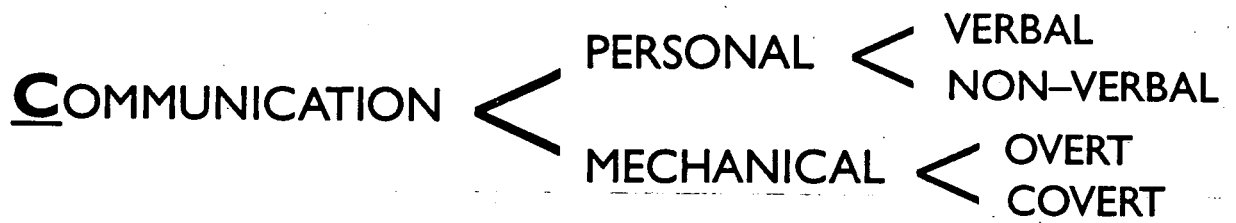


Figure 2



## MANDATE

Prior to the first briefing on July 1, 1993 the mandate which was to guide my review was:

- What methods should be used in efforts to deal with suspects who have barricaded themselves inside a structure and have innocent persons, including potential hostages, within their control?

- Do law enforcement agencies have adequate technology and training to handle such situations with a minimum use of lethal force?

At the meeting on July 1 the mandate was expanded to include consideration of the efforts which law enforcement utilizes in coordinating these situations as well as an invitation to comment on dealing with persons whose motivations and thought processes are unconventional.

These categories of inquiry are in fact closely related and I invariably consider them all in the framework of a given situation. My comments therefore are in the context of this interrelationship.

## METHODOLOGY

As in any inquiry, various methods were used to gather information:

- The foundation for this study is the briefings which were conducted in Washington, DC on July 1, 2, 29, and 30; in Quantico, VA on July 30; and in Glynco, GA on August 24 - 25.

Briefings were supplemented by relevant handout material. Additional materials were requested and subsequently made available. The majority of the briefings and materials were federal law enforcement agency specific. In addition, as a result of the National Institute of Justice briefing on the morning of July 30, I requested and received additional valuable information.

- I utilized the services and resources of two library systems, one academic and one local.

- My personal accumulation of hostage/barricade information which I have been collecting for twenty years was reviewed.

- Conferral with colleagues in law enforcement and in the academic community provided additional insight.

This document then is more than just a quick look at the subject but certainly not as comprehensive as additional time may have allowed. The fact that the style and format of this report was left to my individual design made the task less complicated.

## RECOMMENDATIONS

1) Our Federal Government is enormous, our government commitment to federal law enforcement is substantial. It is inevitable that the contemporaneous study being conducted by Vice President Gore, 're-inventing' government, will deal with law enforcement organizational issues. My direct suggestions in this matter are that in designing a new government structure the Federal Bureau of Investigation (FBI) should continue to be responsible for most hostage (crisis) negotiation response as well as operation of the Hostage Recovery Team (HRT), and, the Federal Law Enforcement Training Center (FLETC) should continue to be responsible for the majority of federal law enforcement training efforts. Additional comments about both the FBI and FLETC follow.

2) The United States has developed and defined "Lead Agency" responsibilities for response to and coordination of law enforcement efforts concerning terrorist incidents. Depending on particular factors the Lead Agency may be the FBI, the State Department or the FAA. This concept should be expanded to include all extraordinary threats and situations in addition to terrorism. The overall impact of the event and not just the perceived motivation of the perpetrators should be the deciding factor.

3) There is an immediate need to draft a federal law enforcement policy statement which will emphasize this expansion of "lead agency" beyond terrorist situations. The procedures which support the new policy would, at a minimum, define or re-define hostage/barricade response, encourage consideration of hostage/barricade potential in all high risk raid and warrant execution operational planning, stress operational security and maximize the sharing of intelligence and resources among and between appropriate federal, state and local law enforcement entities.

4) The ability of the negotiation element of the Special Operations and Research Unit (SOARU) of the FBI to meet its mandate is strained at this time due to a lack of resources, particularly experienced personnel. Two of the three individuals currently assigned to this task are very experienced; the third person is newly assigned. The agent who has been in the unit the longest has announced, coincidentally, that he will retire this Fall. There is an immediate need for experienced negotiation personnel in the unit. During one of the briefings it was determined that there was a cadre of FBI negotiators scattered across the country who are called upon as need arises. I recommend that these individuals be considered a pool from which to select personnel for permanent assignment to SOARU as immediate back fill for the soon to depart agent and to increase the total compliment of negotiator agents to five. I also endorse in principle the attached proposal from SOARU which recommends the establishment of a Nationwide Research and

Clearinghouse effort on hostage and barricade matters at Quantico.  
(Attachment 'A')

5) The HRT should be doubled in size, from 50 to 100 operators, and consideration given to a regional staging of HRT components in order for them to participate in more field operations and so that response time is cut for actual crisis deployments.

6) Federal law enforcement personnel, at Quantico or Glynco, generally do not receive any hostage/barricade situation training during their respective 'basic' academy. While there is a need for additional personnel and resources to be dedicated to the demanding specialties of hostage negotiation and rescue there is also a need for a greater awareness and familiarization for all federal law enforcement personnel in this important area. Training which will emphasize the new policy recommended above and will also give more information and confidence to individuals who may be initially involved is needed. The FLETC 'First Response' program is excellent but does not reach enough agents and officers. I envision an initial block of instruction of between two and four hours for all new federal agents and uniformed federal law enforcement officers. There must also be an immediate effort to integrate this new information into in-service training for existing personnel. This could initially be accomplished in a variety of formal methods including classroom instruction, publication of memos and SOPs, and video tapes. The First Response program should then be made more widely available. These training

efforts may be either agency specific or provided to a cross section of geographically based agents in order to speed dissemination. This could be accomplished largely through FLETC with appropriate cooperation from the FBI.

7) Although I envision HRT as the ultimate federal law enforcement tactical unit, I also appreciate that there is an ongoing need for locally dispersed and/or agency specific tactical teams. There is now wide variety in terms of manning levels, training commitments and equipment. A system approaching standardization with an emphasis on quality control must be adopted. This would allow for individual agency uniqueness built upon a commonly understood foundation. HRT could serve as an excellent role model for the re-designed entities. With this in mind I agree in principle with the FLETC proposal to fund and develop a new virtual reality tactical facility (Attachment 'B'). FLETC in cooperation with the HRT would set the standard and deliver the common product. This training must stress the new federal law enforcement policy and procedures. It would deal with capabilities and limitations and instill confidence.

8) The National Institute of Justice has been involved in Less Than Lethal Technology projects since 1971. Their efforts since 1992 are especially relevant to hostage/barricade situations. There still exists a real need for this primarily scientific approach, but additional interaction must take place at the lowest operating level so that possibly less sophisticated but potentially valuable tools and equipment can be identified and brought into the

research and development arena. The Attorney General's letters of June 3, 1993 to the Secretary of Defense and the Director of the Central Intelligence Agency requesting appropriate assistance and designating NIJ as the point of contact should prove most valuable to a variety of collaborative efforts in less than lethal technology and in intelligence gathering.

9) It is virtually impossible to know what information or intelligence will be crucial or even remotely valuable during a hostage/barricade situation. There is a near limitless supply of experts and opinions. Law enforcement must constantly remind itself, that as prepared as they believe they are for a particular event or group, outside help is often appropriate if not mandatory. The problematic areas involve the concepts of when to solicit help, how to deal with unsolicited offers of assistance and how to measure the value of particular assistance or information. In the long term the SOARU proposal to establish a crisis management data base would go far to answer these points. In the short term collecting, collating, analyzing and digesting data from a variety of psychiatrists and other mental health professionals, from the academic community and from the gamut of public and private law enforcement organizations should provide a resource pool, primarily for consultation but occasionally for real time operational needs.

10) There is always a need for professional Critical Incident Stress Debriefing following major law enforcement operations, particularly when there was loss of human life and even imminent threat to life without physical casualties. A comprehensive, early

post-incident intervention model should be used to minimize the severity and duration of emotional trauma. The goal is to help officers understand and cope more effectively with their own and each other's reactions. There have been numerous outstanding developments in this field over the past ten years, many of them by federal agencies, but I did not get a sense that the notion of emotional decompression has been sufficiently institutionalized in federal law enforcement.

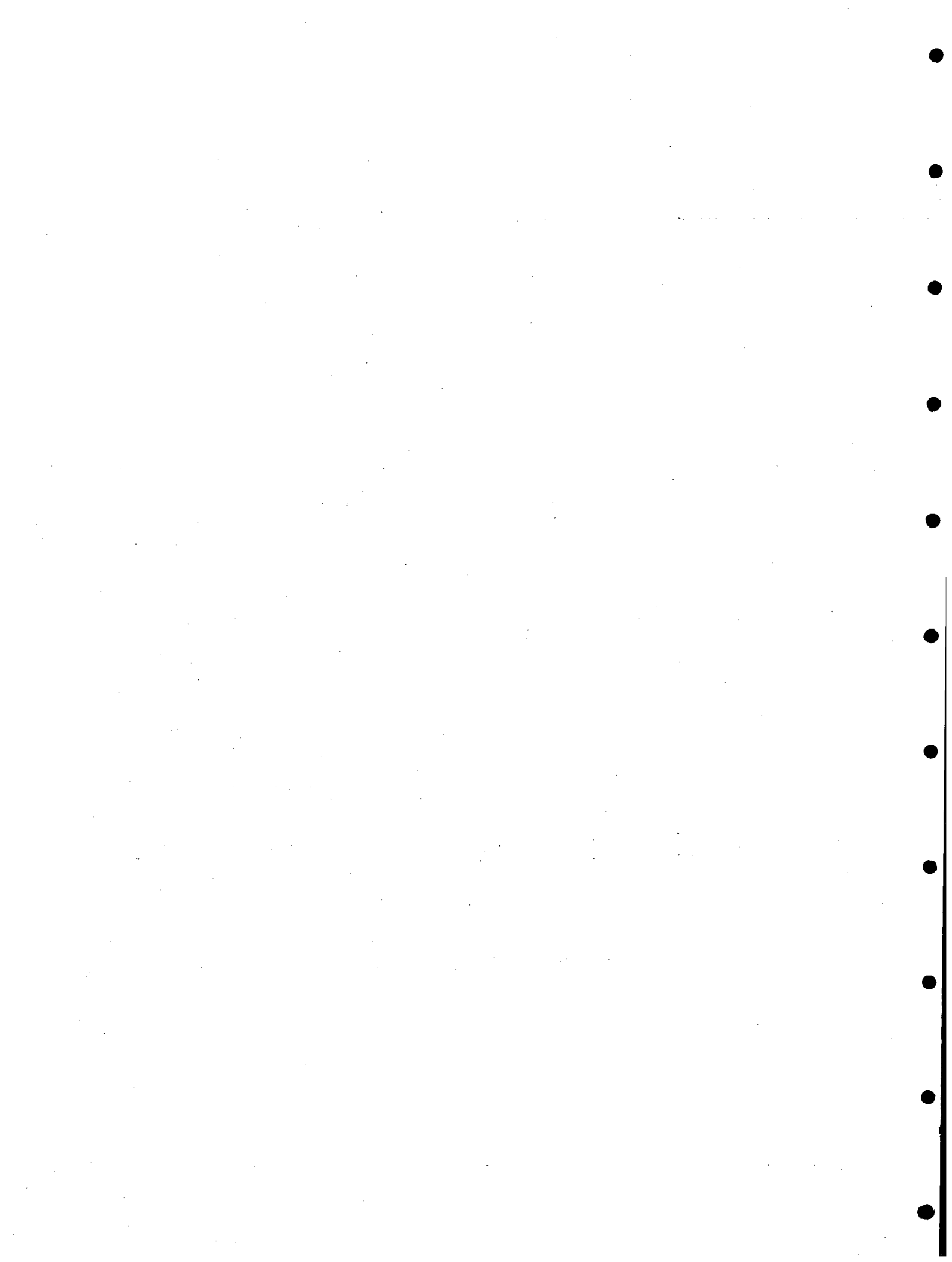


## CONCLUSION

The state of federal law enforcement efforts in the area of hostage/barricade is good. The need for improvement still exists. The preceding ten recommendations are not necessarily in priority order nor are they all mutually exclusive; they reflect my informed assessment at this time.

My task was actually relatively easy! 1) to review a tragic incident but not be required to assess blame (the down side is that I also cannot give praise). 2) to study aspects of multiple organizations without prejudice. 3) to make recommendations but not have to 'cost' them out.

The question of cost was raised often, and not just by my new federal law enforcement friends who possess a dose of healthy cynicism. One of my reactions to the question of cost is summed up in the cold wording of attachment 'C' (author unknown). More important is the stark realization that human lives are at stake. The cost in pain and suffering on both sides of a barricade is incalculable. In these times of military downsizing and the probable shifting of other governmental assets the means and resolve must be found to support efforts for positive change.



## ESTABLISHMENT OF A CRISIS MANAGEMENT DATABASE

The field of crisis management has suffered from a dearth of empirical data to guide operational decision-making, planning, assessment, and training. Currently, there is no central repository of crisis management information. The Special Operations and Research Unit (SOARU), Training Division, of the Federal Bureau of Investigation proposes the establishment of a such a database to provide nation-wide assistance to law enforcement agencies.

Envisioned is a two pronged approach. First, a study of 75 major police departments as to their standard operating procedures, training, manpower, and budgets for crisis situations. For the purposes of this study, a crisis is an incident which requires a tactical and/or negotiation team response. From this analysis crisis management models will be developed based upon agency resources. The second prong of this inquiry will be a concurrent examination of the crisis management activity of the same 75 law enforcement agencies. A police department contact person will be reached by telephone on a weekly basis by staffers to determine their level of crisis response activity since the prior contact. This contact person will be systematically interviewed from a protocol and details regarding the incident, victim, and subject will be entered directly into a database. The SOARU already has in writing an agreement to take part in such a study from 75 police departments.

Staffing requirements include a Ph.D. level statistician/methodologist to direct the study, set up the methodology, and analyze results. A research assistant, master's degree level, to assist the director of the study, do library research, and write on study results. A third person, possibly a Ph.D. level economist, to analyze results of the study in terms of optimal training levels, costs of crisis management call-outs under the various crisis management models, and a variety of other cost related topics. A staff of three persons, retired police officers with crisis management experience would be ideal, to make weekly contact with the participating departments. A secretary will also be needed. Of course, the crisis management expertise of SOARU personnel will be called upon for their guidance and counsel.

Funding is required for staffing, travel, equipment, consultation fees and expenses, and a yearly symposium for the 75 participating departments. The symposium will elicit observations, suggestions, and comments from the participants as well as train them in the protocol instrument and, later, report results.

Ultimately, the SOARU is interested in establishing a permanent, international center for the study of crisis management similar in nature to VICAP.

Firearms training has long enjoyed a prominent role in the preparation of law enforcement personnel to meet the requirements of their job. However, the critical nature of this skill has only recently begun to emerge. This evolution is a result of the changes that have taken place in the world in which law enforcement personnel must work. Recognition of the enhanced role of firearms training has caused a revolution in thinking and is responsible for the new direction such training has embarked upon. The days of bulls-eye, static training are rapidly running out. The basics will remain but the concentration previously expended on such training will be reduced. The new emphasis must and will be on training designed to ensure the greatest survivability of law enforcement personnel. Law enforcement in general, is slow to change, to move into new areas which challenge old ways. It is the role of training not to merely reflect past and current concepts, but to lead in the development of new methods to cope with the current and future concerns of the law enforcement community.

In response to this vital responsibility, administrators and trainers must be willing to seek new paths and assume new risks or they will fail to fulfill their mission. In recognition of this, the Federal Law Enforcement Training Center (FLETC) and the many supportive participating organizations located at the Center, have taken a proactive role in meeting the present and future needs of the students for whom they are responsible. Extensive discussions, analysis of data generated from actual field experience, agency input and support from survey instruments and continuing dialogue with those most impacted, has resulted in the conceptual development of a one-of-a-kind firearms training facility - The Tactical Response Range (TRR).

The TRR development process began in 1988 when the demand for "environmentally correct" training programs were given a major push by the U. S. Customs Service. The existing requirement of providing traditional targetry and generally static training, was challenged. USCS was followed quickly by other agencies such as ATF for such training. Although our initial concept envisioned the exposure of this training to advanced students only, it was quickly realized that the concepts and principles which were involved in the TRR were equally essential for selected basic students.

What you have been provided in this packet reflects the last of several iterations and combines the input of a wide range of people. The TRR will maximize our ability to instruct students in firearms tactics at a level of realism which can only be matched in an actual street encounter. The facility as presently envisioned, encompasses 51,000 usable square feet.

The information provided in this package reflects the culmination of work the A & E tasked to do a feasibility study.

If funds are provided, the next step in this project will be the selection of an A & E firm to do the actual design and engineering work.

We believe this facility will take firearms training well into the 21st century. Maximum flexibility will be designed into the structure. We will require of the A & E, assurances that current known, and where possible, imagined technical advances impacting realistic tactical training are, or can be, made an integral part of this facility.

It is estimated that on an annual basis 1752 two-hour blocks will be available for training. This figure reflects a 75% utility and a regular eight-hour work-day. Obviously this figure can be expanded if necessary, by extending the work day. The ranges will be used in a round-robin approach maximizing the number of students involved. Through the use of computers and integrated closed circuit TV, additional students not actually on a range will be able to monitor and critique, as appropriate, their peers.

#### CONSTRUCTION (TRR)

Exterior walls, ceilings and floors 12" reinforced concrete covered by a 1/2" steel sheets. Three types of bullet containment systems will be used on interior walls. Designed to absorb without backsplatter, any anticipated ammunition up to 308 caliber. Floors and ceilings will be protected by a heavy layer of ballistic material. Walls will be provided with two diagonal layers of soft ballistic lamellas backed by steel and concrete and faced by a soft, self-healing ballistic material capable of withstanding 50K rounds per square yard.

EPA/OSHA regulations are addressed and will be met. Airborne heavy metals will be voided through a built-in containment system for washing/purging of the ranges and unburned powder residue. Acoustical protection system is assured through the application of current technology.

This range provides for computer generated graphics which will be projected onto a two-story, 180 degree screen. Agency tailored scenarios using action/reaction drills with service weapons and ammo - capable of projecting any environment, urban, suburban, rural, office, warehouse, streets, etc.. Closed circuit transmission will allow instant replay by both students/staff in separate classrooms. This will allow the students involved to play-back for critical review and evaluation, their individual or group exercise. Multiple targets on the screen as well as in the foreground. The use of robots and pop-up targets may also be augmented by holograms. Suspects will be capable of returning fire through the use of laser technology creating a need to use proper cover/concealment. The application of 3-dimension projections are also envisioned. Agency specific scenarios will provide branching capability.

Entirely new scenarios can be created in a matter of hours, rather than the weeks it now takes to create a film or video.

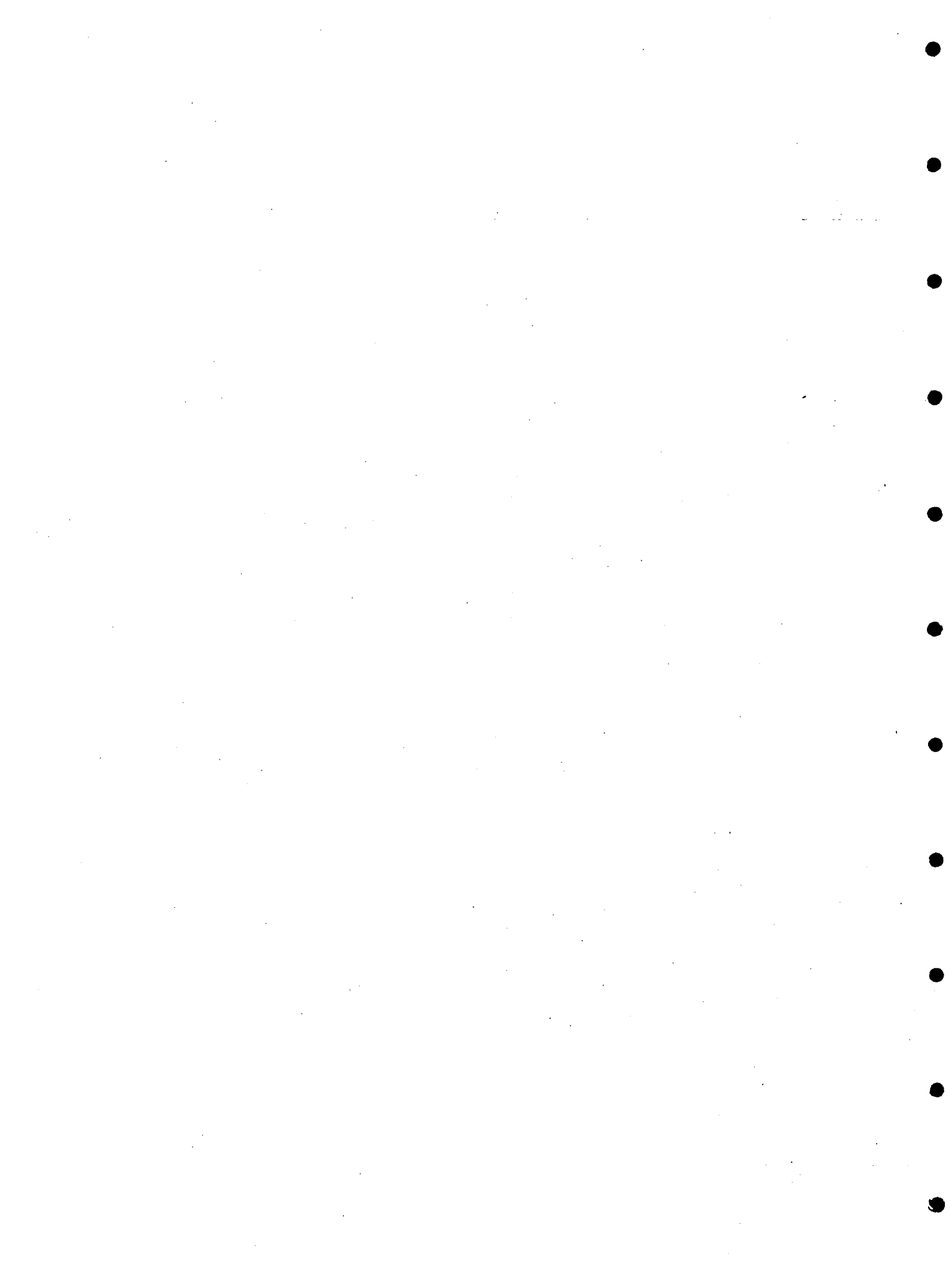
Central to this range are motion platforms. Simulators (motion platforms) provide the base for fixed/rotary (Blackhawk) aircraft, vehicles, boats, virtually any vehicle necessary can be used. Motions of the vehicles will be synchronized with the computer graphics displayed on the screen. This will provide virtual reality on a large scale. These platforms have the capacity to pitch, yaw, rise, and fall, adding a level of realism which will convince anyone that they are indeed at the scene of the action and in motion.

A second story observatory will provide on-the-spot review of a student's activity by FLETC staff as well as by agency personnel. Each range discussed is equipped with a sliding overhead partition grid system which provides for a virtually unlimited array of operational configurations.

#### NEW TACTICAL FACILITIES

Realizing that the TRR is a long-term project ( 3-5 years) and in recognition of current agency needs, the Director has approved the construction of additional tactical training facilities at FLETC and our Artesia facility. One single story and one two-story non-lethal fire (Simunitions) practical exercise facility will be built at the FLETC. A single-story live-fire shoot house will also be constructed. These facilities will enhance your tactical training requirements and provide needed training opportunities for several other agencies. Your entry control training and special response teams will find these facilities of special value and importance. In addition, a live-fire shoot-house will be constructed at our satellite facility in Artesia, NM.

**IF YOU THINK  
TRAINING IS  
EXPENSIVE  
ASK A JURY  
ABOUT  
FAILURE TO  
TRAIN**





**Ron McCarthy  
Crisis Incident Response Consultants  
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Dana Point, California 92629**

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EXECUTIVE SECRETARIAT

August 24, 1993

Mr. Philip B. Heymann  
Deputy Attorney General  
U.S. Department of Justice  
10th and Pennsylvania Ave. NW  
Room 4111  
Washington, DC 20530

Dear Mr. Heymann:

This final report is submitted by me with the hope that the recommendations and suggestions for much needed change are taken seriously and will be responded to. I have great faith that this will occur in your good offices at the Attorney General's Office, and therefore, I believe there is hope that other segments of the Department of Justice will respond in kind.

This report is most certainly a product of the gathering of the Waco Review Committee and the data and information provided to us. It is also founded upon my more than thirty years of experience in law enforcement which often times brought me into very close contact with the Federal Bureau of Investigation, the United States Secret Service, U.S. Army Special Operations Group Delta Force, U.S. Navy Seal Team Six, FBI Hostage Rescue Team, and several FBI area SWAT Teams, ATF, DEA, and more.

I have responded to actual hostage and major barricade situations that have been multi-jurisdictional in nature and have personally experienced the problems and perplexities that very often occur in major crisis incidents. This review can be the catalyst to correction and improvement. This will not occur without total candor on the part of the reviewers. It is my goal to provide some insight and suggestions that I know will solve major problems and fill wide gaps that exist in the present system, which were evident at Waco and which I have personally experienced during my tenure in special operations.

I will, from time to time, refer to the Waco incident and suggest that other options could have been available under different circumstances. This in no way should be construed as suggesting that the authorities are in any way at fault for the final outcome of the Waco incident. Only the adult participants - criminals and fanatics inside the compound - are responsible and at fault for the deaths of the children. The FBI's actions on day fifty-one did not work. That is a result of the unlawful and bizarre actions and mindless aggressions of the criminals inside who slaughtered their own children and the children of others.

Because what the FBI did did not work does not mean the agency was wrong; they were not. The recommendations made herein will give future FBI related incidents a better opportunity for success. My recommendations must not be interpreted as criticism of the Waco operations.

The larger question is: Can another incident similar to Waco occur, and, if so, what can be done to improve response and diminish the potential of another Waco?

There is no question that Waco will occur again in another place involving another group that is cult oriented, militant, terrorist, or in some other way violently contradictory to authority. Knowing that a repeat of this violent and tragic incident is an absolute, it is imperative that the following recommendations be instituted, and with very little delay. To do less would then place all agencies who now have the opportunity to change and improve in the tenuous position of knowing that change is the solution and ignoring the solution or not implementing improvements with the knowledge that this inaction will cost innocent lives in the future.

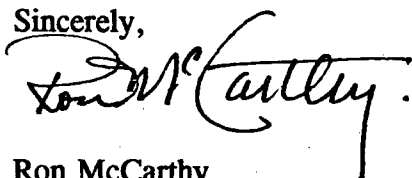
It has been a pleasure to serve with the Attorney General's Review Committee on Waco, and I stand ready to answer any questions or be of any service you might require.

I would be remiss if I did not thank and commend Deputy Assistant Attorney General, Rod Rosenstein for his efforts in coordinating and assisting all of us on the committee.

One final note; we have moved to a new home, so all further correspondence with me should be addressed to: Ron McCarthy

I will notify your office and Rod Rosenstein of our new telephone and fax numbers when they are known.

Sincerely,

A handwritten signature in cursive script that reads "Ron McCarthy". The signature is written in dark ink and is positioned to the right of the word "Sincerely,".

Ron McCarthy

# **MAJOR BARRICADE AND HOSTAGE INCIDENTS IN THE UNITED STATES**

**An evaluation of the Special Response Capabilities of the  
U.S. Department of Justice, Federal Bureau of Investigation  
by Ronald M. McCarthy**

## **INTRODUCTION**

This document was constructed through the compilation of information presented to the United States Attorney General's Review Committee created to improve response, if and where necessary, after Waco and the Branch Dividian Siege. Additional information has been gathered through the knowledge and experience of this writer related to special operations response to heavily armed criminals that are barricaded and/or holding hostages. The intent of this writer is that this document will provide support and rationale for change in the present system that will save lives, reduce the potential for failure, reduce liability, and, more importantly, do what is right and ethical.

## **LAW, ETHICS, AND PRIORITIZING HUMAN LIFE: THE DECISION FOR CRISIS MANAGERS IS DIFFICULT BUT CLEAR**

Long before a special response concept is formed, it must first be clearly determined what the "rules of the game" are, especially in hostage situations. Based upon input from high level managers that were interviewed by the committee, I determined that there is confusion and conflict in philosophy between the management level and the operator level of the Federal Bureau of Investigation's Hostage Rescue Team.

I heard, on more than one occasion, the statement, "we are not going to place agents' lives in jeopardy." The basic concepts and tactical doctrines of hostage rescue as practiced and performed successfully in the United States by SWAT teams, in the Middle East by the Israelis, and in Europe by the British and the Germans have a first criteria: the lives of hostages. The members of the Hostage Rescue Team that I have known and interacted with all believe in this criteria with a religious fervor. One of the most difficult of all leadership responsibilities is to command and to direct young men and women into a dangerous life threatening environment where the potential for injury or death is by degree increased.

Some will expostulate that the lives of the police or federal agents should not be placed at extreme risk. If they are correct, then the United States Government is out of the business of hostage rescue. There is a clear and easily understood priority list that can provide guidance and establish a process where command staff can more clearly see the tactical goal - rescue of hostages, and how to achieve that goal. The priorities are:

1. Lives of hostages
2. Lives of innocent citizens caught in the area
3. Lives of police/federal agents
4. Lives of the suspects/criminals

This prioritization is consistent with law and ethics, and can be clearly understood by the public that law enforcement serves. More importantly, it relieves decision makers of a terrible psychological burden. The special weapons team members, whether they be FBI Hostage Rescue Team members, FBI area SWAT team members, or police from local jurisdictions who have the hostage rescue capability, all understand this priority and prepare for the mission of hostage rescue with the clear understanding that the hostage rescue responsibility has a calculated risk. They also know that the risk is significantly reduced when all of the pieces of the puzzle are present: strong leadership that is experienced, well-trained, and carefully selected; hand picked personnel selected for their talent, abilities, and dedication to the concept of saving lives; and an organization that is supported through funding with sufficient numbers of men and women to do the job. The probability of injury or death is minimized proportionate with the preparation, support, and leadership provided.

Numerous hostage rescues have taken place that are renowned and considered major successes. The Netherlands train hostage incident, the hostage rescue by GSG-9 in Somalia, and the Israeli rescue at Entebe were all achieved through leadership, planning, and a violence of action that overwhelmed the criminal hostage takers. There was no question lives would be lost, but a priority had been established; the lives of hostages came first. The authorities lives came second. The criminals lives were last on the list of priorities. This doesn't mean that criminals' lives are considered unimportant. It does mean we do not risk hostages lives to save the hostage taker. To do so is an act totally without ethical foundation. This has occurred in the United States when confused or weak leadership, lacking experience and confidence, failed to be decisive.

Decision making principals such as prioritizing human life are not only absolutely necessary for the SWAT Team and its Crisis Managers, they are essential to the Hostage Negotiations process as well.

It must be understood by all concerned that the life of a hostage will not be put at risk by the authorities to avoid deadly force resolution and elimination of the criminal hostage taker. This happens when a suspect holding hostages is vulnerable to neutralization and for some unknown reason the shot is not taken, or the rescue is not attempted. The suspect later kills the hostage or hostages. This has happened on numerous occasions and law enforcement never admitted that they could have ended the ordeal, but were reluctant to shoot. The priority system must be adhered to and law enforcement must act ethically. If a tactical resolution is available and isn't used and the result is the death of hostages, we have failed. Personalizing this makes it much easier to understand. Assume that you, the reader of this document, had a child of your own held hostage by a hostage taker. Assume you are standing next to the tactical commander of the incident. The armed suspect appears in clear view, holding your child by the neck and threatening the life of your child with the gun. The tactical commander explains that negotiations are on-going and there is a good possibility that the suspect may surrender in time and release your child. He also explains that there is a possibility that suspect may kill your child. You ask the tactical commander if his officers/agents can shoot the suspect and end this in favor of your child. He answers, yes,

but they are going to continue to negotiate. It would be highly unlikely that you would consider the tactical commander's approach as being reasonable or ethical.

The International Association of Chiefs of Police has developed a model policy regarding hostage barricade situations. The following is excerpted from the position paper supporting the model policy:

Decision making during a hostage incident can be especially difficult for some command level personnel. Decisions to wait are often prompted by the blind hope that doing nothing will resolve the situation by taking the "safe way out." Nowhere is this more apparent than making the decision to take the life of a hostage taker. Unfortunately, many chief executives and governmental officials believe their team or men have failed if the hostage taker is killed in saving the life of a hostage. Those who feel this way would do well to ask the rescued hostage if he or she believed the police failed!

In an article entitled "The Command Decision to Shoot a Hostage Taker: How Do We Make It?", the author, Ronald McCarthy, proposes an insightful and logical solution to the problem of decision making in this area. Mr. McCarthy, based on many years of experience in tactical operations, believes the decision to shoot a hostage taker should be based on priorities and criteria. Simply stated, command personnel are encouraged to make their decision after considering the following priorities:

1. The lives of hostages
2. The safety of bystanders and residents of the area
3. The lives of police officers

Next, commanders are urged to consider established criteria which must be met. For example:

1. Does the suspect(s), in fact, have hostages?
2. Does the suspect(s) indicate or state that he will kill the hostages?
3. Can the fact that the suspect is armed or has the potential for killing hostages be reasonably verified?

If the answer to these questions is "yes", then the decision to neutralize the hostage taker in the interest of the first priority (the hostage), with consideration given to innocent bystanders and the lives of involved officers, should be made.

It has been said that perhaps the most critical element of decision making is timing. This is especially true during a hostage incident. The opportunity to neutralize a hostage taker may occur only once, and the failure to make a timely decision (or none at all) may well cost the life of a hostage. Therefore,

the decision must be made early on, based upon priorities and criteria discussed previously. This decision must be relayed to all personnel, and they must understand their responsibility to exercise it (without additional authorization) should it become necessary.

There are many who believe that the mere passage of time will resolve incidents of this nature. In other words, "time is on our side." This is an unfortunate myth that has been perpetuated by some in law enforcement for decades. While time can certainly be an ally, it is most definitely not always on our side. Presume a hostage taker announces he has killed a hostage and is going to kill another in five minutes. If command personnel fail to authorize a planned and rehearsed rescue effort because they don't believe the suspects, then aren't the authorities responsible if the hostage is killed? Was waiting in the best interest of the hostage? Was time on their side?

The question is often posed as to the length of time a barricaded subject(s) without hostages should be given before physical means are taken to induce his surrender. Certainly all reasonable efforts should be made to prompt the subject's surrender prior to aggressive action. What efforts constitute reasonable acts are, of course, subject to debate. However, when a subject is repeatedly given the opportunity to surrender, he refuses and even fails to heed warnings of intent to use chemical agents, most agencies believe that reasonable efforts have been taken. The next step would logically be to use chemical agents to dislodge the subject, unless extenuating circumstances exist. Additionally, many feel that prolonging negotiations when a subject has no hostage is an unnecessary imposition on the residents and merchants of the area, who have been displaced from their homes and businesses by circumstances. It is also felt that to do so places an added and unnecessary financial burden on the taxpaying community. Extended delay to resolve also provides the suspects with time to develop clandestine and bizarre barriers and devious traps and pitfalls to apply against the law enforcement officers.

Rarely are there perfect tactical decisions. However, command personnel must be held accountable for making those that are calculated to resolve the incident as safely and effectively as possible, after considering available alternatives. They must also be held accountable for unreasonable or excessive inaction.

## RECOMMENDATION

Develop a clear mission statement that is goal oriented with the primary goal being the lives of hostages. Design this mission statement to provide guidance to Crisis Managers, Hostage Negotiators, and Hostage Rescue Team members. Prepare Crisis Managers to make the tough decisions based upon the saving of hostages' lives to the exclusion of political or partisan influences, with the mission statement as the foundation for those decisions. World

wide, every successful hostage rescue had predictable significant risk to the lives of the hostage rescue force. Mogadiscio, Somalia, GSG-9, and the Netherlands train incident, when nationalist fanatics took numerous hostages, the Israeli raid on Entebbe Uganda, and the Princess Gate Hostage Siege in England are all examples of placing the lives of hostages first and the lives of the authorities subordinate to hostages' lives. This principle must be embraced in order to have a true hostage rescue capability. Without this principle, it will eventually become apparent to the criminal element that authorities will be reluctant to attempt a hostage rescue. All of the above mentioned hostage rescue situations resulted in massive loss of life on the part of the hostage takers, and, unfortunately all of those incidents were fraught with the potential for agents being killed. Because of the proper preparation, leadership, and long term support, only one member of any of the hostage rescue teams was killed. Therein lies the safety factor for law enforcement officers, not the unwillingness to deploy them in harms way. The very name of the Federal Bureau of Investigation's hostage response, the Hostage Rescue Team, implies capable response. It will eventually become apparent to the criminal element that authorities in the United States are reluctant to attempt a hostage rescue.

### **CRISIS MANAGEMENT AND CRITICAL INCIDENT RESOLUTION IN LONG TERM HOSTAGE BARRICADE INCIDENTS**

It is vital to the success of the entire process of response to mega-violent hostage and barricade incidents that the entire response team be equally capable, qualified, selected, tested, and experienced. Certainly, the military can be used as an example of how to select leadership. Generals and admirals are not selected to that rank without first going through all of the very carefully laid out levels of supervision and leadership in crisis. They first must have demonstrated success in the arenas in which they will be expected to lead. This is not done in all cases in law enforcement. My previous experience in law enforcement allowed me to observe crisis managers from my own agency, as well as the FBI, first hand. Critical errors have been made in hostage barricade incidents by the crisis managers and those errors came from a lack of real experience. (1) In my city, an opportunity to enter and rescue hostages was denied by the crisis manager. Some hours later the suspect exited using the hostages as a shield and the suspect was necessarily shot and killed. Had an experienced, well-trained manager been in command, the first option would have been approved and no shooting would have resulted. (2) In another incident, a hostage incident occurred at an airport, and the S.A.C. was on the plane in face-to-face negotiations with the suspect. The FBI area SWAT team was awaiting his leadership in the terminal. The most inexperienced of tactical personnel know this was a gross violation of procedure.

The Federal Bureau of Investigation has tremendous talent and can provide the very best leadership. Over the past three decades crime and violence has forced law enforcement to change. It is necessary that Critical Incident Management Teams headed by specialists as the Special Agent In Charge be sent when we send teams of specialists such as the Hostage Rescue Team. In the United States we have emulated the 22nd SAS and GSG-9 model, but we have refused to adopt their superior systems of chain of command and command and control.

## RECOMMENDATION

That the Federal Bureau of Investigation identify, train, and prepare crisis managers that are selected based upon their unique abilities to handle mass numbers of law enforcement officers and agencies under high levels of stress. Constant close association with the Hostage Rescue Team and the Hostage Negotiations Unit of the Bureau is an absolute requirement. The crisis manager must be totally aware of all aspects of the hostage barricade response capabilities of the Bureau, including the most detailed and minute tactical factors and negotiations components. To do less is to build an Indianapolis race car and put a gas station attendant in charge of the pit crew.

Concurrent with the above, I would strongly recommend that the SAC in charge of the Hostage Rescue Team be a former operator (agent) member of the team. Experience and real world performance in similar circumstances is of great value. This recommendation can be accommodated as there are many former members of the HRT available.

## PERSONNEL REQUIREMENTS, STAFFING, AND SUPPORT OF THE FBI HOSTAGE RESCUE TEAM

From the very inception of the Federal Bureau of Investigation's Hostage Rescue Team in 1983, it was undersized and incapable of implementing or even considering certain tactical options based upon not having a sufficient number of agents to accomplish the appropriate solution. The fact that the Hostage Rescue Team is extremely capable and well trained is totally negated by the fact that the unit is much too small.

The Federal Bureau of investigation, with justifiable pride, displays the Hostage Rescue Team and points to this elite unit as the effective response to major critical violent barricade and hostage situations. The unit is highly capable and, from the standpoint of quality of personnel and level of individual agent competence, at pace with similar units such as 22nd SAS, GSG-9, and others. If it is legitimate to compare the H.R.T. with other hostage rescue organizations in terms of operational skills, it is valid to evaluate organizational size, structure, and support as well.

The exact size of hostage rescue units for other countries is "close hold" information. I have knowledge as to the approximate size of those units, and can make a general comparison. I can compare the size of the United States, geographically speaking, to England, France, Israel, Italy, or Germany. All of these countries are a fraction of the size of the United States. All have far lower violent crime rates than the United States. All have much smaller populations.

There is little argument that the potential for international terrorism in the United States is increasing - this in the light of the most recent middle-eastern bombing efforts in New York City. Knowing all of this, our government has a hostage rescue team concept that projects an illusion of capable response when in fact the H.R.T. is four times smaller than other comparable units in the world that don't have the same level of problems.



The Hostage Rescue Team is also understaffed in the areas of support. Any unit of similar type and kind has monumental equipment and logistical needs and specialty skill requirements. Without this type of support, equipment cannot be adequately maintained and, just as importantly, causes tactical personnel to spend many hours doing maintenance, repairs, storage, and inventory. This is not a wise or cost effective utilization of personnel.

If the Hostage Rescue Team is drastically undersized does this create a liability factor for the Department of Justice? Does this open up our government for valid criticism? Without question!

If the Hostage Rescue Team is undersized, it automatically takes away some of the tactical resolutions available to a response force that is properly staffed. A large number of hostages being held in a large building would require far more personnel than the current strength of the FBI Hostage Rescue Team can provide. The present staffing level for HRT makes it impossible for the men to perform a hostage rescue on a large commercial aircraft such as a DC10, L-1011, or 747 without borrowing from area SWAT teams for critical positions that would be directly involved in the immediate area of the SWAT operation. This type of cost saving is "penny wise/pound foolish" and creates an unbelievable liability factor. Can we really say that the world's most sophisticated military and technology oriented society cannot afford to properly staff a federal SWAT team?

In a hostage incident identical to Waco in terms of the size of the structure, with multiple suspects and multiple hostages, the present HRT cannot properly staff a hostage rescue effort.

Any surprise incident would require the Hostage Rescue Team to respond and do so in a timely manner. This means a maximum of 3 to 4 hours and they are on the scene, ready to deploy. The Waco incident was an honest test of response time. It was woefully inadequate. Time was not critical in the Waco situation because the incident was static and had stabilized itself. If a terrorist incident occurs, the terrorist will plan around response time and this leaves an unacceptable vulnerability that would embarrass our government, cause the government and the FBI to look inept and sluggish and, more importantly, would certainly jeopardize human life.

## RECOMMENDATION

Increase the total number of Hostage Rescue Team members to 150 operators with a team leader, supervisor or supervisory agent ratio of 10 to 1. One hundred fifty is the minimum number required for appropriate professional response. Anything less is negligence.

## RECOMMENDATION

Establish at least two, if not three, separate HRT home bases: one at Quantico and the other one or two located strategically to insure rapid response time and an increased intra-agency cooperation and coordination factor. Three separate sites: east, central, and west are preferable.

## **RECOMMENDATION**

Provide each section of the total Hostage Rescue Team system with their individual pilots, gun smiths, mechanics, photography, communications personnel, etc. A support component that insures equipment and logistics are up and working is absolutely essential. civilian employees could fill these positions to reduce costs.

## **FBI AREA SWAT TEAMS: A CRITICAL ELEMENT FOR SUCCESS**

It is unreasonable to think that the Federal Bureau of Investigation can respond to and handle all of the warrant service situations, drug raids, barricade subjects, and other major and regular critical incident situations that will predictably occur throughout the United States. The in-place, FBI area SWAT team configuration is the obvious solution here, but is in need of alteration to be effective on a national basis. Due to lagtime in the HRT response, area SWAT teams must have the ability to stabilize and contain an incident until HRT arrival and deployment.

There must be a close relationship with the area SWAT teams and the Hostage Rescue Team. any major incident will require support from one or more of the area SWAT teams and this will always be required during multiple incidents that are occurring in different parts of the country simultaneously. This has happened before and will again. It stretched the Bureau's ability to respond. Now that it has happened, one would be hard pressed to justify why things have not changed or improved.

Area SWAT teams are not receiving the same training or training time. some area SWAT teams are very capable and some are far less so. This apparently comes from SACs that are not given enough specific direction and can decide at random whether they are going to support the concept of an area SWAT team fully or have a half-trained, half-capable team.

## **RECOMMENDATION**

A restructuring of the area SWAT team concept should be considered with a closer line of communication with the Hostage Rescue Team as the foundation. The HRT should be able to be in close contact with area SWAT teams when they are strategically stationed in three separate parts of the United States. This new HRT/Area SWAT team association would include regular training evolutions specifically geared to increasing areas SWAT team proficiency and increasing the potential for Hostage Rescue Team use in circumstances they are not presently utilized for.

## **RECOMMENDATION**

Direct and require SACs to develop area SWAT teams and demand a three day per month training cycle schedule be adhered to. Do not allow SACs to pretend to have capable areas SWAT teams when they do not.

## RECOMMENDATION

Place experienced area SWAT team agents in key positions to insure a "stepchild" mentality does not occur, and ensure that area SWAT teams are provided with appropriate funding to support training and equipment. Standardize training and equipment with the Hostage Rescue Team providing primary guidance for this. Ensure that all agents in all area SWAT teams are selected and trained exactly the same way regardless of where they are assigned.

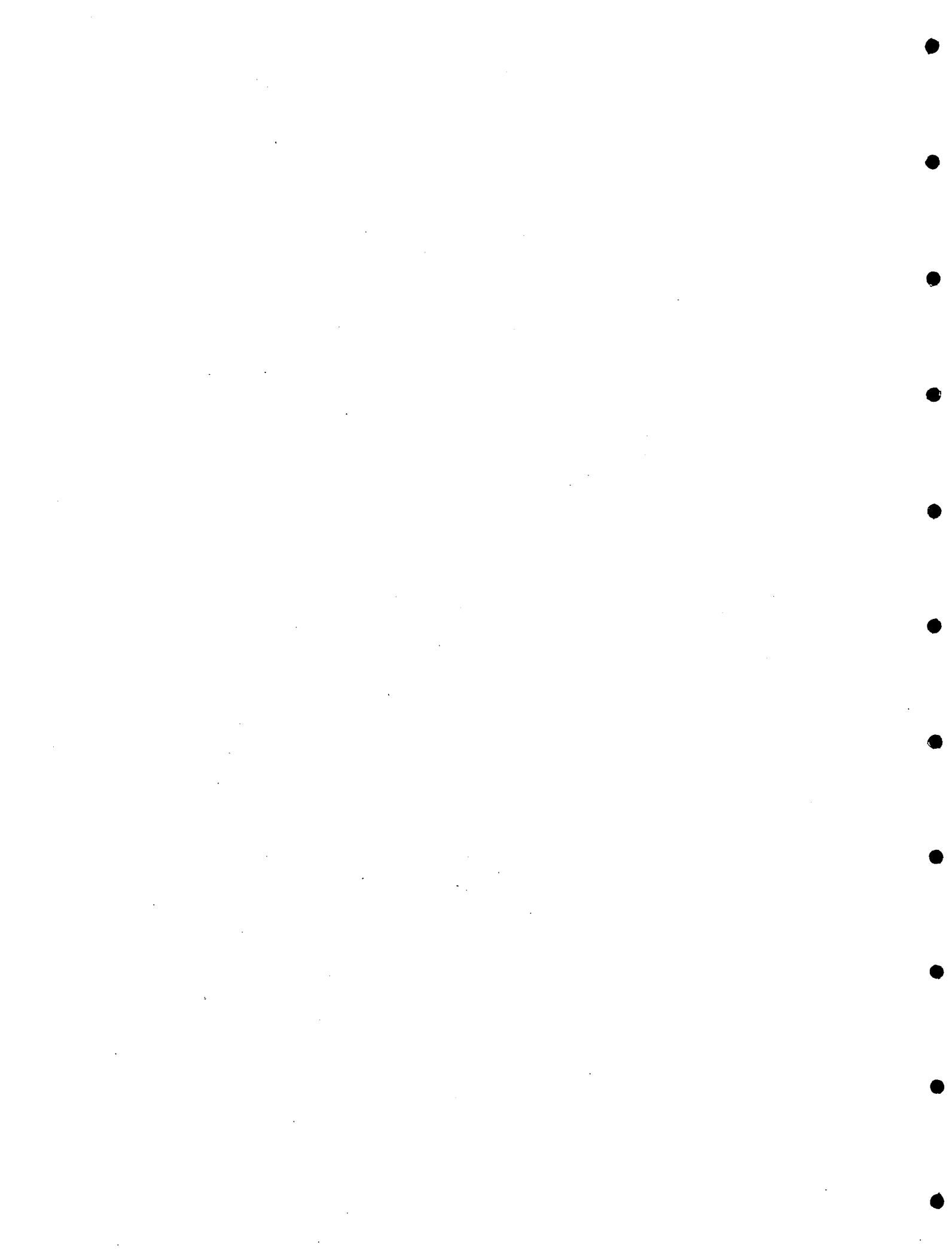
The Federal Bureau of Investigation is going to be involved in domestic crime such as narcotics, gangs, and violent groups of criminals to a larger extent than ever before. This will require more activations of the area SWAT teams and more involvement with local law enforcement agencies in serving high risk warrants and apprehending heavily armed suspects. The area SWAT teams will be shouldering this new load and must be prepared. The large field division SWAT teams are the most likely units to be so involved, and must be capable to reduce the potential for error, liability, and tragedy. HRT is the "sword" of the Bureau's response to major critical incidents, but area SWAT teams are the in the field, on the streets, backbone, and **MUST BE SUPPORTED PROPERLY.**

## CONCLUSION

I anticipate that my recommendations will be met with some arguments against the recommended changes. Argument #1: "Where will we get the money?" As a government and a country we will pay for our errors and those errors will cost millions. The city of Los Angeles has passed the twenty million dollar mark this year for law enforcement errors resulting in civil suits they must pay. Twenty million dollars would fund much of what I am proposing here. Argument #2: "We already do much of what is recommended here and we don't need change." If this is so, look at the outcomes of the last few major incidents and ask if they were satisfactory. If the answer is that we are satisfied with Texas, Idaho, Washington, and Arkansas then fine, stay with the status quo. If not, let's move ahead.

I am aware that the recommendations I propose are major and will require adjustments both major and minor. These recommendations are a result of the information provided to me and to other members of the committee. If these recommendations are reasonably consistent and present in reports submitted by the committee members, then I submit to you that they are valid recommendations for change. The opportunity is at hand to greatly improve response to save lives. The finest law enforcement agency in the world has the mandate, and with this committee, the documentation to move ahead.

I submit this document with the hope that it is looked upon as a source of support and not as a list of criticisms. I am confident that with change the future is bright.



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REPORT FOR THE DEPARTMENTS OF JUSTICE AND TREASURY'S  
REVIEW BOARD OF BARRICADE EVENTS

Submitted by  
Ariel Merari

August 26, 1993

This report is based on briefings by, and discussions with representatives of various Department of Justice and Department of Treasury agencies, in addition to material read in connection with the incident at Waco and knowledge in the field of combatting terrorism in general and siege incidents in particular.

The preparation of the report was greatly facilitated by the candid and open-minded approach of the Department of Justice and the Department of the Treasury. Mr. Philip Heymann, the Deputy Attorney General and Mr. Ronald Noble, the Assistant Secretary of Treasury and their assistants have not spared effort to provide necessary documents and arrange meetings with relevant persons, so as to enable members of the Review Board to reach their own conclusions on the basis of sound and comprehensive information.

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In my opinion, the readiness to set up an external committee of this kind is an outstanding mark of the strength of a truly democratic and healthy society.

The first part of the report deals with the siege of the Branch Davidian compound at Waco, Texas. This part is not meant to be a thorough analysis of the event or to provide a comprehensive critique of the way it was handled by the BATF and the FBI. Rather, it is intended to highlight a few points which seem to be particularly relevant to the general conclusions concerning the managing of siege situations.

The second and main part of the report includes recommendations for changes in the response system to siege incidents.

#### **PART I: LESSONS OF THE WACO INCIDENT**

Major barricade events are very difficult situations for law enforcement organizations. The adversaries are frequently fanatic or less-than-rational; information is almost always lacking and often inferential rather than direct; deadlines often impose fast decision making; the lives of many people are often at stake; the stress is exacerbated by immense public interest and pressure from the media. Under these conditions mistakes are bound to occur.

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They are often easy to discern after the event but seldom recognizable in real time. After examining the material on the event at Waco, I am not sure that I would have done any better had I been on the spot, although I have nearly twenty years of practical and theoretical experience. Still, we must always learn from failures as well as from successes and strive to improve our ability to cope with these difficult situations. The following comments should be read in this light.

**The Initial Raid by the BATF on February 28, 1993**

The failure of the planned BATF raid was the result of several factors. Most important were the execution of the raid while the cult leader was in control of the cult's members and premises; the awareness of the Branch Davidians about the pending raid; intelligence error concerning the expected resistance by the Branch Davidians; the raids' plan, which further diminished the likelihood of rendering the cult members harmless by surprise; and the lack of contingency plans in case that the raid encountered serious armed resistance. These points are further elaborated below.

The concept of executing the search and arrest warrants of cult members: In view of the characteristics of the Branch Davidian

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cult, particularly its hierarchical structure and the total dependence of the members on Koresh, the best way to render the cult harmless and to execute the search and arrest warrants was to seize David Koresh first. It is highly likely that his apprehension would have left the cult members as a herd without shepherd and resistance to law enforcement authorities would have been much smaller or none at all. It is understood that the execution of the search and arrest warrants seemed urgent, in view of the information about the digging of a bunker and tunnels in the compound and the accumulation of weapons, which would have made a raid more dangerous in the future. For this reason, the BATF unwillingness to wait for an opportunity to arrest Koresh outside the compound is understandable. More effort, however, could have been made to lure him out by a ruse. This experience may provide a general lesson: In dealing with cults (in which the leaders often solely incorporate the decision-making and will power of the group), their isolation from the rest of the cult members greatly facilitates law enforcement operations.

The absence of surprise: Surprise is always important in carrying out search and arrest operations. It is an absolute necessity when confronting a large, well armed group. Preparations for the raid must be carried out in secrecy.



Evaluation of the subjects' response: The BATF assessment of the Branch Davidians' resistance to the execution of the search and arrest warrants was unrealistic. Undoubtedly, had the intensity of the resistance been assessed realistically, the raid would have been called off and the plan altered.

Flexibility of decision-making in response to changes of the situation: Information, or even suspicion that Koresh was aware of the pending raid should have led to cancellation or postponement of the raid. The psychological factors and the organizational investment that prompted the BATF to carry out the raid according to the original plan, despite the information that indicated a possible readiness of the Branch Davidians, is understandable. Nevertheless, in situations of this kind there must be both an awareness of the possible need and the mechanism to call off the raid in real time.

The raid's plan: Considering the cult characteristics of the target, the main effort should have been aimed at neutralizing Koresh first. A larger force allocated to this specific mission and greater determination could have achieved this aim.

The raiding force should have tried to penetrate the Branch Davidian compound from a large number of places, and should have

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avored entry places other the main entrance.

Two sniper teams are not enough for providing cover fire (in case of need) where the target is of the physical dimensions of the compound and is manned by scores of armed persons.

Contingency plans: It is always necessary to include in an operation's plan various contingencies that may arise in the course of the operation. It is important to prepare in advance alternative plans, in case that the original plan does not work smoothly.

**The siege period of February 28 through April 19, 1973, under the FBI command**

The siege period under the FBI command was handled with a high level of professionalism. My comments only relate to the final episode on April 19, 1993.

**The Form of Resolution Chosen**

Three options for terminating the incident were considered:

- (1) Containment: Continuation of the siege until the final surrender of the cult members.

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- (2) Assault: A coordinated attack on the compound, using all force necessary to subdue any resistance and arrest the cult members.
- (3) Forcing the cult members to leave the compound, so as to facilitate arrest.

The first option (containment) was reportedly rejected because of the danger of a surprise forceful breakout by the besieged cult members, which might have resulted in casualties among the government forces, and because of the hazard of deteriorating sanitary conditions inside the compound and the spread of contagious diseases. Although the FBI interviewees maintained that political considerations (embarrassment to the Bureau and to the government in general) and the physical and administrative burden on the Bureau because of the continuation of the event did not influence the decision to discard this option, in my view these considerations are relevant and legitimate, and should be taken into account. In the Waco incident they may have played a role subconsciously, even if they were not discussed.

The second option (assault) was discarded because of the risk of casualties among the law enforcement forces. This consideration is discussed below.

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The third option was chosen mainly because it seemed less risky than the others for the lives of law enforcement personnel. It did, however, evidently entail the danger of mass-suicide of the cult members. This danger was also implied in some of the psychological assessments of Koresh statements and was, therefore, presumably taken into account as a possibility.

The following considerations regarding the mode of resolution relate to two main aspects: (1) Moral aspects and (2) practical aspects.

The Moral Dilemma Involved in Risking the Lives of Law Enforcement Personnel

An FBI's rule is to refrain from risking the lives of law enforcement people in siege incidents unless the lives of innocent persons (usually hostages) is in danger. This rule is morally sound. However, the Waco incident exposes the need to further clarify it. Formally, there were no hostages in the Branch Davidian compound. Nevertheless, the existence of children among the cult members makes a fundamental difference. The children were not in the compound on their free will, let alone the questionability of the meaning of the term "free will" when applied to minors. It seems, therefore, that a reassessment should be made

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of the rules of operation of law enforcement personnel in situations where certain modes of action involve risk to their lives, in circumstances where some the subjects are minors or cannot be considered as perpetrators of the situation.

Whereas the question of innocence is quite clear in the case of children among the barricaded group, other categories of persons who may be under siege constitute a greater dilemma. Such are insane and mentally retarded persons, who are not responsible for their own actions. In a barricade situation involving a cult, there is often a possibility that some persons in the barricaded group have been held by the cult against their will from start or that, even if they joined the cult voluntarily, they want to surrender to the authorities but are forced by their comrades to remain inside. In the Waco case, it is unclear how many of the cult members were knowingly and willingly party to the suicide plan and how many would rather surrender than die. At least, evidence seems to suggest that some of the members were shot by other cult members in the final episode and were not party to the mass-suicide.

Hence, the question under what circumstances should law enforcement personnel try to resolve a siege by an action that involves risk to their own lives, providing that other considerations make this

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action advantageous over other options, should be examined more thoroughly. The examination should take into consideration moral, legal and practical aspects of the problem. The "rules of engagement" of law enforcement agencies may have to be amended as a result of this examination.

### Practical Considerations

These considerations pertain to the best way to achieve the law enforcement objectives in a situation such as that which existed in Waco.

Three kinds of persons are involved in a situation of this kind: The suspects, innocent persons who might get hurt, and law enforcement personnel. The objective of law enforcement agencies should be to implement the law in a way that involves minimal damage to all persons concerned. In the Waco situation, this meant the surrender of the cult members. A dilemma arises when this aim cannot be achieved and the authorities have to choose between less than perfect solutions. In Waco, all practical solutions entailed risks. The assault option could result in the death and injury of some cult members as well as some law enforcement personnel. The containment option could result in mass suicide of the cult members and, had the mass break-out possibility materialized, also in casualties to the law enforcement personnel. The Selected option -

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forcing the cult members to leave the compound - evidently involved the risk of mass suicide, and could, presumably, also precipitate a mass break-out including the potential risks mentioned above. Hence, judging by the criterion of possible casualties among the cult members and law enforcement personnel, there was no advantage for the forcing-out option over the containment option.

More than any other type of groups involved in siege situations, cults' conduct depends on their leaders' beliefs and decisions. The will of resistance of the cult, its cohesiveness and its actions are all hinged on the charismatic influence of the leader. The incapacitation of the leader is highly likely to result in the cessation of resistance by the cult members. This can sometimes be achieved by lesser force and lesser risk than an all-out assault on the cult. In the Waco situation, a "surgical" operation designed to seize David Koresh (and his deputy Steve Schneider, if possible) would conceivably have ended the incident with smaller casualties than an all-out raid on the compound, although it would involve risk to law enforcement personnel.

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## PART II: GENERAL RECOMMENDATIONS

### General Structure of the Response System

There is an apparent need to determine the flow of responsibility and division of labor in major siege incidents. Events of this kind have weighty domestic - and sometimes international - political significance; they entail specific professional problems and pose a great challenge to law enforcement authorities. They often involve short deadlines which necessitate immediate decisions, and always attract immense media attention. They almost always occur without warning. With these characteristics in mind, the response system must have the following attributes: (1) Main decisions must be taken by a high-level political echelon; (2) the political decision makers should have handy sources of knowledge necessary for forming their own opinion; (3) the law enforcement units charged with handling the event must be specially trained and equipped for all foreseeable types of events; (4) they must be the best that the country can produce; (5) the response system, from the political level down to the field units, must be trained as a whole, and exercised and tested periodically. The exercises should be designed so as to test all levels of the system's response in all types of complex events that may occur.



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The desirable structure of the response system during an incident should, in my view, include the following elements:

1. A government-level top decision making body. This body should be headed by the Attorney General or the Deputy Attorney General, and include other political-level representatives of pertinent Departments, e.g., Treasury, State, NSC, according to the nature of the event. It should have an attached group of professional advisers who can assist the decision makers in reaching educated decisions.
2. On-site outer perimeter. This part of the system should provide logistical support for the management of the incident, such as fire-fighting capability, medical preparations, control of electricity and water supply, liaison to the media and contacts with local authorities.
3. Inner perimeter. This part of the system encompasses the immediate vicinity of the target. It should include the HRT, the negotiation team, intelligence elements, and special equipment and personnel whose operation requires direct contact with the target.

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**The Agency Charged with the Responsibility for Handling Major Siege Situations**

At present there are several law enforcement organizations which may be called to deal with siege situations or may find themselves involved in this kind of situations as a result of their operations. These include the FBI, the DEA and the USMS of the Department of Justice, the BATF, Customs, the IRS and the Secret Service of the Department of the Treasury, and numerous state and local law enforcement outfits. The FBI is by far the most capable and best prepared organization for handling major barricade situations.

The system required for a proper response to major siege incidents is quite elaborate. It must include a sizable, highly trained and well-equipped assault unit, a negotiation team, and specialized field intelligence elements. Only the FBI capabilities approximate the requirements for this task. It could be disastrous to put the responsibility for handling this kind of incidents on the other, less prepared organizations, and it would certainly be a waste to invest the considerable resources necessary for bringing the other law enforcement organizations to a satisfactory level in this regard. Although in practice the FBI is usually called to take over major siege incidents, it is advisable to determine formally,

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perhaps by an executive order, the FBI's responsibility for the handling of such incidents.

Although it is beyond the Review Board's mandate and certainly treads in a quicksand of established authorities and vested bureaucratic interests, I would like to note that it may be worthwhile to review the law enforcement system and organizations from a more comprehensive perspective, not merely as related to siege incidents. In the interest of economy and efficiency it may, for example, prove advantageous to merge some of the functions presently served by different organizations under one roof, or to leave the investigative functions in the hands of the present organizations while transferring the enforcement functions to one Federal organization. In the Waco case, the latter kind of change would mean that the BATF would conduct the investigation and the FBI, for instance, would carry out the raid of February 28.

Still, considering the possibility of occurrence of some particularly demanding kinds of siege incidents, even the FBI capabilities should be augmented. The recommendations in this regard relate to three aspects of preparedness for hostage and siege situations: (1) concepts and doctrine; (2) structure and organization; and (3) research and analysis.

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**Conceptual and Doctrine Recommendations**

Unless otherwise noted, the following remarks relate to the whole FBI's Siege Incident Response System (hereinafter: SIRS, a term referring to the entire complex of the organization's tasks and bodies involved in handling hostage and other siege incidents, including negotiation teams, rescue assault unit, intelligence collection and analysis, and command and control).

The present concept of the FBI's SIRS is primarily geared to deal with an incident which is characterized by the following characteristics: (1) one or two perpetrators; (2) usually a small number of hostages; (3) a simple physical target (e.g., a small building, a bus, an airliner); (4) the perpetrators are untrained; (5) the perpetrators are armed with a small number of weapons, typical of common criminal use, such as hand guns and rifles. The types of incidents which fit these characteristics are those perpetrated by common criminals and mentally deranged persons.

Although the FBI is theoretically ready to deal with other types of siege incidents as well, I am not sure that this postulated readiness is reflected in its conceptual approach to the various aspects of incident management, including the negotiation phase, intelligence collection, and rescue assault. Other types of

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incidents, such as prison sieges, cult or insurgent groups' sieges (e.g., Waco and Wounded Knee), and hostage incidents perpetrated by Middle Eastern terrorist groups are different from the kind of siege commonly encountered by the FBI in several important respects, including the perpetrators' motivation, the type of demands, the political and public ramifications, the perpetrators' sophistication and their awareness of FBI procedures and practices, the deadlines posted by them, the number of perpetrators and their weapons and equipment. These differences must be reflected in specific negotiation and rescue assault doctrines. For example, the short deadlines which are typically posed by Middle Eastern terrorist groups in hostage incidents dictate a much tighter timetable for arrival to the scene and preparations for assault; their terrorist team size, weapons and sophistication necessitate the use of a larger top-trained integral rescue unit; their different type of demands influences the negotiation style and contents.

**Structural and Organizational Recommendations**

The HRT

At present, the HRT rescue assault force only includes 50 men. This number is by far too small to carry out an assault on a large-

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size building, such as a hotel or on a compound of a size similar to the one encountered in Waco, especially if such a target is occupied by a relatively large terrorist team. A 50-men force is also hardly enough for a rescue assault on a large commercial aircraft, e.g., Boeing 747. Terrorist teams consisting of more than 10 persons have taken hostages or tried to do so in quite a few cases, in several countries. One also has to take into account the possibility of several orchestrated hostage incidents taking place concurrently. An American example of this kind was the 1977 Hanafi event in Washington D.C., in which three buildings were concurrently occupied: City Hall, the B'nai B'rith building and a mosque.

The current HRT solution to its shortage of rescue assault power is to use local FBI SWAT teams as reinforcement or to summon the military Delta force for help. None of these solutions is satisfactory. A hostage rescue force must be composed of an integral unit, whose members are highly familiar with each other and trained to work together like a well-oiled machine. This cannot be the case when the assault force is composed of several units. Furthermore, the SWAT teams' men are less rigorously selected and less well trained for carrying out hostage rescue missions. Their use in complex situations is certainly a compromise. The use of Delta force has other drawbacks: the

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application of a military unit to a situation which is basically a police problem is not a perfect solution, although several countries, including the U.K., Israel and the Netherlands have used it. In my view, it is necessary to triple the size of HRT.

In numerous incidents, Middle Eastern groups have posed short deadlines, in the range of several hours. If the times of making the decision to call the HRT, getting the unit airborne and flight from the East Coast to the West Coast are added, it may well be ten hours before the unit can get to the scene, and perhaps 12 hours before it is ready for assault. This may be too late. A possible solution would be to have HRT units in several places across the United States. This kind of solution obviously involves major organizational and budget problems. However, the potential cost of deciding to leave the present situation as is should be clear.

#### Negotiation Team

The need for an integral unit applies, in my view, to a negotiation team as much as it does to an assault force. At present, the FBI does not have a central negotiation team and relies on negotiators at the Field Offices. These negotiators, albeit highly capable, cannot immediately function as an integral unit when they are

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assembled to form a negotiation team in a major incident, such as the one in Waco. Furthermore, the field negotiators cannot be expected to be equally well-trained in all types of hostage incidents. A central negotiation team, whose time is totally dedicated to this subject, may develop a more comprehensive expertise.

The same geographical and time-on-the-scene considerations which were mentioned with regard to the HRT also apply to the negotiation team.

Integration of All Elements into One Unit

It is desirable to integrate the three tactical elements of SIRS (namely: assault unit, negotiation and intelligence) into one unit. This integration will provide a better foundation for collaboration, both in doctrine formation and training and in actual incidents. It will also save resources by the sharing of research and analysis support.

The Commander on Site

The handling of a major barricade incident requires special expertise, which most Special Agents in Charge do not possess. It



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is advisable, in my view, that the event's on site commander will be a person who is well versed in the nature of this kind of incidents and familiar with the details of the capabilities for handling it. When this kind of very complex, very sensitive situation occurs, the government has to put the most experienced and best trained person in charge. The natural candidate for this task is the commander of the joint FBI SIRS unit (if the recommendation for establishing this kind of unit is adopted). The SAC, who is better acquainted with the local conditions, should be put in charge of arrangements for local support (liaison with local law enforcement units and various logistical needs).

**Research and Analysis**

There is an urgent need to augment the research and analysis capability of the SIRS. At present, negotiation research and analysis are carried out by two persons at Quantico, who are also charged with other tasks. I strongly recommend to fortify this unit, so as to enable it to perform the following:

1. Establish a computerized data base of all kinds of siege incidents, drawing upon U.S. as well as foreign sources. This data base should provide full details of the characteristics of potential perpetrators of siege incidents (such as specific

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terrorist groups and cults) and, in particular, information on their conduct in hostage incidents. It should also contain full details of siege incidents in the U.S. and abroad. Information of this kind can be obtained concerning terrorist groups which may be considered as potential perpetrators of hostage events in the U.S., such as most Middle Eastern terrorist groups. It may be of considerable value in both training for and real-time managing of hostage incidents.

2. Relying on the information contained in the data base, the research unit should carry out systematic analysis of the incidents, draw lessons and introduce necessary changes in negotiation and rescue assault procedures. These research and analysis capabilities should serve both the HRT and the negotiation team. The results of some of this research should also be disseminated to other interested government agencies.

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September 3, 1993

Philip B. Heymann  
Deputy Attorney General  
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and

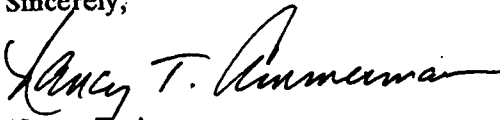
Ronald K. Noble  
Assistant Secretary for Enforcement  
Department of the Treasury  
1500 Pennsylvania Ave., NW  
Washington, DC

Dear Mr. Heymann and Mr. Noble:

I am enclosing herewith my report and recommendations regarding the review of events in Waco. I want to express my appreciation to you and to your staffs for their openness and helpfulness throughout this process.

If you have any questions, or if I can be of any further assistance, please do not hesitate to call.

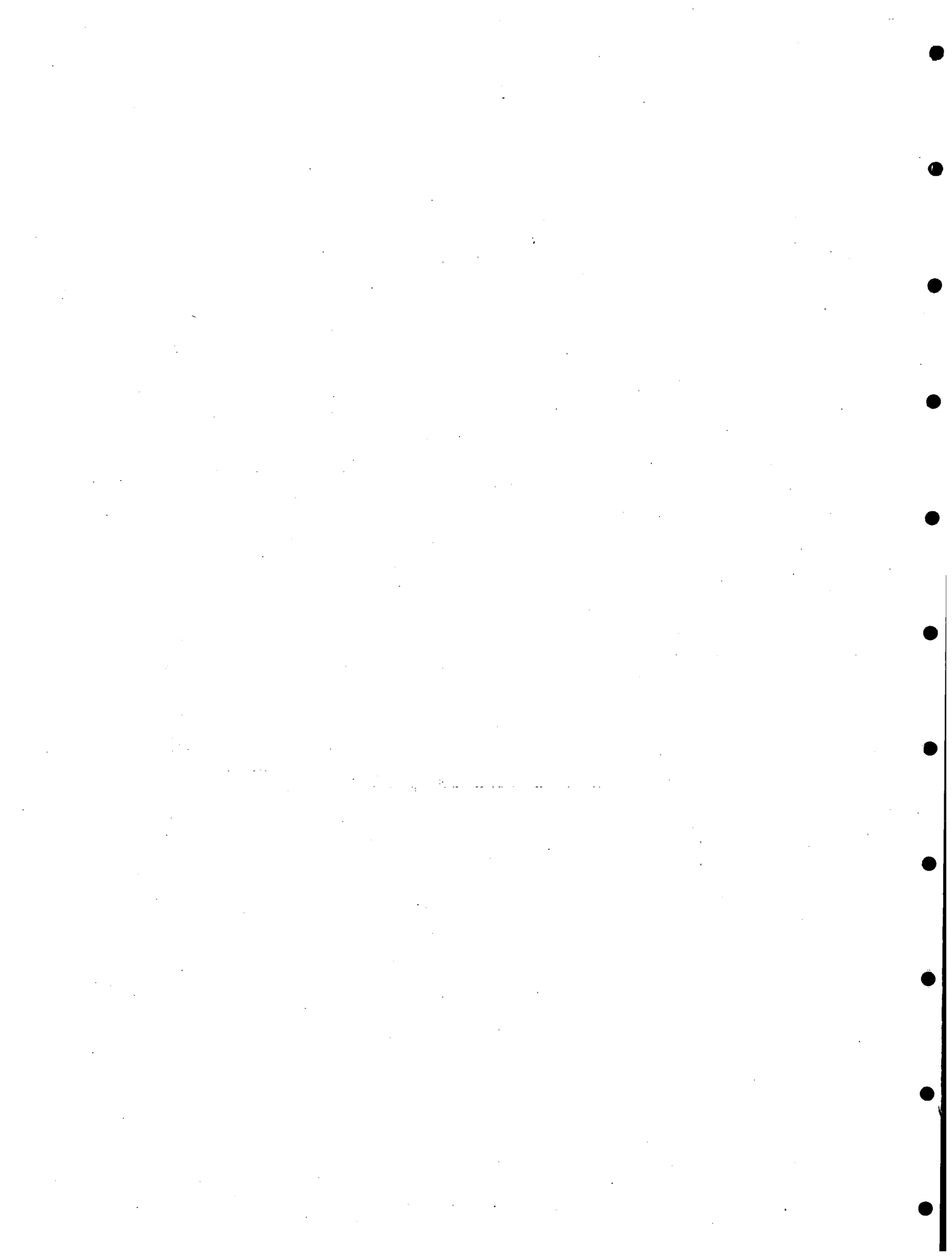
Sincerely,

  
Nancy T. Ammerman  
Visiting Scholar

EXECUTIVE SECRETARIAT

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**REPORT TO THE JUSTICE AND TREASURY DEPARTMENTS**  
regarding law enforcement interaction with the Branch Davidians in Waco, Texas  
submitted by Nancy T. Ammerman  
September 3, 1993

The following report and recommendations are based largely on oral briefings conducted on July 1-2 at the Justice Department, as well as on August 3 at the Treasury Department and at the FBI Training Academy at Quantico. In addition, I have had access to a number of other sources. We were supplied with background information on many of the persons in the Investigative Support Unit, and I was supplied with a list of the experts consulted by the FBI during the affair. I have consulted with academic colleagues and have reviewed a good deal of the academic literature on New Religious Movements. Various political and lobbying groups have sent me information. I talked with Glenn Hilburn at Baylor, and I spent two hours with Pete Smerick and Gregg McCrary at the FBI Academy.

I do not pretend that this represents a full accounting of what happened at Waco. That has not been my aim. Rather, what follows attempts to assess the nature and quality of the expert advice available to the agencies involved in this situation and to make some suggestions about how that advice might better be utilized in the future.

**I. What information sources were available in the Waco affair?**

**A. The Bureau of Alcohol Tobacco and Firearms.** In the months that led up to the February 28 attempted "dynamic entry" at the Branch Davidian compound, the Bureau of Alcohol, Tobacco, and Firearms (BATF) apparently failed to solicit any social science background information about the nature of the group with which they were dealing. BATF has no internal behavioral science division and did not consult with any other behavioral science persons within the government. Nor did they consult with outside persons in religious studies, sociology of religion, or psychology of religion. There were, for instance, persons in the Baylor University Department of Religion who had studied this particular group for much of its history; they were not consulted. Investigators reviewing the Waco incident have repeatedly told us that BATF simply did not consult with anyone who might be considered an "expert" on this group or groups like it.

In their attempt to build a case against the Branch Davidians, BATF did interview persons who were former members of the group and at least one person who had "deprogrammed" a group member. Mr. Rick Ross, who often works in conjunction with the Cult Awareness Network (CAN), has been quoted as saying that he was "consulted" by the BATF. My suspicion is that he was merely one among many the BATF interviewed in its background checks on the group and on Koresh. However, it is unclear how information gained from him was evaluated. The Network and Mr. Ross have a direct ideological (and financial) interest in arousing suspicion and antagonism against what they call "cults". These same persons seem to have been major sources for the series of stories run by the Waco newspaper, beginning February 27. It seems clear that people within the "anti-cult" community had targeted the Branch Davidians for attention.

Although these people often call themselves "cult experts," they are certainly not recognized as such by the academic community. The activities of the CAN are seen by the National Council of Churches (among others) as a danger to religious liberty, and deprogramming tactics have been increasingly found to fall outside the law. At the very least, Mr. Ross and any ex-members he was associated with should have been seen as questionable sources of information. Having no access to information from the larger social science community, however, BATF had no way to put in perspective what they may have heard from angry ex-members and eager deprogrammers.

## **B. The Federal Bureau of Investigation.**

**1. Outside consultants.** After the failed raid, handling of the crisis passed to the Federal Bureau of Investigation (FBI). They had a much broader array of information available, although they still failed to consult a single person who might be recognized by the social science community as an expert on the Branch Davidians or on other marginal religious movements (sometimes called "cults"). The official list of outside experts consulted, compiled by the investigative team, includes three persons in the field of psychiatry who have been regular consultants to the FBI on other cases (Murray Myron, Syracuse University; Joseph Krofcheck, Yarrow Associates; Park Dietz, University of California San Diego). From my conversations with the persons in the National Center for the Analysis of Violent Crime (NCAVC) who worked with the negotiators at Waco, I believe that these three persons were the most frequently consulted experts throughout the siege. Dietz assisted in writing the profile of Koresh. Others apparently assisted in recommending strategies to the negotiators and tacticians.

It is unclear which of these consultants (if any) recommended the psychological warfare tactics (Tibetan chants, sounds of rabbits dying, rock music, flood lights, helicopters hovering, etc.). None of the persons associated with NCAVC with whom I have talked claims to have favored these tactics, but no one was willing to say who recommended them or how the decision was made to use them.

Three other persons were apparently called in for specific, limited, consultations. Because he was examining the children who were leaving the compound, Bruce Perry, a Baylor Medical School psychiatrist, was consulted. A pastor in Virginia (Douglas Kittredge) was consulted on one occasion, offering assistance in interpreting the scriptural references being used by Koresh. And CBN talk show host Craig Smith was consulted regarding the airing of the Koresh tape.

Finally, one person in religious studies was consulted by the Bureau--Glenn Hilburn, chair of the Religion Department at Baylor. He was contacted about one week after the initial raid and was asked especially for help in interpreting Koresh's ideas about the "seven seals." He offered the negotiators basic tools for interpreting scripture (a set of commentaries and concordances) and consulted with them on a number of occasions about various biblical interpretations. While Hilburn is a reputable scholar in church history, he would never claim to be an expert on the Davidians or on other marginal religious movements. He often offered to help the Bureau get in touch with others who might offer such expertise, but he was not asked to do so. For instance, Prof. Bill Pitts, also of the Baylor faculty, had studied the history of the Davidians, but was not consulted by the FBI. Nor did they seek Prof. Hilburn's help in locating others, outside the Baylor faculty, who might help.

In my judgment, this list of outside consultants is sorely wanting. The psychiatrists who were most intimately involved are undoubtedly experienced in helping the FBI understand "the criminal mind." This however, was a very different situation, and we have no evidence that any of these men had background or experience in dealing with a high-commitment religious group. The only experts in religion that were consulted lacked the kinds of expertise necessary for understanding the dynamics of a marginal religious movement.

One of the dilemmas faced by the Waco negotiators was the problem of assessing the potential helpfulness of outside experts. Agents on the scene in Waco described their situation as information overload. One person referred to the threat of "fax meltdown." Not only were they receiving constant information about the situation as it unfolded, they were also being bombarded with offers of help from all sorts of unknown sources. Many of these were judged to be "crack pots." Others were probably legitimate and potentially helpful persons. However, the persons on

the scene had no way to evaluate this information. With no one in the scholarly community at their disposal to help evaluate the credentials and experience of these persons, they were forced simply to discount everything they received.

**Conclusions.** Since the BATF consulted no outside experts and the FBI consulted only a limited roster, both agencies were then relying primarily on their own internal capabilities. As we have seen, BATF has no internal behavioral science personnel. As a result, all of their planning was based on building up a legal case against the group and planning a para-military type assault on the compound. In that atmosphere, I believe, it became easy to lose sight of the human dynamics of the group involved, to plan as if the group were indeed a military target. It also discouraged the BATF from seeking other forms of intervention in the group. Quite simply, the agency pursued the line of action--armed assault--for which they were best equipped. If they had been better equipped to pursue interventions based on human science advice, they might have acted differently.

**2. Internal advice.** The FBI, on the other hand, did have solid Behavioral Science advice available internally. The Behavioral Science Services Unit, especially its Investigative Support Unit, at the NCAVC, houses a number of people with considerable working knowledge of marginal religious groups. For instance, Gregg McCrary, in the Criminal Investigative Analysis subunit, is well-informed in this area and was on the scene in Waco throughout much of the siege. While no one there would be considered an "expert" by the usual standards of scholarship (academic credentials and publication, that is), several have done sufficient reading to have a good basic knowledge of the nature of religious groups. They know that religious beliefs have to be taken seriously, and they know that it takes more than understanding an individual personality to understand the dynamics of a group. They could benefit from additional training and from access to reliable outside experts (about which I will say more below), but they had the basic social science knowledge they needed to analyze this situation.

In the early days of the siege, Pete Smerick (along with outside consultant Park Dietz) put together a profile of David Koresh and of the group. They used materials gathered by the BATF, but knew they should weigh carefully the reports from former members.

Based on that assessment, Smerick (with Special Agent Mark Young) wrote on March 5, in a memo to his superiors (the Special Agents in Charge at Waco and people in headquarters in Washington),

...For years he [Koresh] has been brainwashing his followers for this battle [between his church and his enemies], and on February 28, 1993, his prophesy came true.

As of March 5, 1993, Koresh is still able to convince his followers that the end is near and, as he predicted, their enemies will surround them and kill them.

In traditional hostage situations, a strategy which has been successful has been negotiations coupled with ever increasing tactical presence. In this situation, however, it is believed this strategy, if carried to excess, could eventually be counterproductive and could result in loss of life.

Every time his followers sense movement of tactical personnel, Koresh validates his prophetic warnings that an attack is forthcoming and they are going to have to defend themselves. According to his teachings, if they die defending their faith, they will be saved.

On March 7, Smerick and Young listed the psychological warfare tactics available to the FBI, but cautioned that these options "would also succeed in shutting down negotiations and convince Koresh and his followers that the end is near." On March 8, the same pair cautioned that the Mt. Carmel compound was for the Davidians sacred ground, something they were likely to defend against the intrusions of people they considered evil (the federal government). Summarizing the

arguments of people using primarily "criminal" or psychological categories to explain Koresh, they wrote,

It has been speculated that Koresh's religious beliefs are nothing more than a con, in order to get power, money, women, etc., and that a strong show of force (tanks, APC's, weapons, etc.) will crumble that resolve, causing him to surrender. In fact, the opposite very well may also occur, whereby the presence of that show of force will draw David Koresh and his followers closer together in the "bunker mentality", and they would rather die than surrender.

They go on to detail the way in which FBI actions are playing into the prophetic scheme of Koresh, warning that "we may unintentionally make his prophesy [death, or the "fourth seal"] come true, if we take what he perceives to be hostile or aggressive action." They note that "mass suicide ordered by Koresh cannot be discounted." Then, following their logic through to its conclusion, they point out that "one way to take control away from him is to do the opposite of what he is expecting. Instead of moving towards him, we consider moving back. This may appear to be appeasement to his wishes, but in reality, it is taking power away from him. He has told his followers that an attack is imminent, and this will show them that he was wrong."

It is my belief that this understanding of Koresh's ideas was basically accurate and that their assessment of his likely behavior was on target. While outside experts might have refined this picture and added nuance to the assessment, the basic direction of the FBI's own behavioral analysts was sound.

## II. How was behavioral science advice utilized in Waco?

Clearly the advice of these agents was not heeded. Why? The answer to that question takes us first to the structure of command and second to the culture and training of the Bureau itself.

Most basically, people representing the Behavioral Sciences Unit were out-ranked and out-numbered. Within the command structure, people from the Hostage Rescue Team carried more weight than people who were negotiators. In addition, it is evident that people from the tactical side were simply trusted more and more at home with the Special Agents in Charge (SACs) in Waco.

As I understand it, the SACs for this operation were chosen on the basis of proximity, not on the basis of any special training or experience for an operation like this. Understandably, their primary skills are in the apprehension of criminals and in the management of personnel. Under normal circumstances, they can count on key assistance in apprehension of criminals from their SWAT teams and from Hostage Rescue Teams, and predictably they listened most closely to people who spoke the language of forceful tactics. This was the territory in which they were most comfortable, possibly the direction in which they perceived the most potential rewards. There was an understandable desire among many agents in Waco to make Koresh and the Davidians pay for the harm they had caused. Arguments for patience or unconventional tactics fell on deaf ears.

Those ears were deaf for a number of reasons, many of which have to do with the training and culture of the Bureau. In all likelihood, these SACs had had no behavioral science training since their very early days training as agents. And then, they were very unlikely to have heard anything about religious belief systems of group dynamics. Their entire professional world has been constructed (understandably) around understanding and out-maneuvering criminals. They think (again, understandably) in terms of individual behavior (hence the near exclusive focus on Koresh, rather than on the group) and on criminal wrong-doing (hence the label sociopath for someone



seen as dangerously at odds with society's norms). Little, if anything, in their previous experience prepared them for the kind of situation Mt. Carmel presented them.

The tendency to discount the influence of religious beliefs and to evaluate situations largely in terms of a leader's individual criminal/psychological motives is, I believe, very widespread in the Bureau. In our initial briefings with Daniels, Johnson, Wright, Noesner, and Uteg, the consensus around the table was that when they encountered people with religious beliefs, those beliefs were usually a convenient cover for criminal activity. While they were willing to consider that this case might have been different, they were still not convinced that Koresh was anything other than a sociopath who had duped some people into helping him carry out aggressive criminal activity. They continued to refer to the people in the compound as hostages, failing to recognize the free choice those people had made in following Koresh.

Behavior science advice, then, failed to get an adequate hearing. In the culture of the law enforcement community, neither training nor experience prepares agents for taking behavioral scientists seriously. And in the crisis situation, behavioral scientists are out-ranked and out-numbered. As a result, those in charge dealt with this situation as if it were one more familiar to them--a criminal committing illegal acts for personal gain for whom the threat of force is a significant deterrent.

### **III. What, in hindsight, should the BATF and the FBI have taken into consideration in dealing with the Branch Davidians?**

**1. They should have understood the pervasiveness of religious experimentation in American history and the fundamental right of groups like the Davidians to practice their religion.** On that score, they might have benefitted by reading Jon Butler's *Awash in a Sea of Faith: Christianizing the American People* (Cambridge: Harvard University Press, 1990), in which he gives a detailed portrait of the breadth of religious belief and practice in early America. Catherine Albanese's *America: Religion and Religions* (Wadsworth, 1992) does the same up through the present. We have simply been a very religious people, and there have always been new and dissident religious groups challenging the boundaries of toleration.

And alongside all that religious fervor and experimentation has been our First Amendment guarantee of religious liberty. Only when there is clear evidence of criminal wrong-doing can authorities intervene in the free exercise of religion, and then only with appropriately low levels of intrusiveness. For a critical look at the regulatory issues raised by new and marginal religious groups, an article by David Bromley and Thomas Robbins, "The Role of Government in Regulating New and Nonconventional Religions" (Pp. 205-241 in *The Role of Government in Monitoring and Regulating Religion in Public Life*, edited by James Wood and Derek Davis. Waco, Texas: Baylor University Press, 1992) might have proven helpful to agents planning a raid on the Waco compound.

**2. They should have understood that new or dissident religious groups are often "millennialist" or "apocalyptic".** That is, they foresee the imminent end of the world as we know it and the emergence of a new world, usually with themselves in leadership roles. Among the many books and articles that would have helped agents understand such beliefs are Paul Boyer's *When Time Shall Be No More: Prophecy Belief in Modern American Culture* (Cambridge: Harvard University Press, 1992); Susan J. Palmer and Natalie Finn's 1992 article "Coping with Apocalypse in Canada: Experiences of Endtime" (*Sociological Analysis* 53(4, winter):397-415); and Roy Wallis's edited book *Millennialism and Charisma*. (Belfast: Queen's University, 1982), especially the chapters by Balch and by Wallis.

3. **They should have understood that the usual fate of new religious movements is quiet extinction through natural causes.** Only a fraction of those that begin survive as a group more than a few years, and an even smaller fraction make it through the crisis that is precipitated by the natural death of the leader. For helpful background on factors in the success and failure of such groups, I would suggest the articles by Stark and by Wilson in David Bromley and Phillip Hammond's edited volume *The Future of New Religious Movements* (Macon, Georgia: Mercer University Press, 1987).

4. **They should also have understood that new groups almost always provoke their neighbors.** By definition, new religious groups think old ways of doing things are at best obsolete, at worst evil. Their very reason for existing is to call into question the status quo. They defy conventional rules and question conventional authorities. Not surprisingly, then, new groups often provoke resistance. A number of social scientists have examined the relationship between marginal religious groups and the surrounding society. Among the most helpful are Charles Harper and Bryan F. Le Beau's 1993 article, "The Social Adaptation of Marginal Religious Movements in America." (*Sociology of Religion* 54(2, summer):171-192); James T. Richardson's 1993 article "Definitions of Cult: From Sociological-Technical to Popular-Negative" (*Review of Religious Research* 34(4, June):348-356); and the book Richardson edited with Joel Best and David G. Bromley, *The Satanism Scare* (New York: Aldine de Gruyter, 1991). These sources help to put groups like the Cult Awareness Network in context. Such groups are organized "anti-cult" responses that make predictable charges (such as child abuse and sexual "perversion") against groups that are seen as threatening. It is important to see that new religious groups are usually more threatening to cherished notions about how we all ought to order our lives than to our physical well-being.

The corollary to their provocation of neighbors is that they themselves are likely to perceive the outside world as hostile. This almost always takes the form of rhetoric condemning the evil ways of non-believers, and that rhetoric can sometimes sound quite violent. It may also be supplemented by rituals that reinforce the group's perception that they are surrounded by hostile forces (thus reinforcing their own sense of solidarity and righteousness). It is at least *possible* that rhetoric about the BATF as the Davidians' arch-enemy, the purchase of guns, and practicing with those guns served just such rhetorical and ritual purposes. That is, as the group talked about the evils of the federal government and went through the ritual motions of rehearsing a confrontation with their enemies, they may have been reinforcing their own solidarity more than they were practicing for an anticipated actual confrontation. The irony, of course, is that their internal group rhetoric and ritual did eventually come true.

5. **They should also have understood that many new religious movements do indeed ask for commitments that seem abnormal to most of us, and those commitments do mean the disruption of "normal" family and work lives.** Most of us are accustomed to seeing religion as relevant only to portions of our lives, with wide areas of decision-making (from marriage partners to what we do at work) kept neatly out of the reach of religious authorities. However, throughout much of the world and throughout much of human history, such neat divisions have not been the norm. People have lived in tightly-knit communities in which work, family, religion, politics, and leisure (what there was of it) fell under one domain. Taking the long view, not belonging to such a community is more abnormal than belonging to one. No matter how strange such commitments may seem to the rest of us, they are widely sought by millions of people. A number of social scientists have written accounts of everyday life in such religious groups, and those accounts can help readers to understand the sense of coherence and belonging that outweigh, for the believers, any freedom of choice they give up. One such recent book is David Van Zandt's *Living in the Children of God* (Princeton: Princeton University Press, 1991).

6. They should also understand that the vast majority of those who make such commitments do so voluntarily. The notion of "cult brainwashing" has been thoroughly discredited in the academic community, and "experts" who propagate such notions in the courts have been discredited by the American Psychological Association and the American Sociological Association. While there may be real psychological needs that lead persons to seek such groups, and while their judgment may indeed be altered by their participation, neither of those facts constitutes coercion.

An review of the legal issues surrounding allegations of brainwashing can be found in James Richardson's 1991 article, "Cult/Brainwashing cases and freedom of religion" (*Journal of Church and State* 33:55-74). Alternative views on the process of joining (and leaving) new religious movements can be found in David Bromley and Anson Shupe's 1986 article, "Affiliation and Disaffiliation: A Role Theory Interpretation of Joining and Leaving New Religious Movements" (*Thought* 61:197-211); Stuart Wright's *Leaving Cults* (Washington: Society for the Scientific Study of Religion, 1987); and Eileen Barker's award-winning 1984 book *The Making of a Moonie: Choice or Brainwashing?* (Oxford: Blackwell).

7. They should have understood the ability of a religious group to create an alternative symbolic world. Ideas about "logic" as we know it simply do not hold, but that does not mean that the group has no logic. The first dictum of sociology is "Situations perceived to be real are real in their consequences." No matter how illogical or unreasonable the beliefs of a group seem to an outsider, they are the real facts that describe the world through the eyes of the insider.

8. The agents should have understood that "charisma" is not just an individual trait, but a property of the constantly-evolving relationship between a leader and followers. The leader is a prophet only so long as members believe him (or her) to be so. And those beliefs are sustained by the constant interplay between events and the leader's interpretation of them. So long as the leader's interpretations make sense of the group's experience, that leader is likely to be able to maintain authority. These interpretations are not a fixed text, but a living, changing body of ideas, rules, and practices. Meaning emerges daily in the interaction of sacred texts (in this case the Bible), events, and the imagination of leader and followers. Only in subsequent generations are religious prescriptions likely to become written orthodoxies.

Among the sources that might have helped in understanding charisma is Timothy Miller's edited book, *When Prophets Die: The Postcharismatic Fate of New Religious Movements* (Albany: SUNY Press, 1991). In his introductory essay in that volume, J. Gordon Melton writes that the first generation of a new group is "a time of experimentation and rapid change. The leader must discover the right elements to combine in a workable program, generate solutions to unexpected obstacles, choose and train capable leaders, and elaborate upon the initial ideas or vision that motivated the founding of the group....The group formally or informally gives feedback in the form of approval or disapproval of the leader's actions. The most successful leaders are continually adjusting and reacting to that feedback" (p. 11). Other essays in that book examine the relationship between groups and their charismatic founders, from the Shakers to the Moonies.

Understanding that the relationship between leaders, followers, and practices is a fluid one might have led agents to take more seriously the possibility of suggesting alternative apocalyptic interpretations to Koresh. Such a strategy was suggested (and attempted) by Houston theologian Phillip Arnold and University of North Carolina professor James Tabor. In "The Waco Tragedy: An Autobiographical Account of One Attempt to Avert Disaster" (forthcoming in *From the Ashes: Making Sense of Waco*, edited by James R. Lewis and published by Rowman and Littlefield), Tabor writes that after considerable study of the interpretations being offered by Koresh, they concluded that alternative scenarios--still within his system of symbols--were possible. They hoped that he might reinterpret the "little season" of Revelation 6:11 as an extended period of time, that he might see himself as the writer of the "little book" mentioned in Revelation 10:11--

and, most importantly, that he might use those reinterpretations to ask for a delay while he wrote down his insights about the seven seals. Koresh's response to their radio broadcast and tape indicated that he indeed had taken up this interpretive possibility and had begun to work on a book. In a letter sent out on April 14, he said that "as soon as I can see that people like Jim Tabor and Phil Arnold have a copy, I will come out and then you can do your thing with this beast." That he was indeed working on such a book is demonstrated by the existence of a computer disk brought out by one of the survivors who had been typing for him on the day before the fire. Ironically, it was the actions of the FBI on April 19 that evidently forced Koresh to return to his earlier interpretation of the texts--namely that the next event in the unfolding prophetic calendar would be death for his group, rather than a delay while he wrote his book.

**8. And, of course, as soon as the possibility of mass martyrdom became evident, they should have reviewed the events of Jonestown.** There, too, an exceptionally volatile religious group was pushed over the edge, inadvertently, by the actions of government agencies pushed forward by "concerned families". The best account of the Jonestown tragedy is John R. Hall's 1987 book, *Gone from the Promised Land: Jonestown in American Cultural History* (New Brunswick: Transaction). Also helpful is David Chidester's 1988 account of the religious dynamics of the People's Temple, *Salvation and Suicide: An Interpretation of Jim Jones, the Peoples Temple and Jonestown*. (Bloomington, Ind.: Indiana University Press).

**9. Finally, they should have understood that any group under siege is likely to turn inward, bonding to each other and to their leader even more strongly than before.** Outside pressure only consolidates the group's view that outsiders are the enemy. And isolation decreases the availability of information that might counter their internal view of the world. In this case, the federal government already enjoyed a particularly condemned place in the group's worldview. Taking that fact seriously might have changed the minds of federal agents who argued that using outside negotiators is always a mistake. Persons other than federal agents might have been able to assume a genuine third-party position in this case, translating and mediating between Koresh and the outside world. It is ironic to note that the one similar situation the FBI could point us to, in which they successfully negotiated a peaceful surrender, involved the use of an outside negotiator.

In this case, federal negotiators had a difficult time convincing Koresh to take them seriously. But even when they did, their talking strategies were constantly undermined by the actions of the tactical teams. Any success negotiators had in winning the group's confidence was completely undermined by continuing application of tactical pressure. If such pressure had been a specific response to a specific failure of Koresh to respond to negotiating proposals, it might have had some coherent psychological effect. However, such was never the case. Pressure from encroaching tanks, psychological warfare tactics, and the like, continually worked at cross-purposes with the negotiating strategies. This outside pressure only increased the paranoia of the group and further convinced them that the only person they could trust was Koresh.

#### **IV. What outside experts might they have consulted?**

I am attaching to this report a copy of a letter from the Society for the Scientific Study of Religion which includes several names and addresses of people recognized by that academic organization as experts on new, marginal, and high-commitment religious groups. I am also including in that appendix several additional names of persons whose research I have found helpful.

In addition, to help in locating experts and in evaluating the credentials of volunteer "experts", law enforcement agencies can turn to the American Sociological Association, the American Psychological Association, the American Psychiatric Association, the Association for the Sociology of Religion, or the Society for the Scientific Study of Religion.

**V. Conclusions.** Knowing these things might not have changed the outcome in Waco. It is unclear to me whether any negotiating strategy could have succeeded in getting most or all of the members to leave the compound. However, paying attention to these basic facts about the nature of religious groups would at least have enabled federal agents to have a clearer picture of the situation they were in. They were not in a hostage rescue situation. They were in a tragic stand-off with a group for whom they were already the enemy foretold to destroy them.

**VI. Recommendations.** In order for this sort of thinking to become available in future situations, several modes of access seem important.

**1. Basic training.** The training for all agents should include units in the behavioral sciences and units that give attention to the nature of political and religious groups. These units should emphasize both the rights of such groups to exist unhindered and the characteristics of high-commitment groups that may be relevant to future efforts at law enforcement. Such units should be aimed not so much as making every agent an expert as at sensitizing agents to the complex human dimensions of the situations in which they may find themselves. When they hear behavioral scientists advising them later, it will not be the first time they have heard such voices in the law enforcement community.

**2. Advanced training.** Incidents like Waco are, fortunately, relatively rare. Not everyone in federal law enforcement needs to be an expert on such situations. However, it appears that there is a need for a standing group of specialists in managing this sort of crisis. Rather than turning to whoever happens to be the local SAC, the FBI (and similar federal agencies) should have a small corps of crisis managers available. These persons should have received advanced training both in the various tactical measures at their disposal and in the insights available to them from the behavioral sciences.

**3. Training and expertise for other federal agencies.** An expanded Behavioral Sciences unit, perhaps not lodged in a single agency, might make a broader pool of behavioral science information available on a regular basis to all federal law enforcement agencies. I was particularly struck by the fact that ATF has no such unit. No one ever had the responsibility of imagining what the people in the compound were like, how they might be thinking, etc. With dozens of federal law enforcement agencies, it would not be cost effective to set up behavioral science units in each one, but all of them need such expertise available to them.

**4. A broader pool of "experts" who can be consulted.** Not all sorts of expertise are needed all the time. But agencies should not be caught in a moment of crisis wondering who to call and how to assess the credentials of those who call them. It is essential that behavioral scientists inside federal law enforcement and behavioral scientists in the academic community forge expanded working ties. People in law enforcement have for too long distrusted the "ivory tower" position of academics who do not have to make "real world" decisions. They have too long insisted that only someone who is really an insider to law enforcement can give them advice. For their part, academics have for too long discounted the experience and wisdom of persons working in law enforcement because it did not come in standard academic packages. It is my sense that this incident provides an opportune moment for overcoming both those problems. Law enforcement people are more aware than ever of the need for additional insight and training, and academics are more aware of their obligation to the public.

That new cooperation might take a number of forms. The various training facilities for federal law enforcement might host a series of consultations in which a small group of academics and a small group of agents work together for 2-3 days on problems and potential problems facing

law enforcement. Academics, for their part, might organize sessions at annual professional meetings at which such questions are raised and to which law enforcement people are invited. In addition, people teaching in the various academies should be encouraged to read more widely and to draw in outside experts whenever possible. Such on-going collaboration would have the benefit of acquainting the two communities with each other so that each would be better prepared for cooperation in a time of crisis.

Most concretely, it is essential that federal law enforcement develop an expanded list of experts on which it can call. These people need not be on contract. They simply need to be people the agencies already know to be legitimate, reliable, and willing to cooperate with them. The sorts of activities I am suggesting above would aid in the development of such a list. In addition, the various professional associations could also be helpful. It is essential that persons in federal law enforcement use this occasion to think pro-actively about the kinds of situations they are likely to encounter in the future and to seek out now the expertise they will need in confronting those situations.

## **VI. A last word.**

Finally, the presence of expert knowledge is of no use if behavioral scientists are kept marginal to the actual decision-making being done. For knowledge about human behavior to have any effect, scientists must be involved early and often. They must have at least as much "clout" in a situation as the person commanding the firepower. And, it is my sense that it may be important for the behavioral scientists to have some autonomy, to be something of an outside eye. Once a team of enforcement persons has begun to formulate a plan for dealing with a group, that plan is likely to take on a life of its own. The same dynamics that hold the religious group together also hold the enforcement group together. They are as determined to stick together against their "enemy" as is the group they are facing. Having a built-in "yellow flag" can sometimes avoid catastrophe.



April 29, 1993

The Honorable Janet Reno,  
U.S. Attorney General  
Main Justice Building  
10th and Constitution Avenue, N.W.  
Room 5111  
Washington, D.C. 20530

Dear Attorney General Reno:

I am writing to you in behalf of the members of the Society for the Scientific Study of Religion (SSSR). We are a scholarly organization composed mostly of social and behavioral scientists affiliated with colleges and universities in the United States and abroad. SSSR enjoys the participation of our members primarily on the basis of their mutual interest in studying religious institutions and religious experience within the rigorous constraints of a scientific perspective. (The enclosed fliers tell a little more about who we are.)

We share your revulsion over the tragic events involving the Branch Davidian community near Waco, Texas. And we were glad to hear that you intend for your offices to learn more about cults and other new religious movements in the United States. That is the main purpose in my writing you today.

It is clear that since the fire the media have been exploiting the situation for their own purposes. In pursuing their stories, they have interviewed and otherwise presented the opinions of a variety of persons identified as authorities on the subject of cults and sects mostly in the United States. Many of these persons consulted as "experts" represent a very narrow perspective on such groups and movements, i.e. the frame of reference of the anti-cult movement. We want you to know that there are important other perspectives from which to examine such groups and their activities.

Some of our members can be of great help to you in the process of developing greater understanding of sects and cults. Several social scientists who participate in SSSR have devoted major portions of their scholarly activity to analyses of particular groups as well as religious movements in general. I believe those individuals can make a significant contribution to your search for information and especially for perspective on those groups. Should you wish to take advantage of their knowledge and

insight, you might contact one or more of the persons listed below. The list of names is not exhaustive, but it does include most of the leading scholars working in this area. They can provide names of other persons should you wish to have that information.

Professor David G. Bromley  
Department of Sociology  
Virginia Commonwealth Univ.  
Richmond, VA 23284

Professor James T. Richardson  
Department of Sociology  
University of Nevada  
Reno, NV 89557

Professor Jeffrey K. Hadden  
Department of Sociology  
University of Virginia  
Charlottesville, VA 22901

Professor Arthur L. Greil  
Alfred university  
Box 545  
Alfred, NY 14802

Dr. Thomas Robbins  
College Apts. 8-A  
427 4th St. SW  
Rochester, MN 55902

Professor J. Gordon Melton  
Intitute for Study of American  
Religion  
Box 9079  
Santa Barbara, CA 93190-0709

Professor Anson Shupe  
Department of Sociology  
Indiana Univ.-Purdue Univ.  
Fort Wayne, IN 46805

Professor Stuart A. Wright  
Department of Sociology  
Lamar University  
P.O. Box 10026, Lamar Station  
Beaumont, TX 77710

Professor Rodney Stark  
Department of Sociology, DK-40  
University of Washington  
Seattle, WA 98195

Dr. William Simms Bainbridge  
Director, Sociology Program  
National Science Foundation  
1800 G Street, NW, Room 336  
Washington, D.C. 20550  
(phone 202-357-7802)

The study of new religious movements is also quite active in the United Kingdom and elsewhere. Two persons in England who are especially knowledgeable about such groups are:

Professor Eileen Barker  
Department of Sociology  
London School of Economics  
Houghton Street  
Aldwych  
London WC2A 2AE  
United Kingdom

Professor James Beckford  
Department of Sociology  
University of Warwick  
Coventry CV4 7AL  
United Kingdom

It may also interest you to know that the British Government has established an office devoted to dealing with possible problems in dealing with sects and cults. They are explicitly organized to consult with these scholars studying sect and cult phenomena in order to take advantage of their insights when a need arises.



I suspect that either Professor Barker or Professor Beckford could give you more detailed information about that structure.

Finally, I would invite your attention to three prominent scholarly journals that regularly publish articles reporting research on sects, cults, and new religious movements. They are:

The Journal for the Scientific Study of Religion  
(published by our Society -- SSSR)

Sociology of Religion  
(published by the Ass'n for the Sociology of Religion)

The Review of Religious Research  
(published by the Religious Research Association)

These journals can be found in virtually any university library.

Again, we are pleased that you plan to direct the Justice Department to obtain more information and perspective on sects, cults, and other religious movements. I think you will find the resources named above to be very helpful in that quest. Please contact me if you think I can be of assistance.

Sincerely,



Edward C. Lehman, Jr.  
Executive Secretary

ECL:1

**Additional experts on new and marginal religious groups**

**Prof. Robert Balch**  
Department of Sociology  
University of Montana  
Missoula, MT 59801

**Prof. John R. Hall**  
Department of Sociology  
University of California, Davis  
Davis, CA 95616

**Prof. Gillian Lindt**  
Columbia University  
50 W 106 St., #PH-A  
New York, NY 10025

**Dr. Larry Shinn**  
V. P. for Academic Affairs  
Bucknell University  
Lewisburg, PA 17837

**Prof. Benjamin Beit-Hallahmi**  
Psychology Department  
University of Haifa  
Haifa, Israel 31999

**Susan J. Palmer**  
Dawson College  
5134 Jeanne Mance  
Montreal H2V 4K1  
Canada



550 First Avenue, New York, N.Y. 10016  
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Department of Psychiatry  
(212) 263-6214

Robert Cancro, M.D.  
*Lucius N. Littauer Professor of Psychiatry  
and Chairman of the Department*

93 SEP -3 1993

August 30, 1993

Philip B. Heymann  
Deputy Attorney General  
Department of Justice  
Room 4111, Main Justice Building  
Washington, DC 20530

Dear Phil:

Prior to making comments on what general conclusions can be drawn on the proper use of behavioral science expertise in unconventional law enforcement situations, let me express my thanks to you, Rod, and the many other people who gave so willingly and openly of themselves in this process of examination. The purpose of this letter is not to second-guess those people who had the responsibility to make and to implement decisions. The loss of life in Waco was a tragedy for both the people and the institutions involved. Hopefully, something of value can be extracted from the situation. Most of the points to be made were already covered in my earlier draft, but I do want to emphasize the need not to misinterpret these points as criticisms.

For the sake of simplicity it may be useful to make a tripartite division amongst the individuals who come to the attention of the Federal law enforcement agencies. The first group consists of individuals who are not habitual criminals but become involved in an illegal act which brings them to the attention of the Federal agency. The second group may be described as more habitual criminals who have a pattern of repeated law breaking. While neither of these groups may be entirely mentally normal it is reasonably safe to say that their motivations and thought processes are sufficiently conventional that law enforcement officers can learn what they need to know about practical applied behavioral science through their training and direct experience. The final group consists of individuals and organizations that may break the law technically but which individuals and organizations are not most usefully conceptualized as simple law breakers. This category would include many groups such as the Branch Davidians which do not accept certain of our laws as valid or worthy of obedience.

It is important to understand that a major characteristic of these groups, so frequently mislabeled as cults, is that they have a shared, very strongly held belief system. This belief system may center on religious, political, tribal, racial, or other organizing themes. The point that must be

emphasized is that these convictions are held very deeply and at times in such a fixed and powerful way as to be unalterable by means of reason and/or experience. It is also necessary to recognize that these belief systems are frequently not a cover or a front for criminal activity. The beliefs do not usually represent rationalizations for breaking the law but rather represent or express a world view that differs significantly from the more conventional world views. These groups are often characterized by a tendency to isolate themselves and through that very isolation become even more convinced of the truth of their belief systems. The absence of corrective feedback from a diverse environmental experience strengthens the belief system through a process that can be described as a form of brainwashing. It does not matter that this brainwashing may even be voluntary, because the operational effect will be the same.

One point that emerges from the background information on Waco that may have some relevance to the future is the manner in which a case comes to the attention of a Federal agency. It appears in the case of Waco that the members of the Branch Davidians were a nuisance to their neighbors. The complaints of the neighbors to the sheriff resulted in investigations which did not lead to a change in the status quo. It appears that the sheriff complained to the Bureau of Alcohol, Tobacco, and Firearms (BATF) because of report of a particular neighbor, who was a veteran, hearing what he thought was automatic weapons firing. (The newspapers report that Mr. Koresh had performed a legal conversion using an item called a "Hellfire Device.") BATF entered the case as a Federal investigatory agency looking for violations of firearm laws and possibly because the sheriff had no other way to dispose of the matter.

If this is an accurate representation of the facts, it has important implications because there may have been an insufficient effort made by local authorities to inform BATF that they were dealing with an apocalyptic religious group led by a charismatic individual who had proclaimed himself to be the Messiah. In the absence of such information, the investigation of possible violation of firearm legislation could easily be conducted in a manner that did not take into account adequately the peculiarities and special features of the Branch Davidians that would have been important to consider and include in the planning stages of the operation. This could have particularly important implications for the planning that went into the choice of the method of delivering the search and arrest warrants. In their phone call to 911 the Branch Davidians asked for help. In one conversation with a negotiator, David Koresh asked why they did not serve him the warrant directly rather than through an armed assault. There is no way of determining if serving the warrant in this way would have avoided what happened. The issue is why was this not considered and evaluated more thoroughly and with adequate behavioral science input. The decision might even have been the same but the basis would have been different.

It is not clear that BATF has an in-house behavioral science capacity that can advise it in situations of this type. Standard operating procedure should involve, at the very least, consulting with other Federal agencies that do have such behavioral science capacity available to them and this consultation must be readily available to BATF.

The decision to deliver the search and arrest warrants to the Waco compound was implemented in a manner that was appropriate for a military attack on an armed compound. Great emphasis was placed on the military elements of surprise and lack of target preparedness. Even the decision to implement the plan after surprise had been lost, can be understood in terms of the military model suggested above, i.e., there was no time for the compound to prepare. The question that arises, however, is whether this is an appropriate model for dealing with a group such as the Branch Davidians.

The Branch Davidians had an apocalyptic world view in which they expected attack from the outside world. The reason for arming themselves was to protect themselves from such an expected attack. They had been training for a long time to defend themselves against such an effort. It is not probable that with the loss of the element of surprise they would not be ready and waiting to respond with force. It appears that there was a failure to take into account the perceptions and thinking of the Branch Davidians in the decision making involved in sending in the agents in the manner that occurred. One unintended consequence of this confrontation was the legal situation was changed from one that involved possible violations of gun laws to one that involved actual homicide. This change in legal status could also have contributed to the subsequent decisions and behaviors of the Branch Davidians. Certainly an armed assault by 100 agents had to be seen as an attack independent of who fired the first shot. If an armed individual enters your home by force and you have reason to believe that person represents a mortal threat, you are allowed to fire a weapon in self-defense in most states. The law does not usually allow the potential attacker to fire first before a response can be called self-defense.

There appeared to be a breakdown in either or both intelligence and behavioral science consultation involved in the plan to control the gun room. From a behavioral science perspective, it is difficult to reconcile the purchase of \$200,000 of arms and regular practice with those arms with the idea that the arms were stored under lock and key and would not be readily available or available only to a few individuals. On the face of it, it does not appear reasonable to accept a report that there would be no more than six to eight armed individuals responding given an armory that included over 200 firearms and ammunition in excess of a million rounds. These numbers are simply not consistent with a minimalistic response from a small core of trusted gunbearers.

Parenthetically, it would serve the image of BATF and the FBI well if illegal automatic weapons were to be publicly displayed. The failure to do this will only cause the public to believe the weapons did not exist.

Once the ceasefire had been put in place, the FBI took control of the situation and phone negotiations began. It would be useful to review the transcripts of the negotiation in order to assess the skill and expertise involved but the small amount of material presented during the briefing sessions certainly suggested that the negotiators were well trained and highly qualified. The negotiations were successful in the sense of David Koresh releasing some members of his group. It appears from the briefing that at least some of the members released had been ordered to go rather

than being people who chose voluntarily to leave. This is suggestive that David Koresh expected something in return for his "concessions."

At some point simultaneous with the soft approach of negotiation a harsh approach of pressure was also introduced. This took the form of turning off water and electricity, turning on powerful searchlights, and making noise during the night that interfered with the ability of the Branch Davidians to sleep. Again, from a behavioral science perspective, it is not clear what benefits were expected from imposing sleep deprivation on the members of the compound. If anything, this was likely to make their behavior more erratic and less predictable. Sleep deprivation is very likely going to increase the influence of the group leader particularly since his accommodations made him less likely to suffer sleep deprivation than the other members of the group. The simultaneous use of a carrot and stick approach has many features of a double bind. Furthermore, the threats implicit in the use of armored vehicles, razor wire, and a tightening perimeter tend to negate the positive and friendly tone attempted by the negotiators. It is not clear that there was good communication among the behavioral science experts, the experts on negotiation techniques, and the decision makers at the scene.

It appears that the initial goal of negotiation was to get the people out. At some point negotiation changed into an approach that had a greater admixture of force. It is not clear to me when, why, or how this change in emphasis took place. It is also not clear what the command structure is that is involved in changing a game plan in this fashion and to what extent this decision includes appropriate behavioral science input. It was stated during the briefing sessions that the combined use of these two techniques ("carrot and stick") is not standard operating procedure.

Another issue, while not behavioral science in nature, does have important medical and moral implications. A decision was made to utilize gas to drive out the occupants of the compound with the full knowledge that infants and children were in the compound. While the gas used is not considered lethal, its impact on infants and children cannot be ignored because gas masks are not available for infants and younger children. While it is true that the gas is not immediately lethal, the plan involved 48 hours of exposure to the substance. The danger to the life and health of the children from 48-hour exposure to the gas did not appear to be assessed adequately, nor the impact on the parents.

The rationale appeared to be that the parents would leave the compound in order to protect the children from the potential noxious effects of the gas. While this is a reasonable conclusion in many situations, its applicability in situations such as Waco may be less valid. If a significant percentage of a group are willing to die for their beliefs, the death of their children may not have the same meaning as it would to other people. It is important to understand that to some individuals, death has a very different meaning. It can be seen in terms of birth into a new and better life. Death can be seen as a necessary and desirable transition when it occurs under certain conditions. Members of a group such as this one are more likely to interpret the attack as part of an escalation of wrongful force by the authorities. It is important to understand that the Branch Davidians did not accept the validity of governmental authority. They looked upon our

existing government as an expression of Babylon and therefore not to be trusted or obeyed.

In this context, it is also important to understand that the concept of suicide for members of certain groups may well be quite different from that of the average individual. Not to be blasphemous, but it is highly doubtful that Christ considered himself a suicide. It was not clear whether there was an adequate knowledge of the potential role of fire as the vehicle of death in the thinking of the Branch Davidians. If they in fact saw their end coming about through fire, then it might well have been wise in such a situation to be prepared to deal with that eventuality. There was no fire fighting equipment at the scene.

Another behavioral point has to be emphasized concerning what is or is not an assault. Law enforcement might argue that a gas attack is not an assault because the gas is nonlethal. To the people inside the compound, armored vehicles firing gas grenades into their home could only be perceived as an assault. It certainly also would be reasonable for the occupants of the compound to assume at this point that whatever follows the gas attack will be even worse and that they are now are faced with the choice of being killed by enemy weapons or by their own hand and by a method of their own choosing. Given a particular set of beliefs it may well become a self-fulfilling prophecy to give a group such as the Branch Davidians the option of how to die.

Some changes in procedure might include the following thoughts. It is essential that all Federal law enforcement agencies such as BATF have available to them behavioral science expertise. At the present time some Federal agencies have this capability while others do not. Furthermore, there are issues concerning the breadth, depth, and independence of the behavioral science capability that presently exists. There is also a vital question as to whether the behavioral scientist is a behavioral scientist first, second, or really not at all. As a member of a law enforcement agency, that individual's primary training may well be as an agent who parenthetically has some expertise in behavioral science. There is a value to having a true and unified Federal law enforcement behavioral science capacity that would be available to any and all Federal law enforcement agencies as needed.

If this behavioral science capacity had some degree of autonomy it would be able to maintain its identity and independence as a group of behavioral scientists who offer consultation to law enforcement agents as opposed to a group of law enforcement agents who have an interest in behavioral science. Over time as different behavioral science needs emerged, the group could develop capability in those new areas. One obvious area that will assume increasing importance is a knowledge of Moslem thinking and of the Koran. It appears very likely that the United States will see increasingly cases of "fanatical behavior" that will provide new tests for law enforcement agencies. Another advantage of an "autonomous" agency is that you would have both a critical mass of and the opportunity for behavioral scientists to interact with each other so as to achieve a synergistic effect. The group would be able to call upon outside consultation as necessary and be able to do so in an informed fashion. The scientists would also have

greater independence in determining what it is that should be provided rather than being merely reactive to specific and perhaps naive requests.

It appeared from the briefing that some fanatics are seen merely as sociopaths. Such a label may serve to obscure rather than to illuminate the problem. In a similar way a label such as psychotic or schizophrenic may serve to create a mindset in the law enforcement agency that you cannot reason with this person, leading to a self-fulfilling prophecy of not making an appropriate and adequate effort. A diagnostic label can be useful if it assists the law enforcement officer in fine tuning an approach to a particular individual, group, or situation. Obviously, it can also be counterproductive if appropriate expertise is not available to that officer to translate the label into useful operations.

It is important that the training of law enforcement officials make clear to them that there are some individuals who have deeply held beliefs that are sincere and not a screen for criminal activity. It is not unusual to find that between arrest and trial a person "gets religion" but that should not be confused with people who make enormous personal sacrifices in the name of their belief system. The Branch Davidians illustrate this quite clearly in that men were willing to give up their wives and children to David Koresh and women were willing to give themselves to him in a manner that is unusual.

It is important to understand the "command structure" of a group such as illustrated by the Branch Davidians. In some groups there may be only a single leader, in others there may be several who share leadership, and in others it may be a broadly communal leadership. (Obviously, there are some groups which will be very divided with very little leadership available, but these are not groups that are likely to endure long enough to come to the attention of Federal law enforcement agencies.) In a situation where there is a single powerful leader, then a strategy that is likely to be most useful is to separate the leader from the followers and to effect the arrest when the leader is away from the group. This is by far the safest course of action in such a situation. It follows then that a knowledge of the leadership structure is vital to determine the best approach to a potential standoff/barricade situation.

Hindsight is of little value except when it is used to provide new solutions to recurring problems. Law enforcement, if it is to be charged to face these problems, must have available strong behavioral science input. Calling on occasion on a "friendly" consultant is not sufficient. There must be strong, professional, "in-house" capability. The job of Federal law enforcement is spread over approximately 80 agencies. They should not all have some modest provincial capability but rather must have access to excellent expertise. The advantages of a centralized behavioral science capacity are obvious. It would have a critical mass of social and behavioral scientists. Their professional identity and independence would be sustained. They would serve as true peers to all the Federal agencies which would benefit far more greatly than they do at present. At this time each agency defines its needs. It would be far better if the problems rather than the needs were defined by law enforcement. In this way behavioral science could provide a much more appropriate examination of the problems



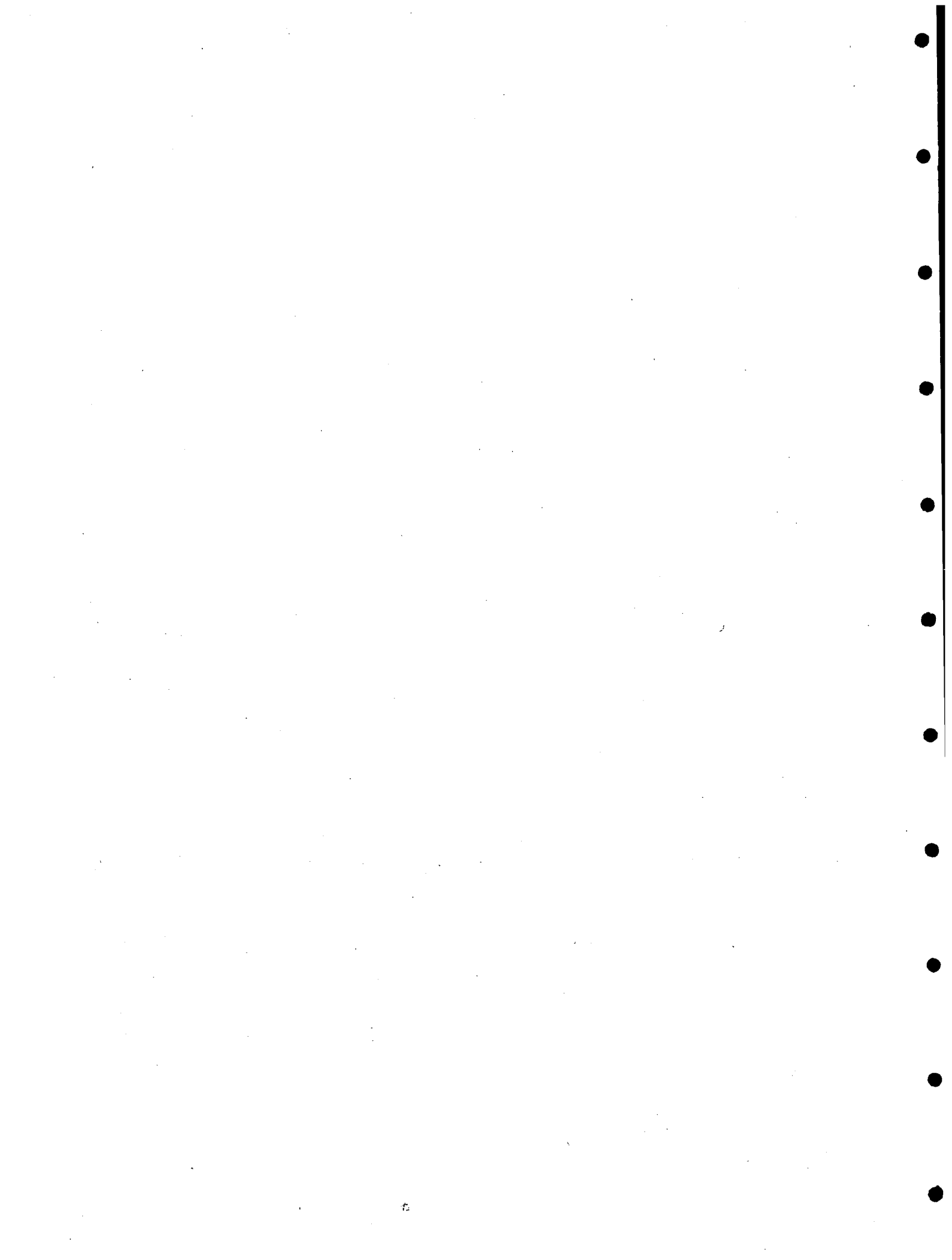
and generate more effective solutions. The events of Waco, unfortunately, in my judgment, support this conclusion.

Sincerely yours,



Robert Cancro, M.D.

RC:mg





HARVARD UNIVERSITY  
CENTER FOR THE STUDY OF WORLD RELIGIONS

LAWRENCE E. SULLIVAN, DIRECTOR

September 14, 1993

Mr. Philip B. Heymann  
Deputy Attorney General  
Department of Justice

Mr. Ronald K. Noble  
Assistant Secretary  
Department of the Treasury

Dear Messrs Heymann and Noble,

Following in this FAX transmission is my twenty-page report and recommendations based on incidents such as the one that occurred in Waco, Texas.

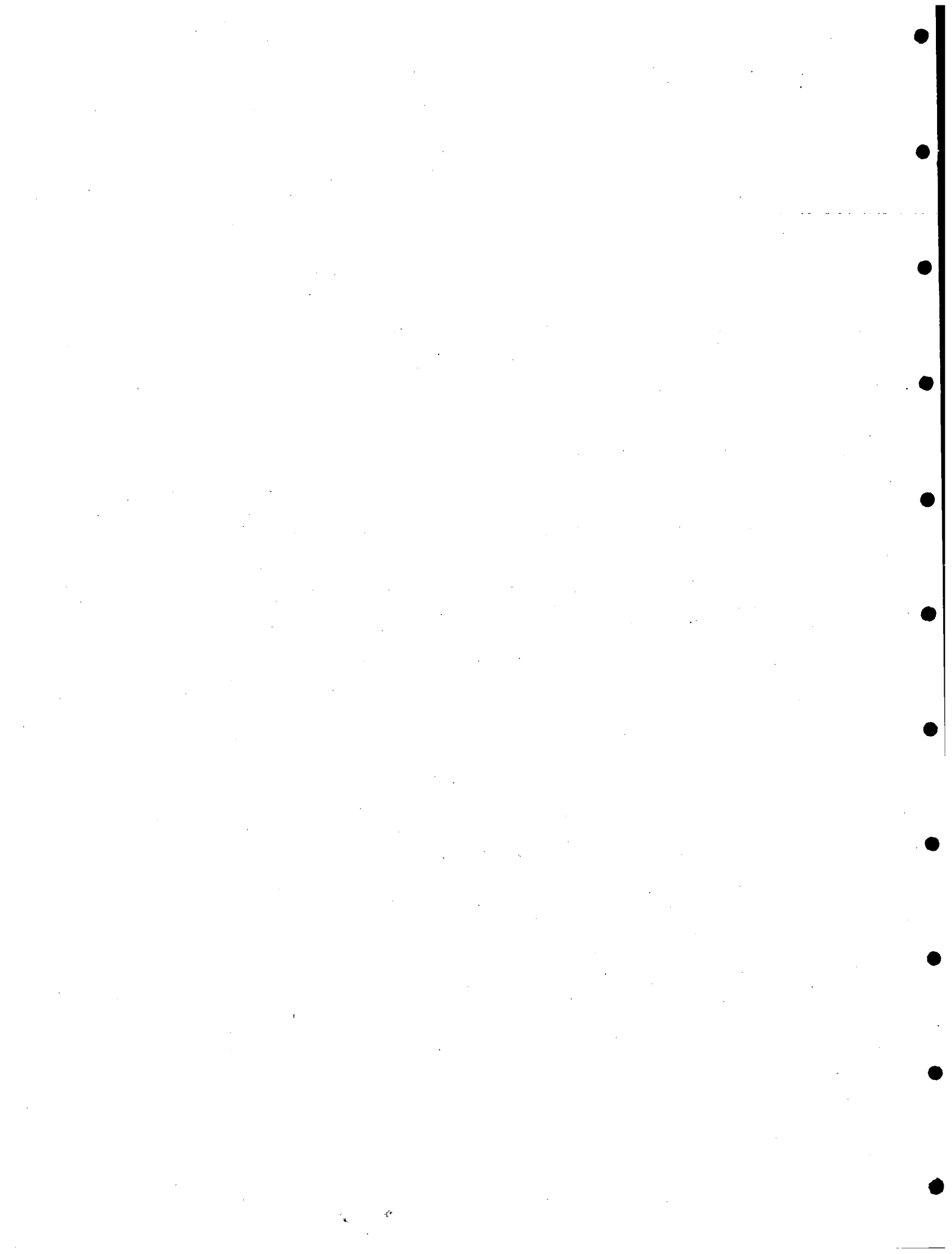
I am grateful for your encouragement to write this report in whatever manner seemed best suited to my recommendations. I have proposed eight prospective recommendations calling for: 1) A Presidential Commission; 2) An Attorney General's Commission; 3) A Presidential Executive Order; 4) Use of Religions Studies as a Resource; 5) Design of Education and Training Programs; 6) Cultivation of Pools of Expertise within and outside of Law Enforcement Agencies; 7) Assignment of Incident Commanders based on special expertise rather than geography; 8) Consideration of third-party negotiators in standoffs with religious groups.

The basis, context, and details of these recommendations are outlined in my report, which aims to be highly constructive.

Thank you for your help and best wishes for your government service.

Sincerely,

Lawrence E. Sullivan  
Director





**HARVARD UNIVERSITY**  
**CENTER FOR THE STUDY OF WORLD RELIGIONS**

LAWRENCE E. SULLIVAN, DIRECTOR

**MEMORANDUM**

September 12, 1993

**TO: PHILIP B. HEYMANN**  
**DEPUTY ATTORNEY GENERAL**  
**DEPARTMENT OF JUSTICE**

**RONALD K. NOBLE**  
**ASSISTANT SECRETARY**  
**DEPARTMENT OF THE TREASURY**

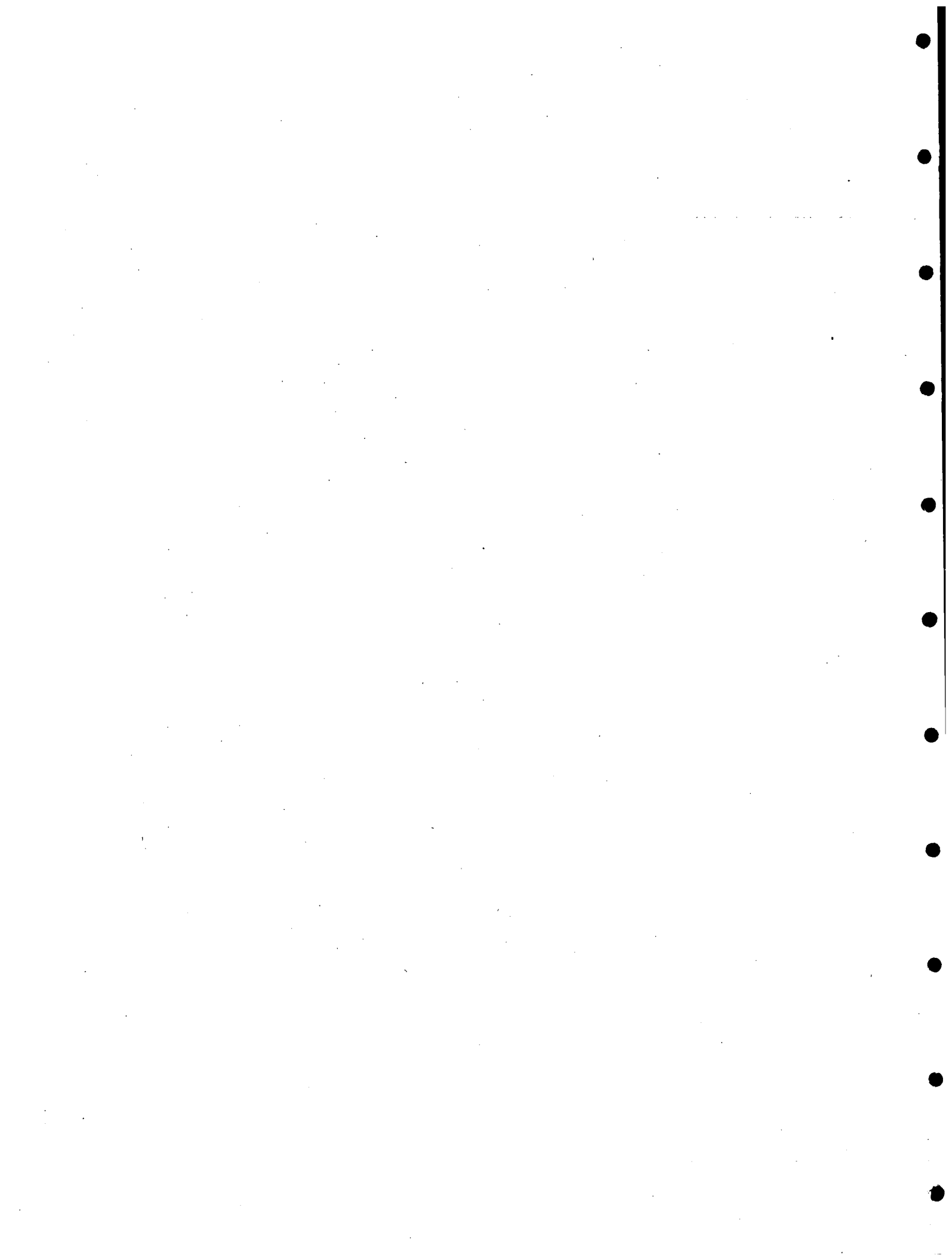
**FROM: LAWRENCE E. SULLIVAN**  
**DIRECTOR**  
**HARVARD UNIVERSITY CENTER**  
**FOR THE STUDY OF WORLD RELIGIONS**

*Lawrence E. Sullivan*

**SUBJECT: Recommendations concerning Incidents such as the**  
**Branch Davidian Standoff in Waco, Texas between**  
**February 28, 1993 and April 19, 1993**

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## **PREFACE**

The recommendations in this report are in response to a mandate from the U.S. Department of Justice and the U. S. Department of the Treasury. The recommendations are based on understandings of the operating procedures and the training programs of federal law enforcement agencies within the Department of Justice and the Department of the Treasury, as they came to light in such events as occurred near Waco, Texas. In order to contextualize those recommendations, this report first outlines the mandate, the general understandings from which the recommendations arise, and the briefing process that generated those understandings.

## **I. MANDATE**

To better address issues that may confront federal law enforcement in barricade situations such as the stand-off near Waco, Texas, the Department of Justice and the Department of the Treasury requested on June 25, 1993 "a prospective evaluation of their capacity to handle future barricade/ hostage situations" where "their efforts to assert control have been thwarted" by a person "suspected of criminal activity who controls an environment, often with innocent persons under the suspect's control." The mandate emphasized that the recommendations be forward-looking, "intended to look beyond Waco to analogous situations that may arise in the future." It was emphasized that the nine expert consultants invited to make forward-looking recommendations were not to assume the task of assigning blame or praise for specific actions taken against David Koresh and the Branch Davidian community of Waco, Texas nor to conduct a fact-finding mission of the events. Fact-finding has fallen to investigative teams within the Departments of Justice (for the FBI) and the Treasury (for ATF). The comprehensive, retrospective review of responsibilities, operations, and decision-making was assigned to outside experts with experience in law enforcement. In my case specifically, the mandate from Heymann and Noble called for ways of preparing to deal "with persons whose motivations and thought processes are unconventional." To this end, you posed three guiding questions: "How should law enforcement agencies deal with persons or groups whose thought processes or motivations depart substantially from ordinary familiar behavior in barricade situations such as Waco? How should the motivations of the persons affect the law enforcement response? What assistance can be provided by experts in such fields as psychology, psychiatry, sociology and theology?" The recommendations that follow are confined to the area of my expertise: the study of religion.

## **II. INFORMATION PROVIDED**

Information on the events near Waco and on analogous incidents was provided largely in oral briefings that took place at the Department of Justice on July 1, July 2, and August 2 as well as briefings at the Department of the Treasury and the FBI Academy in Quantico, Virginia on August 3. During these days, information was provided in interviews, handout sheets, and discussions with representatives of various federal law enforcement agencies, training programs, and special units. Agents involved at various

levels and in various functions in the events that unfolded in Waco, Texas presented their understandings of the events and answered questions. Those charged by Justice and the Treasury with carrying out the fact-finding investigations of the Waco event and the discovery interviews with agents and individuals involved in it presented outlines of their progress, highlights of significant information, and answers to questions. As I understand it, both Deputy Attorney General Heymann and Assistant Secretary Noble assumed their positions after the time of the final fire that consumed the Waco compound on April 19, 1993 and were not, therefore, decision-making authorities in the Waco case. I was struck by their candor and grateful for their encouragement to shape my recommendations in whatever way seemed suited to the task. I was also impressed with the investigators and federal agents I met. They brought an admirable intelligence, dedication, and spirit of service to their task. These recommendations are filed, as was planned from the beginning in order to meet a timely deadline, without seeing the final results of the completed investigation or the full written review, which are to be submitted along with these recommendations. When the final fact-finding reports of Justice and Treasury are made available or if reactions to this first version of the report provide additional information or corrections in matters of fact, I may add to or amend this report. The recommendations are to be received at the Department of Justice on September 14, 1993.

### III. UNDERSTANDINGS OF THE SITUATION

Is the federal assault on this religious community near Waco, Texas, together with its ensuing standoff and fiery end, emblematic of the trivialization of religion in official America? Though the Branch Davidians may not, in everyone's view, typify religious life in many American communities, the response of public officials and federal law enforcement agencies may, in fact, reflect the marginal value assigned to religion as a public matter and the reduction of public religious convictions and actions to the realm of private readings, individual affairs, and even "unconventional" behaviors.

The question is worth asking, in light of events in Waco because, along with the trivialization of religion in the public sphere may come the growing incapacity of government officials to comprehend the motives and understand the meaningful actions of its own citizens. Incredible as it may seem, religion as an issue was apparently accorded little room in the consideration of policy or action toward the Branch Davidians. At a briefing in Mr. Noble's office at the Department of the Treasury on August 3, it was reported, in answer to my question, that the BATF did not at any time consult religion experts prior to their dynamic entry into the Waco compound on February 28. Moreover, religion is apparently so marginalized from the public realm, none of the major federal agencies of law enforcement whose representatives attended our briefings appear to have cultivated systematic expertise on religion within their ranks in any deliberate fashion, nor have they organized any official pool of outside experts or consultants to turn to when religion is an element at issue in their deliberations. There appear to be no internal training programs geared toward expertise in religion studies at any level, advanced or introductory. There is no treatment of the subject in the training curricula for the more than 70 federal law enforcement agencies trained by the Departments of Justice and the Treasury.



In the very moments when a religious reading of reality became increasingly paramount for David Koresh and the Branch Davidians inside their Waco, Texas compound, federal law enforcement officials outside the compound, it seems, gave increasingly less importance and less consideration to religion as a motive for Davidian words and actions. As the crisis pushed toward its climax, Koresh and the Davidians became ever more entrenched in their religious convictions. No one left the compound during the long siege except when Koresh ordered them to do so and, investigators reported, even after the fire began to consume the compound, at least one Branch Davidian ran back into the flames. In the last days before the conflagration, Koresh was intense in his theological articulations: allegedly writing a treatise on the seven seals of the apocalypse (his reading of history and the place of him and his group in it), calibrating Passover and its significance, and dictating letters laden with theological interpretations to law enforcement. The federal siege itself, in the reading of the Davidians, served as an omen, a confirming sign of the onset of imminent apocalypse. Indeed, it seems possible that the large arms build-up that led the ATF to carry out its initial February 28, 1993 assault on the compound may have been in response to Koresh's interpretation of a three-days'-long session of police target practice, held within earshot of the Mt. Carmel compound in March 1992. It was reported in our July 1 briefing that Koresh and his group interpreted the target practice of the Los Angeles Police Department and other police groups (which the Davidians apparently attributed incorrectly to the ATF) in religious terms, as a "brazen" show of force, an ominous sign of the impending apocalyptic showdown between forces of good and the federal forces of evil. It is possible that, from the very beginning of the entire scenario, then, law enforcement agencies played out scripted roles that they were unaware of. This seems to have continued until the end.

It appears that no expert in religious studies was asked to regularly review Koresh's communications throughout the siege, not even his final letters. Discussion with religion studies experts about the value of Koresh's religious communications in understanding the mindset of those in the compound was limited to contacts with one church historian at Baylor University (whose offers to refer agents to colleagues with more relevant competencies were declined) and a pastor in Virginia. There appears to have been no discussion with religion studies experts about how the FBI's actions were being perceived and decoded by Branch Davidians in the light of the revelations of apocalypse.

Ironically, then, the ATF and FBI were consistently and increasingly evaluated in religious terms by the Branch Davidians, but the federal law enforcement agencies declined, for the most part, to evaluate religion as a determining factor in the actions and attitudes of the Branch Davidian community.

The final letters from Koresh, transcribed onto 14 handwritten pages by Branch Davidian Judy Schneider, were delivered to the FBI on April 9 and April 10. They consist of page after page of biblical citation and exegesis along with leading questions about the meaning of key phrases and concepts (often underlined for emphasis). Presumably these pages outlined his current theological position and his followers' commitment to it.

I begin to do my 'strange work,' ' a work you will not believe though it be told you' Isaiah 28. . . The seals will either save you or destroy you. . . The fire of

thine enemies shall devour them.' Isaiah 26:11. . . I warn you, do not hurt My Lamb (Psalm 2). For out of His side will come 'bright beams' . . . Show mercy and kindness and you shall receive mercy and kindness! . . . You have a chance to learn My salvation. Do not find yourselves to be fighting against me. . . My hand made heaven and earth. My hand also shall bring it to the end. Read Psalm 50 and learn to be wise. Respect your brother David and those who have learned of Me from Him. . . Please listen, show mercy and learn of the marriage of the Lamb. . . Who are you fighting against? The law is mine, the truth is mine. . . Will you turn back the punishments of My hand? No! . . . Do you know My seals? Do you dare call Me a liar? Look and see into my 'right hand' I AM your life and your death. . . Look and see, you fools, you will not proceed much further. . . Do you think you have power to stop My Will? I have told My prophets regarding 'time no longer.' My 'seven thunders' are to be revealed (Revelation 10:7). Is it your judgment that time is not now?! Your judgment will not stand. Read Psalms 2. Do you want me to laugh at your pending torments? . . . I will surely show you the meaning of Psalms 18, unless you open your eyes and not your mouth. Fear Me and 'the hour of My judgment,' for it has come. . . Learn from David My seals or, as you have said, bear the consequences. I forewarn you, the Lake Waco area of Old Mount Carmel will be terribly shaken. The waters of the lake will be emptied through the broken damn. The heavens are calling you to judgment. Please consider these tokens of great concern.

Koresh then (again) adds lengthy quotations from the Book of Revelation, chapters 19 and 20 and Psalm 45, including:

And I saw heaven opened and beheld a white horse; and he that sat upon him was called Faithful and True and in righteousness he doth judge and make war. His eyes were as a flame of fire. . . And I saw an angel standing in the sun . . . And I saw the beast and the kings of the earth and their armies gathered together to make war against him that sat on the horse and against his army. And the beast was taken and with him the false prophet that wrought miracles before him. . . These both were cast alive into a lake of fire burning with brimstone and the remnant were slain with the sword of him that sat upon the horse. . . Harken, O daughter, and consider, and incline thine ear: forget thine own people and thy father's house. So shall the king greatly desire thy beauty: for he is thy Lord, and worship thou him. . . the virgins her companions that follow her shall be brought unto thee. With gladness and rejoicing shall they be brought: they shall enter the king's palace. Instead of thy fathers shall be thy children whom thou mayest make princes in all the earth. I will make thy name to be remembered in all generations: therefore shall the people praise thee for ever and ever.

K. J. V.

Arguably these dictations were also carried out for the benefit of Koresh's followers, at the very least his scribe Judy Schneider. They seem also partly to be Biblical exegeses of his wounds. In the light of the chosen Biblical quotations, Koresh's hand and side appear as signs of power and not weakness. These do not appear to be the words and

attitude of a leader about to surrender with his followers if they soon meet with escalating interventions by law enforcement. In fact, it appears that Koresh was disinclined to surrender because King Saul had done so and thereby fell out of favor with God.

Shortly thereafter, some of these handwritten communications were included in the briefing presented to Attorney General Reno, on the eve of the culminating decision to insert gas into the compound. In the briefing the letter seems to play the role of a last straw, measuring Koresh's intransigence and provoking the FBI to escalate their interventions. But there is no indication that its thoroughgoing religious content, worldview, and significance were analyzed by anyone competent in religious studies. It is not clear whether the religious orientations of the Branch Davidian community feature prominently or at all in the final briefing or, for that matter, in earlier briefings prepared for the Attorney General and other senior officials.

The ignoring of religion as an issue in the climactic moments of the Waco events was presaged by ATF preparations for the dynamic entry that opened the siege. The ATF planned the largest raid in its history. As far as can be ascertained, among the efforts made to gather information about the Branch Davidians and among the consultations that went in to assembling the ATF's largest force and largest action, none dealt with bona fide experts in the issues of religion, even though the Branch Davidian compound identified itself primarily as a religious community. It appears that no experts in religion studies were consulted by ATF to help map the religious worldview of the Branch Davidians: their concepts of religious authority (which could explain and predict their devotion to Koresh's leadership), their soteriology of procreation (which apparently motivated wives to leave their husbands' marital beds for Koresh's, those husbands to embrace celibacy, and parents to allow Koresh sexual relations with their minor children), their views of death and afterlife, their interpretations of the apocalyptic end of time, their regimen of religious asceticism (which apparently prepared them for the hardships endured during the siege), their estimation of secular powers (such as the ATF) in their apocalyptic framework, their religious estimation of their own military role in the final apocalyptic battle. These motives, attitudes, and patterns of action, though religiously grounded, would seem to be directly relevant to an assessment of the situation.

Instead, there seemed to be a general lack of regard for religion as an issue to be attended to seriously, systematically, significantly. This disregard for the issue of religion in preparation for an action characterized not only the particular case of the ATF in Waco but, based on responses to questions posed in briefings, appears to be the general condition in federal law enforcement. In no instance presented by federal agents were special consultations held about the religious nature of groups or individuals prior to the federal agents confronting them. If there have been such prior consultations regarding the religious nature of groups or individuals, these did not come to light in response to questions posed about them.

In the Waco case, the lack of adequate consultation was surprising, since there had been official assurances to the public that, in the Waco instance, there was consultation with "cult experts." The degree of consultation that came to light in our briefings would hardly seem to cover the letter of that phrase, never mind the spirit of it. Such consultation appears to have been minimal and cursory, with individuals chosen by

happenstance rather than by relevant competence. Whatever contact with consultants or volunteers there may have been initially, it was apparently deemed tangential to the main development of the case and viewed as increasingly unimportant and unexplored. In the end, the intense theological commitment of Davidians to Koresh and his religious ideas may better explain what happened than the FBI picture of Koresh as a dissembling con-man and his followers as psychologically weak but religiously uncommitted sheep.

There are apparently no checkpoints or threshold markers built into the command chain of decision-making which would guarantee that a review of information about religion in such cases as Waco would play an important role in the decision-making or stay to the fore in weighing operational and negotiation options. There appear to be no standard procedures concerning inquiry with expert consultants on matters of religion nor any guidelines on what kinds of information to review, even when religious motivations appear to be the driving force for individuals or groups coming into contact with law enforcement. Nor does there appear to be any agency-screened bank of experts in religion to whom field agents or commanders might turn with assurances of reliability. This appears to be the case with all the federal law enforcement agencies whose representatives were present in our briefings.

Perhaps it is the lack of broad familiarity with religious motivations and behaviors that gives some interviewed agents the impression that each group with whom they come into contact is sui generis, a religion unto itself. In this view, no amount of previous study or familiarity with religious history would help when such groups come into conflict with law enforcement. A related view was expressed that, once law-abiding religious groups embedded in 'traditional patterns' come into conflict with law enforcement, they drift from their traditional religious moorings, their behavior becoming less patterned, less traditional, less familiar, and more likely to lurch into unpredictable activities. In the crisis, they evolve rapidly into a "new religion" never seen before. In fact, in such circumstances, agents theorized, religion is more than likely only a cover-language or disguise for criminal activity. In this view, no amount of study of religion would help, since the 'new religion' is evolving out of the situation of conflict itself. The encounter with law enforcement becomes the determining context, not the context of a religious tradition. I believe this view is largely a flawed one, formed in ignorance of facts found in a large literature. A variation on the theme of the sui generis character of the religious groups was also offered: many believers claim to join groups like the Branch Davidians because of the unique views presented by a figure like Koresh. According to this line of reasoning, no religion expert would have knowledge about this heretofore unseen, unique view. Therefore it is useless to consult with them. It did not appear that agents interviewed were aware that such circumstances as the transformation of traditions into new movements and the claims to uniqueness (as well as the interpretations the agents themselves held of these circumstances) have a long history, which has been the subject of study in order to discern patterns in it.

Should the Waco siege and its like be described and conceived of as "hostage" situations? Koresh's followers apparently preferred to remain in the compound. Even those he ordered to leave came out primarily to spread his message and, in some cases, later wished they had remained with those consumed in flames. These are not hostages in any of the ordinary senses of the term. One agent said that law enforcement has no artful

term to describe individuals like the followers of David Koresh and other religious devotees who do not wish to leave the site of siege. Their presence is a distinguishing feature of the situations the experts were asked to consider. The attitudes and actions of these "non-hostages" present a conceptual mystery and a tactical problem for law enforcement. The non-hostages cannot be counted on to cooperate with law enforcement or flee for their lives at the first opportunity for freedom or in the face of coercive force. Not fearing death or the danger to themselves, their very existence can become a hazard to others bent on "rescuing" them during the siege. Not all agents interviewed nor even all experts called in to make recommendations thought this a problem worth pondering. It strikes me, however, as a central issue. The mismatch of concept and terminology to the actual situation is a measure of the need for a new paradigm, a new way of thinking about these situations. Part of the problem, it seems, is the tendency to analyze the situation primarily in terms of the individual psychology of the leader, leaving largely unexplained and insignificant the motives, behaviors, and beliefs of the groups involved. The tendency to think of religion as a largely private matter leaves analysts unaware and unprepared for the way in which religion galvanizes groups into communities of coordinated actions, whether those actions be liturgical spectacles or mass movements. More than one agent said that they did not see the value of exploring religious motives because there could be as many religious motives as there were individuals involved (the notion being that religion was a unique and private affair and only indirectly linked, through elaborate private rationalizations, to public actions that come into conflict with the law). These agents overlooked the way in which religion, through its dense symbolic expressions and interpretations, bundles together individual motives--sometimes even contradictory understandings--into highly energized communities with shared goals and actions.

The general lack of serious consideration of religious factors in the FBI was not without exception. One light in what, from the point of view of religious issues, was otherwise an obscure muddle came from a subunit of the National Center for the Analysis of Violent Crime in the FBI Academy. Though apparently not schooled in the study of religions in any formal or comprehensive way (their primary expertise was apparently in forensic photography and education, on the one hand, and in Fine Arts and psychology in another), agents in the Criminal Investigative Analysis division of the Investigative Support Unit prepared memos early in the siege (for example, March 5, March 7, and March 8). These memos were perceptive in their analysis. They predict that, unlike "traditional hostage situations. . . ever increasing tactical presence. . . if carried to excess, could eventually be counter productive and could result in loss of life" either through mass suicide or death in defense of the Davidians' "sacred ground" of Mount Carmel. They recommended moving back, rather than tightening the noose:

It should be noted that more children have been released from this compound when tactical forces were maintained at a greater distance, than when they have been moved closer. . . it is recommended there be a temporary de-escalation of the forward movement of tactical personnel.

Such a strategic move backward would, they reasoned, diminish Koresh's apparent ability, in the eyes of his follows, to predict successfully the mounting opposition of federal authorities. It appears, over the course of the following month, their advice was eventually set aside. Is this because of their tendency to take seriously the religious

claims, language, and behavior of Koresh and his followers? These Criminal Investigative Analysis memos cautioned against treating the Waco situation as a "traditional hostage situation" because of the way the FBI was playing into Koresh's prophetic warnings and because of the seriousness of the Branch Davidians' desire to die defending their faith.

He may have authorized this action [firing on the BATF agents instead of surrendering to them] to set into motion a chain of events which will verify, to his followers, that his interpretation of the scriptures, in particular, the seven seals discussed in Rev. 5:1 - 8:1, is correct; that the end is near. . . Koresh's arrogant, recalcitrant demeanor may be part of his scheme to manipulate law enforcement commanders, so as to provoke a confrontation, in fulfillment of his interpretation of the 7 seals. The first seal in KORESH's mind is symbolized by the 'attack' by ATF on 2-28-93; the second seal is war and bloodshed; the third seal he interprets as famine (where he apparently, currently feels is his immediate situation); and the fourth seal is death. We are approaching this 4th seal and it would appear that we may unintentionally make his prophecy come true, if we take what he perceives to be hostile or aggressive action. . . a mass suicide ordered by KORESH cannot be discounted. . . Instead of moving towards him, we consider moving back. . . this will show [his followers] that he was wrong [in predicting an imminent attack].

These memos, written more than a month before the final conflagration, emphasized the seriousness with which the compound community clung to Branch Davidian theories of salvation. Death at the hands of their enemies would fulfill the scriptures and Koresh's predictions. The memo of March 8 describes mass suicide plans discussed by Koresh and his followers, information apparently gained from interviews with followers who had left the compound.

The question arises: what led individuals in the Criminal Investigative Analysis subunit to read the religious orientation of the Branch Davidians carefully and what sustained these law enforcement agents in their conviction that religious issues were at the root of the situation? Could agencies build on their instincts to develop a more comprehensive and systematic expertise about religious issues? It will be important for the FBI to seek these answers within its own ranks, for they could point to the internal, organic possibilities for the changes necessary to adapt to unconventional confrontations in the future. Conversely, the FBI must discover what operating procedures and command chain-structures obstructed the advice from the Criminal Investigative Analysis subunit, recontextualized it, and rendered it invisible or, at a minimum, less attractive to decision makers? At what point in the information pipeline and chain of command was the advice recast or overridden? These memos were delivered directly to the SACs in Waco as well as to headquarters in Washington D. C. Where did their advice fall from consideration? For example, was this point of view forwarded to Attorney General Reno at any point, or to Judge Sessions, or Mr. Hubbell and other policy judges? Was it presented as an option in the final briefing to the Attorney General? If not, at what point did it cease being presented as an option, and for what reason?

Even this review and recommendation process seems to reflect an ambivalence toward the matter of religion. On the one hand, the importance of the issue was recognized enough to include two experts on religion in the group of nine making

recommendations. On the other hand, there was no special screening or indexing of the data regarding religion, its manifestation, or interpretation (by Branch Davidians or federal agents), nor, I am told, were questions about the treatment and perception of religion built into the framework for hundreds of interviews conducted in the investigation. That is, the investigative review itself appeared to treat religion unsystematically, and not directly. Presumably, in constituting the recommendation process, religion was seen as an issue to be better accounted for in forward-looking recommendations arising from a review of Waco and other such cases. Even so, the lack of attention to religion appears so ingrained, that it was not made a significant part of the debriefing of those involved.

One can only wonder whether the same lack of attention to religion as a constitutive element of society prevails in other realms of public authority and policy--whether on congressional staffs, the judiciary, or the executive--and affects international affairs as well as domestic policies. This would be a far cry from founding fathers who, whether devout or not, took serious interest in learning about religion and understanding its role in shaping individual and communal history. Whether or not they held firm religious convictions, they were knowledgeable of debates over the nature of religion and concerned about its relationship to law and society.

The issue is made more pressing today through immigration, revitalization, and the appearance of new religious movements. The conversation about religion is wider. The range of religious convictions held by those on U.S. soil is now much broader, more entangled in the wider history of world cultures. Many of the founders of America had already taken an interest in comparative religions when it was a budding science and when knowledge of religions around the world was arcane and exotic. Today, although American citizens in large numbers practice a wider variety of faiths than at the time of American foundations and although information about them is more bountiful and reliable, few schools at any level teach citizens about the religious ideas and practices which their neighbors hold dear and use to guide them through life. Why would anyone today wish to remain ignorant about the significant sources fellow Americans draw upon to inform their beliefs, values, and behaviors? Certainly, those who shape and enforce law or public policy should have a reliable knowledge of the nature and role of religion in human life, regardless of the choices they make for themselves.

The lack of knowledge about religions among law enforcement agencies may simply reflect a wider cultural unawareness about the nature, role, and importance of religion, an inattention echoed in other realms of public policy and cultural analysis, from corporate boardrooms, to congressional hallways, newsrooms of television networks or newspapers, and college classrooms.

The inadequate understanding of religion and the unwillingness to address or even recognize that inadequacy may be a reflection of this wider general view in America. In the realms of public policy and analysis there may be a presumption that common life can be enacted entirely on secular principles, that what is often called the separation of church and state means that cultural actors can live together on the basis of secular motives and understandings alone and that religion, in standing separate from the state, can be relegated to an entirely private zone with no social impact whatsoever. In this view, even

knowledge about religions can be viewed as a private affair and not an element of minimal cultural literacy; and public policy and influential public analysis can fulfill their important functions in ignorance about religions. Public ignorance of or blindness toward religions and their role in society is not only unnecessary but may be harmful. Perhaps it has already played a role in the tragic outcomes of law enforcement processes in Waco and elsewhere. If so, these incidents may be only the more visible symptoms of a general condition that flares occasionally in supreme court decisions on religious marriage customs, dietary laws, and native holy sites; or law enforcement crises involving religious groups; and legislative debates on issues involving the taking of life (war, abortion, capital punishment).

If history be any judge, the change of millenium only seven years from now will be viewed as a momentous, highly charged turning point in history for many religious communities. The shift of millenia will likely be viewed as a seismic rupture in time, a break through which one may glimpse powers that transcend time, and provoke many to act in unconventional ways as they respond to messages read in the signs of an unconventional time. The upsurge in apocalypticism and millenialism should come as no surprise to those familiar with the history of religions. Whether seen primarily as the dawn of a new golden age, an apocalyptic call to judgment, or both, many religious groups are likely to anticipate the coming of a new epoch of time as a period of renovation and creative ferment.

One point should be made especially clear: an insistence on knowing about the nature and role of religion should not be confused with an exhortation to be more religious. Knowing the history and nature of fundamental beliefs that motivate U. S. citizens or residents and knowing how religious beliefs have stirred individuals and groups to socially significant actions, which have shaped American history and communities, can be a matter quite separate from decisions to be religiously observant or pious. My reflections and recommendations do not call for greater piety or lament its absence. What is disconcerting is the lack of knowledge about the historical role of religion as a basic element constitutive of society--in molding personal identities, shaping social identity, generating community and goals, transmitting values, sharpening critical moral senses, challenging the status quo and questioning authority--, quite apart from whether one thinks religion ought to play such a role or not.

#### **IV. CONSTRAINTS AND AMBIVALENCES THAT DETER MORE ADEQUATE TREATMENT OF RELIGION**

In reaction to the suggestion that the Departments of Justice and the Treasury foster better knowledge about religion among federal law enforcement agencies, agents voiced several ideas that may account for the reluctance of agencies to factor religion into their consideration of groups such as those in Waco and to build more reliable resources of knowledge about religion.

The Need to Acculturate Consulting Experts to the World of Law Enforcement.  
Many agents agreed that consultants most useful to them are those who have been trained or acculturated to the world of law enforcement. This observation was intended to stress



that advice is taken best when it is cast in the practical terms that characterize law enforcement processes for judgment, operation, and command. But it may also reveal the natural tendency to take outside advice mostly when it shares (and, therefore, reinforces) the view of law enforcement personnel. The argument over which interpretation reigns is moot, since, in any case, consultations on religion appear always to be ad hoc. There do not appear to be any standing pools of cooperating consultants in religion studies who, through long-term exposure to the agencies, could acquire the acculturation that renders their advice most valuable and credible.

Legal Constraints on Intelligence-gathering. Several agents pointed out that they are prohibited by law from surveilling law-abiding religious groups in order to gather "intelligence" about them. Justifiably, they were unwilling to consider it and, as a matter of fact, such an idea was never suggested. There is no need to gather intelligence on specific groups to know more about religions and their role in society. Entire university curricula in religious studies have thrived for decades on information publically available in libraries and bookstores. To know more about religion does not require transgressing the law. The confusion here arises, it seems, from the tendency to treat each instance, each religious group, as a hapaxlegomenon--a unique case with incomparable features never seen before. This stems from the impression that religion is entirely and originally self-invented in every moment and place it appears, as though it had never existed before and as though no similar patterns of religious authority, behavior, and symbolic expression had been disclosed. In fact, many patterned features have been noted in the worldview of religious groups, in the psychology of religious leaders and their devotees, and in the organization of social groups, liturgical actions, anthropological context, and so on.

Faculty Limits. Agents pointed out that, though there are many subjects worthy of study, their research and training programs cannot build university-scale faculties on all topics.

Not religion but a con-man. Several agents expressed the view that David Koresh did not believe the religious ideas he preached to others. His followers, being psychologically vulnerable, were conned by his strong personality. In several briefings agents expressed the view that, in their line of work, "religion was often only a cover"--a dodge or smoke-screen for paranoid behavior, criminal pathology, derangement, or self-interested non-religious pre-existing motivations. It is possible that a view like this is widely shared in the federal enforcement agencies and perhaps even by the public at large. Whether that be true or not, it is not clear what process of evaluation, as a matter of standard operating procedure, leads to this conclusion. That there be such a process of reflection in cases like Waco seems crucial. Whatever the process has been, it has not seemed to take seriously the role of religion in the first place. If that is the case, the process in Waco arrived at predictable results overdetermined by blind spots in the process itself. This view of religion being used as a cover for a con runs the risk of dismissing religion as an issue. In the Waco case, the dismissal seems accompanied by underestimations of the deep-seated religious motives of the leader and the followers and by a resultant inability, on the part of federal law enforcement, to anticipate religiously-motivated responses to their own interventions.

Ambivalence about religion: is religion too good for criminality or too irrelevant? Two opposing attitudes toward religion surfaced throughout our briefings. Taken

separately as well as together, these opposing attitudes could contribute to the inclination not to take religion seriously into account. One view thinks of itself as sympathetic to religion, seeing authentic religion as too good to be involved in conflicts with the law, thus saving authentic religion from the perception that it is involved in criminality. The second view considers itself more secular and less sympathetic to religion. In this second view, religion is a spent historical force, whose irrationality and misplaced concreteness can better be explained in non-religious (say, psychological or economic) terms. Thus, there is no need to consider seriously religion in se as a shaper of social or individual forces. The first, sympathetic conviction is motivated by a desire to preserve the 'softness' of religion, not believing that religious convictions may bring individuals into conflict with the law. This view may prove to be short-sighted in the light of recent revolutionary confrontations of religiously motivated groups with the legal establishments of Eastern Europe, India, and the Philippines. It may be blind as well to the role of religion in protests against the legal status quo in the U.S., from the abolition of slavery and the restoration of civil rights to minorities, to abortion. In order to safeguard the rights of religious citizens to act freely in the public square, there may be need of a better understanding of the role of religion in society. The second view, less sympathetic toward religion, also trivializes religion by recasting religious motivations as essentially non-religious ones, translating religious claims into languages of self-interest which are only political, economic, or psychological in nature. Waco and incidents like it indicate that this view may be misguided.

Difficulties with personal views and emotions. Some agents stated that, for them, religion was the subject most likely to eliminate objective distance from decisions. When religion is at issue, unlike other topics, it proved most difficult to sort out personal views from more objective opinions, because religion dredges up strong emotions, basic orientation to values, and personal feelings toward religion; also residual commitments or resentments. Having been educated in the rigorous religious school system of a denomination he still embraced, for example, one agent claimed it was difficult to sustain a defensible distinction between his religious education, which he still cherished, and the acculturation children received in the Branch Davidian compound. Why should one pass muster and the other be styled as abusive indoctrination, brain-washing, or mind control, he asked? He found the question and the arbitrariness of any answer disturbing and challenging to fundamental assumptions about his own character formation.

Blurring the categories of study about religion and devotion to it. Agents often blurred the study about religion with the belief in and practice of religion. For example, when tacticians raised the possibility of enlisting help from religious studies experts in the course of negotiations, the suggestion was taken to mean a call for involving clergy in negotiations and was waved off with allusions to the ineffectiveness of clergy in speaking to potential suicides.

Personal study can cover the territory. Some agents had taken an interest in the study of religion for personal reasons (e.g., growing out of issues they followed in law enforcement, or personal interest in religion). Without any scrutiny or coordination of homegrown expertise, the question arises whether information gathered through unmonitored self-study is reliable, and whether knowledge following personal inclinations is comprehensive enough to serve as a strategic resource for federal agencies with nation-

wide responsibilities. It does not appear that information on those agents who have developed their knowledge about religion has been gathered and coordinated into any database available to law enforcement, a step which would allow those in need to locate and utilize their knowledge.

Unlike the agents' generally high awareness of the relevance of certain subjects of study, such as psychology and its subdivisions, agents seemed relatively less aware that religion studies was an academic field distinguishable from seminary studies of theology, or that religion could be studied systematically or phenomenologically.

## V. EIGHT RECOMMENDATIONS

**Knowledge is the premise.** These recommendations are grounded in the premise that knowledge is preferable to ignorance. Law Enforcement agencies acknowledge this principle as fundamental. On the walls of the entry foyer of the FBI Academy in Quantico, VA are the guiding principles of the Bureau, one for each of the three letters, F, B, and I. The motto for the letter "I," representing the principle of "Integrity" is the following quotation from Samuel Johnson: "Integrity without knowledge is weak and useless, and knowledge without integrity is dangerous and dreadful." It will be this internal principle, more than any cases pleaded by outside consultants, which may motivate federal law enforcement agencies to close their knowledge gap about religion and apply what they learn with integrity.

There may be readers of these recommendations who would counsel that federal law enforcement should have nothing whatever to do with religion. Perhaps they are correct, if they mean that law enforcement ought to stay clear of determining the orthodoxy or inauthenticity of religious life in American communities; and certainly they are correct in steering law enforcement clear of establishing or suppressing religion in any form. Many agents interviewed expressed the need for great caution in regard to religion, which was deemed even more sensitive than other topics that might call for expertise in law enforcement. This much is true. But if someone were to suggest that law enforcement should officially cultivate ignorance about religion and deliberately turn a blind eye to the historical role of religion in society as well as to the phenomena of religion (religious leadership, social expression, behavioral patterns) as these are known to religion studies experts, then that view seems mistaken. Consider the harm that may come from the absence of knowledge about religion available to undergraduates in public colleges. The Waco case and other such incidents illustrate that law enforcement does, willy nilly, confront individuals and groups for whom religion is a primary force shaping their identities and actions. Ignorance about religion could have harmful consequences, and actions based on lack of knowledge can trigger unwanted harmful reactions which might otherwise be avoided, if the religious context and motives for those reactions were better understood beforehand. Knowledge about religion could have several benefits:

- a) inducing law enforcement to protect and serve law-abiding individuals and groups even when their religiously motivated behavior (and perhaps even their view of law enforcement) is deemed unconventional;

- b) warding off unnecessary intrusions upon law-abiding individuals and groups whose unconventional attitudes and acts--and even whose protests against elements of the legal status quo--stem from their religious beliefs and commitments;
- c) better understanding the motives and modus operandi (such as authority systems, attitudes toward established powers of government and toward coercive force) of groups or individuals whose religious convictions bring them into conflict with law enforcement. Law enforcement itself as well as the media are often viewed as significant powers in this world. The actions of law enforcement agencies and the media are interpreted as signs, taken as omens or revelations. In a situation of conflict, it will be helpful for law enforcement to know how their presence and intervention is perceived.
- d) better anticipation, by law enforcement, of reactions to their own actions when confronting groups with deep-seated religious convictions. In order for law enforcement agents to anticipate how their acts of intervention will be responded to by those they encounter, knowledge of a range of religious frameworks of interpretation would help, so that encounters with law enforcement do not deteriorate out of ignorance.

In light of the above considerations, I propose eight prospective recommendations:

**1. The President Should Commission a Study and Plan for the Federal Government.**  
In the light of what appears to be a surprising lack of formal expertise about religion--within the federal law enforcement agencies, the question arises whether this shortcoming is a more widespread condition of federal official life. In order to assess the adequacy of expert knowledge available to the offices of federal government, the President should commission a study on the quality and amount of formal resources, expertise, and training available to the three branches of the federal government when, in shaping policy or executing it, they need to understand how religion works in society--its nature, and its historical role and contemporary expressions. Hardly any sector of American life is unaffected by religious attitudes, behaviors, communities, and organizations, from health care and medicine, to education, to adoption agencies, care for the indigent, social movements of support and protest, criminal justice, and so on. What resources do legislators turn to when they wish to understand the role of religion in the formation of citizens' attitudes toward altruism, taxation, war, foreign policy, broadcasting, and immigration? Whence the expert input: pollsters, religious leaders, memories of Sunday-school, sociologists of religion? What kind of literacy exists among advisors and policy-shapers regarding the subject of religion in Congressional, executive, and judicial staffs? How knowledgeable are they of the diverse religions that inform American society? How much is known about the history of so-called "cults" in American life and about the history of utopian religious communities? How much about the Islam or Christian Science of their constituents? About Judaism, Jainism, or Roman Catholicism? How much is known about the relationship of religion to the development of U.S. law? What professional resources about the role of religions in foreign societies does the state department possess in its shaping of foreign policy? How reliable are the above resources and knowledge? How are they taken into consideration in discharging tasks? This is a

survey of the knowledge available about the broad spectrum of religious life (a sub-species, therefore, of the study of history and culture and not a survey of personal religious fervor--a subject which need not enter into consideration at all). The commission should have authority to make broad recommendations to ensure that expertise and knowledge about religion are consonant with the importance of the subject.

**2. The Attorney General Should Commission a Study and Plan for Law Enforcement.** In conjunction with the Presidential Commission for a study (or independent of it, should it not be commissioned across all federal branches), the Attorney General should coordinate an examination of the sorts of resources that federal law enforcement agencies have available to understand religion when it becomes an issue involved in their work. The commission should be given the mandate to review, coordinate, and recommend programs for change. Under the direction and supervision of the Deputy Attorney General, educational and training programs at all levels should be designed and coordinated and pools of experts knowledgeable about religion, both inside federal law enforcement and outside of it, identified and organized in an accessible database.

**3. The President Should Issue an Executive Order.** Actions that bring coercive force to bear against religious groups ought to be considered highly sensitive. Whenever such an action is contemplated, under the direction of the Department of Justice, every possible alternative should first be reviewed and explored in light of the special, religious nature of the case. In such cases, policy judgments should be accorded the full weight of priority over operational judgements alone and such policy judgments should be made at the highest level (the Attorney General, the President or their immediate designates) to ensure that religious freedoms have been adequately considered and safeguarded. To this end, there should exist predetermined "yellow-flag" points in the policy-setting and decision-making processes as well as in the chain of command with predesignated formats. For example, such a predetermined format should exist for briefing the President, the Attorney General, and other senior executives and policy judges. These predesignated formats should call for comprehensive outlines and analysis of the religious ideas, attitudes, and actions of the religious communities in question as well as full review of analogous situations in the past. The predesignated formats, predetermined yellow-flag judgment points, outlines for review, guidelines for analysis, definitions of appropriate expert input, and Department of Justice responsibilities for design, review, and approval should be outlined in an Executive Order issued by the President. Such an Executive Order would require that a raid by any federal law enforcement agency directed at a religious community, such as the one that occurred in Waco, would be justified only after a full and expert consideration of the religious character of the community and the religion issues involved.

**4. Religion Studies Should Be Utilized as a Resource.** Religious studies encompasses a wide range of special areas of study. Theology and biblical studies are perhaps the most widely known because they are both ancient and commonplace. Most practicing ministers and religious authorities are schooled in theology. Since these religious practitioners are often public figures in communities, theology and biblical studies are relatively known. Less well known are fields of study of religion developed only in the last century. These

new fields developed only recently, either because the data for study became known only in recent times (through archaeological discoveries, linguistic breakthroughs, and ethnographic studies emerging from colonial contact with cultures beyond the West); or because the notion that religions could be understood intelligently and fairly by "outsiders," who study them with a degree of objectivity, only recently took hold in universities. These new disciplines of religion studies include: the history of religions, phenomenology of religion, comparative religions, psychology of religion, sociology of religion, and the study of religion and literature, religion and the arts. The development of these disciplines parallels the growth of social sciences as psychology, archaeology, linguistics, anthropology, and sociology--fields that, for whatever reasons, seem to have established themselves as important resources for law enforcement in ways that religion studies have not yet done. Practitioners of the newer disciplines of religion studies as well as of theology often state that their fields advanced in the academy only at the expense of theology. Others see the tension between theology and the newer religious sciences as unnecessary and unproductive. Of course, law enforcement needn't concern itself with this debate. Though it ought to be aware of the diversity of disciplines in seeking consultants, it would benefit from advice in all the religious studies disciplines.

##### **5. Design Programs for Education and Training about Religion at all Levels of Federal Law Enforcement**

In accordance with the Attorney General's Commission and under the direction and supervision of the Deputy Attorney General (# 2 above), education, training, and expertise should be developed and suited to the various levels of service, command, and policy-setting. The Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia and the FBI Academy in Quantico, Virginia offer ample resources and experience that can be expanded upon to cover the area of religion studies. The major national professional organizations for the academic study of religion, which encompass a large range of disciplines and specialties, and university-based departments of religion studies as well as on-line seminars available through university-based computer networks could help in designing curricular and research programs, building the database of expert referees, and locating programs for faculty development.

The Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia trains agents and officers for some 70 participating federal law enforcement agencies from all three branches of the federal government (such as the Bureau of Indian Affairs, Immigration and Naturalization Service, U.S. Marshals Service, Bureau of Alcohol, Tobacco and Firearms; Internal Revenue Service; U.S. Customs; U.S. Secret Service; U.S. Capitol Police and many others). FLETC presents curricular programs on a wide range of topics that figure in law enforcement: archaeological resources, land management, automated environments, international banking, telecommunications, the role of the media during crises.

FLETC and the FBI Academy should add basic knowledge (perhaps three to four hours) about religion to their basic level programs for new agents and incoming uniformed officers so that they recognize religion as a substantial element of social life, one that requires special care in the light of constitutionally guaranteed freedoms. Individuals and groups that come into contact with law enforcement (through need for protection or

through suspicion of criminal acts) may be strongly motivated by religious beliefs. These must be amply considered in taking action.

The basic training should not aim to create experts but to make agents aware: of the severity of the issue; that their personal views or knowledge about religion may not encompass the complexities of the subject; that the complexities must be taken into consideration when taking action; of guidelines that make agents aware that the issue of religion may be at stake; of the need to turn to helpful resources; of where such next-step resources may be located inside law enforcement and outside of it.

An in-service training film and accompanying literature should be prepared for those currently serving in law enforcement

Advanced Training is necessary for some agents at all levels of command so that they be knowledgeable enough about religions to navigate the flood of information that pours in during times of crisis, helping to separate "dirty data" from that which is reliable and useful. Such advanced training can be modeled on other FLETC curricula. At the FBI Academy, it is my understanding that the Criminal Investigative Analysis Program is comprised of Special Agents who have been selected by the National Center for the Analysis of Violent Crime (NCAVC) on the basis of their performance as field Agents. The two-year training program for assignees to NCAVC could well include course materials on religion studies. Also, it is reported, some NCAVC Coordinators (stationed in FBI field offices) receive advanced training. In some cases, religion studies could be a part of the advanced training given Coordinators. These Coordinators may subsequently be called upon to provide special analyses when a requesting law enforcement agency finds itself engaged with religiously motivated groups or individuals.

Very Specialized Training should be provided for selected agents who show unusual competence in the area of religion. FLETC conducts curriculum review conferences for many of its participating organizations, examining very specialized programs that address special needs. In response, they modify and design curricula. Some such specialized training in the study of religion could be devised to train those who might be called upon for special service in key positions (Incident Commander, Negotiator, Intelligence, Policy Judges) in case of an encounter with a group like the Branch Davidians. Also, the National Center for the Analysis of Violent Crime (NCAVC), at the FBI Academy in Quantico Virginia carries on research in all three of its major units (Behavioral Science Services, Investigative Support, and Special Operations). Without inventing new educational structures, religion studies could figure in this research. Moreover, very specialized training could perhaps be acquired in religion studies through NCAVC's Fellowship and Faculty Development Programs. However it be obtained, it seems imperative to have expertise about religion among at least some command level agents (SACs, Regional Directors) who might function as Incident Commanders. With the help of a coordinated pool of expertise within the agencies (locatable through an updated, indexed database), such a commander will have the skill and fore-knowledge to screen the ocean of data generated by solicited and unsolicited experts in the heat of a crisis. These individuals should understand the importance of religion as a motivator for individuals and groups and be prepared to take religious beliefs, expressions, and actions into consideration when making decisions.

**6. Systematically Cultivate and Coordinate Expertise About Religion Within Law Enforcement and Outside It**

The expertise within agencies should be identified, cultivated, and coordinated to organize a pool of internal expertise. The agents who prepared the memos for the Criminal Investigative Analysis subunit and other agents who have informed themselves about religions could form the nucleus of such an effort within the FBI. This pool of internal experts could also play key roles in identifying the thresholds, yellow flags, and formats outlined in the Presidential Executive Order (recommendation #3) as well as in proposing curricular and training programs for design by the Attorney General's Commission (#2). Without some previous familiarity with landmarks in the world of the study of religion, it appeared nearly impossible for law enforcement to sift through the incoming data and separate wheat from chaff. The capacity to use this information to advantage in negotiations or in assessing tactical decisions seemed simply to shut down. Without an on-board rudder to guide them through the ocean flood of rising information, the response to the influx of information about religious matters, from Koresh, the Davidians, and from outside volunteers, was apparently not to deal with it at all.

Develop systematically the outside expertise available about religion. The pool should be constituted thoughtfully with an eye to covering issues in a systematic fashion, since not all relevant areas can be covered comprehensively. Organize the pool of experts by sub-discipline, by phenomenological theme, and by tradition. Plan sessions with experts on how the agencies work, both in their training and in their operations during time of crisis. This is the acculturation that agents stressed was necessary. If these experts are invited to play a role in recommendations 1, 2 or 5 above, they will perforce learn to express what they know in terms helpful to the agencies. In turn, experts who come to know how the agency works may also tender constructive suggestions for change in the agencies advisory and operations procedures.

**7. Consider overriding geography-based assignments of SACs or Regional Directors as operational commanders**, in cases like Waco, especially when there is stalemate or standoff with religious groups. Instead, consider assigning those agents who may have advanced and specialized knowledge about religion. When such an incident occurs, the best prepared person should be appointed as the Incident Commander with authority for operations. Otherwise, as the advice moves closer to commanders making decisions, the cultivated expertise inside and outside of the bureau could fall on deaf ears just when it is needed most.

**8. Consider using a third-party negotiator in cases of standoff with religious groups.** In briefings and in response to questions, almost all agents made it clear that third-party negotiations ran counter to "hard and fast" rules of negotiation. And so it came as a surprise to them and to us, after a closer examination of some cases (such as CSA in Arkansas and Weaver in Idaho) that third parties, who shared the religious convictions of those barricaded but who sought the peaceful end of the siege through surrender, had succeeded where agents had not. These cases also ran counter to another norm: not to discuss the controversial subjects of religion and politics during negotiations. In the light

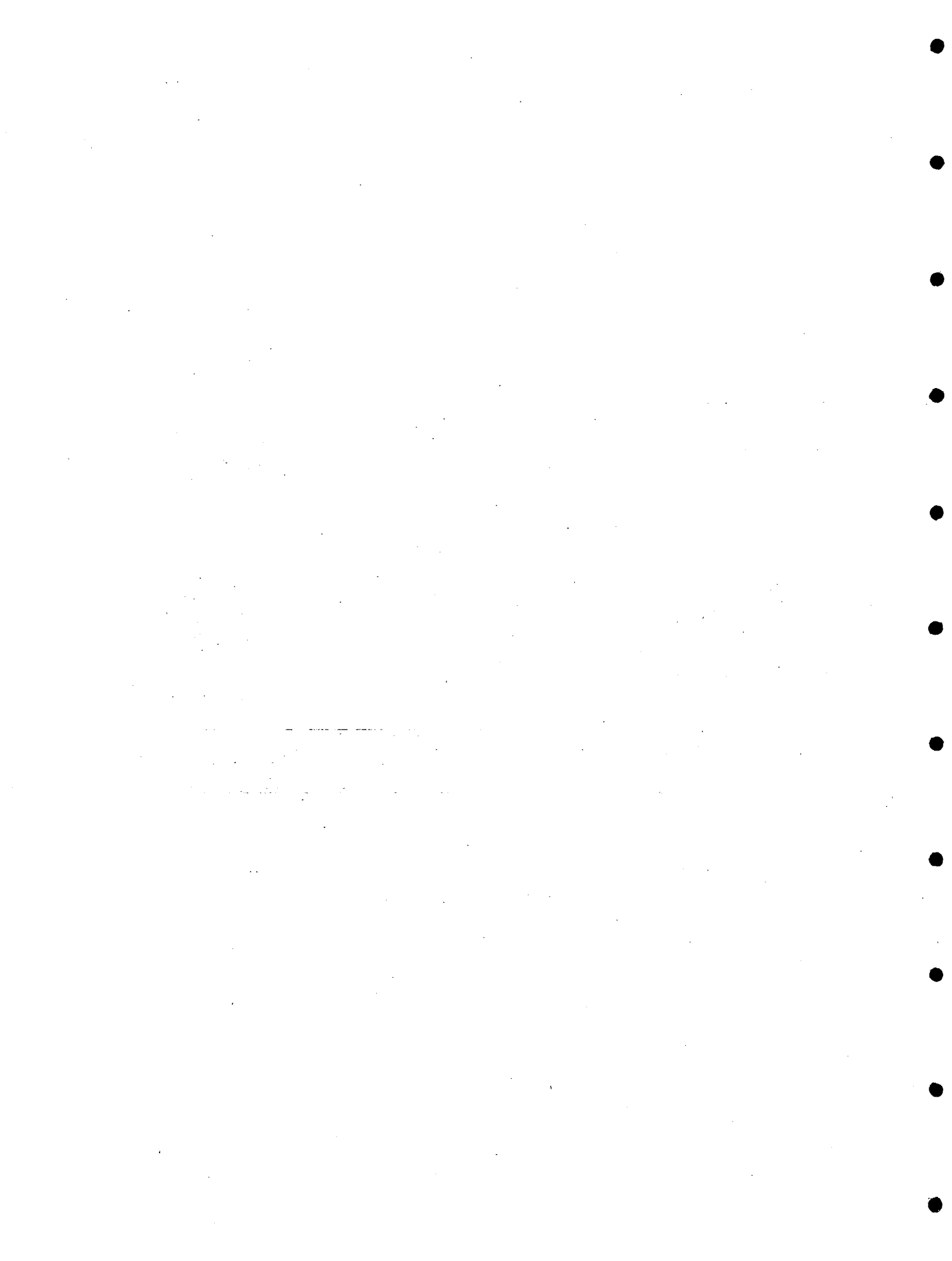


of their own experience with what they call 'unconventional' groups, federal law enforcement might wish to rethink these norms for negotiation in favor of finding individuals who share the groups' conventions.

## VI. CONCLUSION

No one must suppose that better knowledge about religion will guarantee federal enforcement agencies the ability to predict and control the outcome of crisis situations, anymore than financial or economic expertise could guarantee the ability to control the activities of stocks. The goal in fostering more and better knowledge is to increase the capacity to make the best-informed, most responsible decisions called for in time of need. With the prospect of facing situations and groups like those in Waco, cultivating more adequate knowledge of religious studies is the right thing to do. It will provide a focus for thought, options to consider in times of crisis, as well as a vocabulary for analyzing and interpreting human motives, ideas, and actions.

The call for more reliable knowledge about religion may not meet with unanimous consent among all agents in federal law enforcement. This understandable difference of opinion about a controversial subject would not diminish my respect for these agents' discipline and willingness to adapt when needs are made clear. When an important issue comes to their attention and a persuasive case is made for its relevance in carrying out their duties, insightful leaders will take the necessary steps to address it. Waco has brought to public attention, with unusual force, the need to rethink the way law enforcement will deal with religious groups. In this report and in the light of Waco, I have argued the need systematically to cultivate better knowledge about religion. With a renewed commitment to the close link between Integrity and Knowledge, federal law enforcement leaders can respond creatively to this demand of the future.





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Philip B Heymann  
Deputy Attorney General  
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Your reference

Our reference

Date 31 August 1993

*Dear Mr. Heymann*

In accordance with the Mandate detailed in your Memorandum of 25 June 1993 I now have pleasure in forwarding the enclosed report on "Coordination of the Organisational Response to Major Hostage/Barricade Incidents". I hope very much that it will be of some assistance.

I look forward to receiving details of the Panel's next meeting and to seeing you again on that occasion.

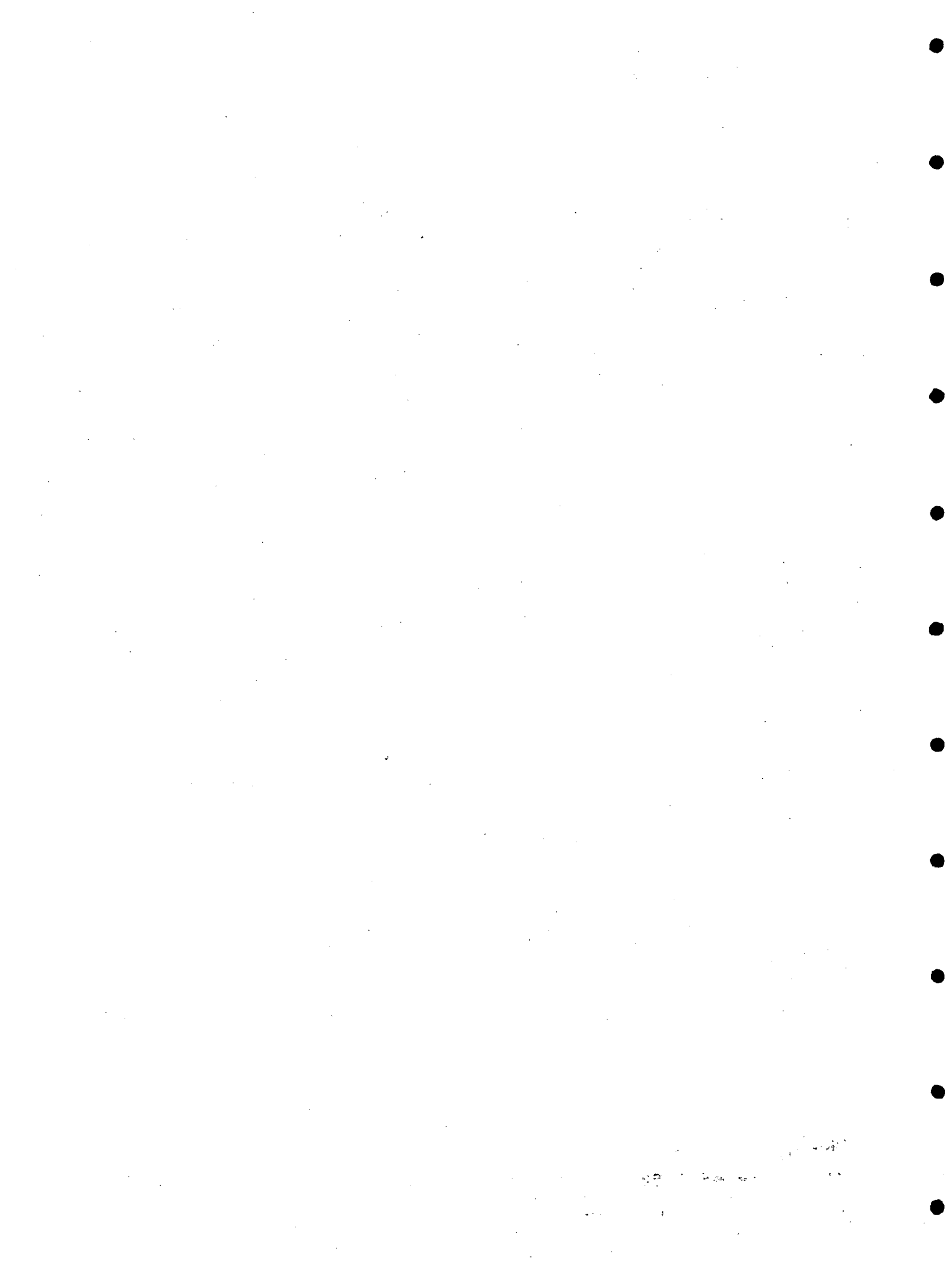
*Yours sincerely*

C E Birt

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OFFICE OF THE ATTORNEY GENERAL



COORDINATION OF THE ORGANISATIONAL RESPONSE TO  
MAJOR HOSTAGE/BARRICADE INCIDENTS

Introduction

This report is intended to convey what I consider to be the general principles of good practice in the effective handling of those hostage/barricade incidents which go beyond the purely operational to the extent that they attract significant political interest and involvement while they are taking place. A number of recommendations are made.

2. There are two points to which I would wish to draw attention at the outset; first, I am well aware that some of the principles to which I have referred may already form part of good practice by US law enforcement agencies and others. To the extent that this is the case they are included here for reasons of completeness; their inclusion should not necessarily be taken as an indication that they are all currently lacking. Second, I have tried throughout to use descriptive terms for particular functions and elements of the response. While these may not exactly equate to current US law enforcement or government usage, I hope the terminology I have employed will make their meaning sufficiently clear.

3. The report focuses in particular on three main areas: the organisational management of the on-scene response; the coordination of the political dimension; and the all-important need for a clear link between the two. But first it is necessary to consider what sort of incident might require the implementation of such a comprehensive response.

TYPES OF INCIDENT: THE THRESHOLD

4. It is a sad but unavoidable fact of life that law enforcement agencies have to deal, on a daily basis, with dangerous armed criminals in a variety of confrontational situations. Although there may be differences of degree, the US shares this problem with most Western countries.

5. The overwhelming majority of these incidents are handled effectively within the competence and resources available locally to commanders on the ground without the need for advice or assistance beyond local, state or federal law enforcement capabilities. Moreover, only the smallest proportion of such incidents carries the potential for significant political interest, and even less so for active political involvement in their handling while they are actually taking place. One of the most difficult judgements of all - and it is one initially for local commanders to make - is when a planned operation, or one which is actually in train, transcends the routine and becomes, or is deemed likely to become, something with national or international ramifications.

6. It is not the function of this report to lay down precisely when that threshold is reached. The decision is one which can only be taken with the benefit of professional experience and, ideally, a nationally agreed set of criteria to assist the decision maker. It is, however, possible to identify with a fair degree of confidence what the top end of the scale should be, namely hostage-takings by terrorists, whether in buildings, trains, ships or aircraft. In such cases political involvement is unavoidable because:

- (a) although committing criminal offences, terrorists can be distinguished from the "ordinary" criminal by the fact that they make political demands. Such demands can only be responded to by Government. Whatever the nature of that response - whether it be concession or rejection - it is not one for law enforcement agencies to give;
- (b) most terrorist incidents are likely to have an international dimension and therefore to touch upon the US's relations with foreign governments;
- (c) media interest in such incidents will require careful coordination of the government's public stance and close liaison with those responding to media enquiries

at the scene;

- (d) the government bears the political responsibility for the way in which the incident is handled;
- (e) the government must ensure that all those involved in dealing with the incident are fully aware of, and adhere to, government policy in relation to continuing terrorist incidents.

7. A hostage/barricade situation involving terrorists features all the vital elements of the response at both the operational and the government levels but it should not be assumed that the organisational response to terrorist incidents need be confined solely to such situations. A similar response, in whole or in part, may be equally applicable to other types of incident. These may include major siege situations involving those who are not politically motivated according to most accepted definitions and, indeed, those incidents where those behind the barricades are not hostages in the normal sense of the word. This underlines the importance of an agreed set of criteria which delineates the threshold between the routine and the extraordinary. Although the identification of that threshold can never be an exact science it should be possible to draw up a list of factors which would assist local decision makers to decide when an incident is, or could become, one which extends beyond the interests of law enforcement agencies alone, whether local, state or federal.

8. Those factors may include the following:

(a) is the incident the work of terrorists or other political extremists?

(b) is the incident one which is likely to attract worldwide media attention?

(c) is the incident likely to require a political response at the federal level? and

- (d) is the incident likely to have implications for the US's relations with other governments?

9. This is by no means an exhaustive list and the extent to which it may be expanded is a matter for internal consideration. Thereafter, it should be discussed, amended as necessary, and agreed between all relevant law enforcement agencies and government departments. Ultimately, it should be incorporated in a national document distributed to all interested agencies. It may well be that the FBI's procedures for designating an incident as a "major case" would be a useful model to build upon.

#### THE RESPONSE AT THE SCENE

##### General principles

10. The organisational response at the scene of any hostage/barricade situation which steps over the agreed threshold must, above all else, be as clear and unequivocal as circumstances permit. The following general principles should be observed:

- (a) there should be one accepted lead agency for all such incidents;
- (b) there should be only one Command Post from which the incident is managed; this should not be so close to the hostage/barricade stronghold as to be evident to those inside it, but should be within a sufficient distance to permit fairly easy movement between the Command Post and the Forward Control Point (see below);
- (c) an Overall Incident Commander should take charge of the operational handling of the incident. His or her authority must be recognised by all responding personnel and agencies and his or her decisions accepted as final where they relate to the operational response on the ground;



- (d) a Forward Control Point (FCP) should be set up close to the stronghold itself. Its location should take account of safety considerations but, if direct line of sight is not possible, CCTV should provide views of the stronghold from all possible angles. Ideally, the FCP should be on, or very near, the inner perimeter;
- (e) an FCP Commander from the lead agency should be appointed. He or she should be responsible to the Overall Incident Commander for the management of all activities, movements and deployments in and around the stronghold and for reporting on these direct to the Overall Incident Commander;
- (f) all responding agencies and personnel must understand how their own responsibilities fit in with others. They must understand each other's perspectives, priorities, capabilities and limitations and, above all, should strive to perform as an integrated team under the leadership of the Overall Incident Commander;
- (g) the advice, assistance and operational capabilities available to the Overall Incident Commander must be organised in a way which provides regular updates so that he or she has available at all times a comprehensive appreciation of all aspects of the response, the better to be able to make command decisions with confidence;
- (h) the chain of command should be as short as possible.

### Discussion

11. Lead Agency. For incidents of the type described in this report, ie those which exceed the agreed threshold, there should be no dispute about which should be the lead agency. The issues involved are too important to allow inter-agency rivalries and suspicions to cloud them. Arguments about lines of demarcation

and jurisdiction will serve the primary duty of the authorities towards innocent persons involved namely, that by providing a clear and effective response their safety is the paramount consideration.

12. The federal government should place the matter beyond all doubt by notifying all concerned that for all incidents which cross the threshold there should be a single lead agency. My own view is that that lead agency should be the FBI given their existing capabilities and experience in the fields of crisis management, negotiations and hostage rescue.

13. Although I understand that the Bureau has already negotiated a number of Memoranda of Understanding to this effect with other law enforcement agencies, this is unlikely to be sufficient to ensure an undisputed acceptance of this role nationwide. A national government directive would seem to be the best way of achieving such acceptance.

14. In considering the question of a single lead agency for incidents which cross the threshold it is necessary also to cast a critical eye over the numerous armed response teams prevalent throughout the US. While the need for specialist SWAT or SRT teams is not disputed there is a dividing line beyond which the techniques required in some armed operations - whether for the arrest of offenders, the service of warrants or the rescue of hostages - are such that only those trained and equipped to the highest standards of precision should be deployed to carry out the operation.

15. As an outsider, I find the proliferation of specialist response teams in the US somewhat disturbing. While I have no reason to doubt their commitment or professionalism it must be extremely difficult to have confidence that all are trained to equal standards and that they can all cope equally well in difficult and dangerous operations. Indeed, it is probably the fact that some are better than others that creates inter-agency rivalries. It can also lead to over-confidence in an agency's own abilities.

16. It follows from my suggestion that the FBI should be the lead agency for the most serious and difficult incidents that its Hostage Rescue Team (HRT) should be the specialist response unit called upon to deal with those incidents requiring such skills. To some extent the HRT's title is a misnomer. While the rescue of hostages requires the application of the most exceptional and sensitive techniques, there are other operations for which the same standards of excellence will also be required. One example would be an incident in which an offender needs to be safely and swiftly separated from a remote means of activating an explosive device. In short, the skills of the HRT are equally applicable, and necessary, in some incidents where no hostages are present. If my recommendation were to be accepted the title of the HRT would need to be changed to reflect its wider role.

17. More significantly, there would have to be a vast increase in HRT personnel together with the permanent location of HRT teams in strategic positions in the continental US. Where these might be is a matter for internal consideration, but a useful rule of thumb to aim for might be to ensure the arrival of an HRT at the scene of an incident within three to four hours of call-out. (Even to fulfil its present role the numbers in the HRT seem to me to be inadequate, given the geography of the US. A protracted terrorist incident, or simultaneous incidents, would stretch the capability to breaking point and would leave the fate of any hostages in less skilled hands).

18. I do not underestimate the difficulties in implementing what I am proposing. There may, however, be a compensating factor. If law enforcement agencies can be confident of a highly skilled presence within a reasonable time-scale, then their own SWAT teams need be trained and equipped only to the level required for an emergency response should such an exceptional measure be required in extremis before the arrival of the HRT.

19. If the HRT were to perform the wider national role I have in mind it would seem illogical and self-defeating to increase their numbers by diminishing the FBI's investigative capability. Rather, the aim should be to achieve the increase by reducing the

specialist armed capability of other federal law enforcement agencies.

20. Command Post. The key aim in the response to major incidents such as these is clarity and simplicity in their command and control at all levels. This singularity is lost if agencies other than the one in the lead set up their own Command Posts. If separate accommodation is required to coordinate routine matters of internal relevance to a particular agency, or part of one, then it should not be referred to as a Command Post. Some other designation should be found which indicates to all concerned that it is a subsidiary element in the organisational response. Although this may appear to be a relatively trivial matter it is designed to reduce the potential for confusion or misunderstanding among all personnel responding to the incident, from the most senior to the most junior. In incidents of this nature, confusion can lead to errors of judgement and these, even if fairly minor ones, can create major difficulties or even put lives at risk.

21. Forward Control Point. As with the Command Post, the functions and status of the FCP must be clearly established and understood by all. In general terms, the primary function of the FCP is to monitor and control all movements and activities on and within the inner perimeter. Because of the need for coordination of such movements and to forewarn or pacify those in the stronghold, the negotiators should be located in or adjacent to the FCP but they should not be part of its command structure. They should be directly responsible to the overall incident commander whose strategy it is their task to implement.

22. The status of the FCP must also be clearly understood. It is, in a sense, an extension of the Command Post but is essentially subsidiary to it.

23. Overall Incident Commander. The OIC must be of a sufficiently senior rank to command authority over all responding personnel irrespective of the agency to which they belong.

## Coordination of the on-scene response

24. Given the large numbers of personnel and equipment present at the incident scene, as well as the wide variety of interests they represent, it is of the utmost importance that the operational response is coordinated in a way that ensures that the OIC is at all times fully apprised of the development of the incident and the response to it. Only in this way can he or she make operational decisions with confidence and formulate and carry through an effective operational strategy. This coordination should not be achieved haphazardly or by default, but by a deliberate and predetermined organisational structure.

25. A coordinating group should be established in the Command Post to advise and assist the OIC in this task. Efforts should be made to keep the group's membership within manageable proportions, but it should include the key decision makers among those present at the scene. While the exact membership is a matter for internal discussion, I would suggest that the core representation should include:

- the OIC (in the chair)
- the agent in charge of the criminal investigation
- the intelligence coordinator
- the negotiators' coordinator
- the HRT leader
- the person responsible for dealing with the media
- the government liaison officer } see paragraphs 43
- a State Department representative } to 48 below
- an administrative assistant

26. The inclusion of the negotiators' coordinator in the coordinating group is most important. It has to be remembered that whatever policy or strategy may be formulated, and no matter how many resources are devoted to the operation - locally or in Washington - the negotiators' direct contact with the hostage-takers places them in a unique position to influence the operation. For that reason, any decision to employ tactics which might affect the mood or behaviour of those inside the stronghold

should give all due weight to any views expressed by the negotiators.

27. The coordinating group should meet at regular intervals; the frequency of these meetings will depend to some extent on the pace at which the incident is developing but, in a protracted incident, every three or four hours might suffice. Meetings should follow a fixed agenda to ensure that all relevant points are covered. The following is a suggested agenda:

1. Matters requiring urgent decisions/actions
2. Follow-up on actions from previous meeting
3. Review of any demands/deadlines
4. Formulation/review of:
  - intelligence needs
  - negotiating strategy
  - contingency plans against the possibility of release/escape/surrender etc
  - strategy for dealing with the media
5. Review of options for resolving the incident by use of force
6. Overall strategy (short, medium and long-term)
7. Arrangements for the next meeting.

28. It is essential that the OIC, as chairman, should keep a tight grip on the conduct of business: the aim should be to ensure that members have a full picture of all relevant areas of interest but that they also have sufficient time between meetings to carry out any actions placed upon them. For that reason discussion should be sharply focused and meetings kept as short as the situation allows; a duration of 30 minutes is a good target to aim for.

29. As soon as possible after each coordinating group meeting a note of its proceedings should be issued to all those present. This need not be couched in elegant prose, but should rather convey in note form the key decisions reached and identify those

upon whom particular actions have been placed. The objective is to ensure that those attending have a clear understanding of what is expected of them and, equally, that they have an appreciation of the whole operation so as better to understand how their particular area of interest or activity fits into the overall picture.

#### THE RESPONSE AT GOVERNMENT LEVEL

##### General principles

30. For those hostage/barricade incidents which are sufficiently serious to attract or require significant political interest or activity it is vital that government interests are effectively coordinated in Washington. As with the on-scene response, this coordination must be based on a pre-determined and practised plan, which is fully understood by all who are likely to be involved. The following general principles should be observed:

- (a) there should be one accepted lead government department for all such incidents;
- (b) all government interests should be coordinated from a single crisis centre;
- (c) the crisis centre should have clear objectives and procedures;
- (d) the crisis centre should have a single, direct link with the incident scene.

##### Discussion

31. Lead government department. If the FBI were to become the lead law enforcement agency for major hostage/barricade incidents, it follows that the lead government department should be the Department of Justice. The Attorney General should therefore coordinate all government interests in the incident by

chairing those meetings of the crisis centre requiring political decisions and keeping the President abreast of developments as necessary. Other Cabinet members and government departments/agencies with an interest in the incident must accept the lead role of the Attorney General in this regard; teamwork, coordination and unity of purpose at the government level are just as important as they are at the scene.

32. Crisis centre. One of the fundamental principles of crisis management is that there should be one - and only one - government crisis centre. A proliferation of other emergency or crisis control centres will serve only to confuse when clarity is of the essence. If other government departments or agencies find it necessary to coordinate their own internal interests by the establishment of emergency rooms of whatever description these must always be seen as being in support of their organisations' representative(s) in the government crisis centre and nothing more than that.

33. The departments and agencies represented in the crisis centre should be sufficient to ensure that all government interests in relation to the incident are satisfactorily covered. The precise representation will probably vary from incident to incident and it is important not to lay down membership too rigidly. There should always be sufficient flexibility to ensure that any department with a significant interest in the incident, or whose interests may be affected by the incident, can send a representative to the crisis centre so that its voice may be heard. If the system is working effectively there will, in any case, be no other forum.

34. The core membership of the crisis centre is a matter for internal discussion but Department of Justice and FBI are obvious contenders as would be FAA for aircraft hijacks. Additionally, if the incident has a foreign dimension either because foreign nationals are involved - whether as victims or perpetrators - or because the incident impinges on relations with other countries, then State Department should also be represented.



35. The primary role of the government crisis centre should be to determine government policy and strategy in relation to the incident. There should be as clear a distinction as possible between this overall political/strategic role and the operational/tactical responsibilities of the law enforcement response at the scene. The objective is not to interfere with the operation being mounted by those best placed professionally to seek to resolve the incident, but to provide the Overall Incident Commander with the political parameters within which he or she may conduct the operation. The crisis centre's role should be complementary to, and not in conflict with, the functions of the Command Post.

36. The crisis centre should also provide a coordinate government response. This may seem to be self-evident, but without such a crisis centre there is a serious risk that departments, agencies and other organisations will be speaking to each other in isolation, probably not in full possession of all the relevant facts, and possibly protecting their own interests. The resulting confusions and misunderstandings can, at best, lead to sloppy management and control and, at worst, risk to lives. The only way to eliminate these risks is to place all government interests in a single room. In this way, everything emanating from the crisis centre - whether it be, for example, advice to the Overall Incident Commander at the scene or statements to the media - can be seen to represent the coordinated view of government as a single entity and not the views of any particular department or agency.

37. It should also be the responsibility of the crisis centre to consider, and approve as necessary, any particular operational measures which could have significant political implications, either domestically within the US or in respect of the US's relations with other governments. In a hostage/barricade situation one such measure might be a decision to mount an armed intervention to rescue hostages. In that regard, a decision to commit an emergency response may be rightly delegated to the Overall Incident Commander because, by definition, the circumstances warranting such an extreme measure do not allow

time for formal consultations. But if the crisis centre is activated at the outset of an incident it may well wish to consider what would be the circumstances justifying such a measure, given the inevitable risks involved, and advise the Overall Incident Commander accordingly, giving delegated authority to activate an emergency response should those conditions be met. Similarly, the crisis centre will wish to consider carefully the political implications of any plan to rescue hostages by deliberate action rather than in an emergency situation.

38. Another part of the crisis centre's role should be to ensure that the Overall Incident Commander has available every possible assistance of which he or she may stand in need.

39. The organisation and procedures of the government crisis centre should be designed to ensure the well ordered conduct of its business. To be effective, the crisis centre should be activated at the outset of an incident and remain in permanent session - 24 hours a day - until it is concluded. The Department of Justice should have arrangements in place to institute call-out procedures once it has decided that an incident warrants the opening of the crisis centre. A list of names and contact points should be maintained by the Department and circulated to all those likely to be required to attend the centre in the event of need. This list should be regularly updated, possibly twice yearly.

40. A large conference room layout is preferable to the traditional operations centre format since this will more easily facilitate discussion. Adjacent side rooms can be utilised to accommodate support staff and communications facilities.

41. For much of the time the crisis centre would probably be in informal session, seeking and receiving situation reports from the scene and from other quarters and considering them as they arrive. The Department of Justice should always be in the chair and should call more formal meetings on a regular basis so that all those present are fully informed about the way the incident

is developing and can contribute to discussions on the formulation of strategy. At these times the crisis centre can be staffed by officials and the level of representation is a matter for internal consideration. But at least once a day, and, if the pace of the incident requires, more frequently than that, there should be formal meetings of the crisis centre chaired by the Attorney General (or his or her Deputy); these meetings should also be attended by Secretaries, their Deputies or Assistants from other government departments represented in the centre. The purpose of these meetings is to ensure that any political decisions required in relation to the incident are taken by those best qualified to do so.

42. A log of significant developments and events should be maintained in the crisis centre and a note of all formal meetings prepared and distributed to all members as soon as possible after their conclusion. Such meetings should follow a set agenda and although the items to be covered may vary depending on the nature of the incident the following is a suggested skeleton format which could be adjusted or expanded as the situation demands:

1. Matters requiring urgent attention
2. Current position at the scene:
  - hostages and hostage-takers
  - operational deployments
  - state of negotiations
3. Response to any demands
4. Options for resolution of the incident
5. Foreign affairs issues
6. Public affairs issues
7. Timing of next meeting

#### THE LINK BETWEEN THE SCENE AND GOVERNMENT

##### General principles

43. If the government crisis centre is to fulfil its role

effectively, and if those in the Command Post are to feel properly supported by government there must be a single line of communication between the two. That link should be direct and should not be diverted through any other emergency room or control centre. The aim is to ensure that information, advice and guidance passing between the two is as clear and unequivocal as the situation demands. I suggest that contingency plans for major hostage/barricade incidents should include the concept of a government liaison officer to perform this task.

#### Discussion

44. The Overall Incident Commander will be too preoccupied with the primary task - the management of a difficult and delicate operation in which lives are likely to be constantly at risk - to spend long periods on the telephone speaking to his or her political masters in Washington. It should be the job of the person appointed as government liaison officer to perform that function on the OIC's behalf. That is not to say that there will not be occasions in the course of a long-running incident when the Overall Incident Commander will wish to and indeed should, speak direct to, the chairperson of the government crisis centre and vice versa. But, in my view, those occasions should be kept to the bare minimum and the main burden of communication should be shouldered by the government liaison officer.

45. The role of the government liaison officer should be, first and foremost, to keep the government crisis centre fully informed about the way the incident is developing. He or she should ensure that political considerations are borne in mind at the scene and, equally, that operational considerations are borne in mind by the government crisis centre. The government liaison officer should send frequent situation reports to the crisis centre, and should be a standing member of the Incident Commander's coordinating group.

46. It would be necessary to deploy two government liaison officers in order to provide 24 hour coverage at the scene. They would need a small support staff.

47. The person to fill the role of government liaison officer should be capable of understanding operational matters and political issues. He or she would need to have credibility both with the Incident Commander and the government crisis centre. In the sort of incident with which this report is concerned I would suggest that the government liaison officer should be a senior Department of Justice official.

48. Additionally, for those incidents in which foreign nationals may be involved, or which may have foreign affairs implications, a State Department representative would probably be a helpful addition to the team.

#### THE OVERALL PICTURE

49. This report has dealt with coordination of the on-scene response, coordination at the government level and the importance of a direct link between the two. But a response structure such as this cannot be left to be pulled together on an ad hoc basis only when it is required in earnest. The arrangements should be set out in a single national document or manual so that all agencies, organisations, departments and individuals likely to be involved in the response are fully aware of what is expected of them and how their particular roles fit in with the overall effort. Such a document should be regularly updated and distributed to all interested parties.

50. Even then, the arrangements cannot be expected to work effectively unless they are properly exercised. I therefore strongly recommend the establishment of a national exercise programme to test and refine the entire system.

51. Such an exercise programme should supplement, and not replace, the small and large-scale exercises already mounted by law enforcement agencies. What I have in mind is that, once a year, the entire system I have described should be thoroughly tested against a realistic scenario. Such an exercise would be diminished in value if the coordination arrangements in Washington were not fully involved. The government crisis centre

should therefore be opened and its membership established as for a real incident. This must include active participation by the relevant political figures if it is to be a true test of the procedures. Anything less would leave the system, as well as those individuals, less than well prepared to meet the undoubted pressures a real incident would place upon them.

### Conclusion

52. I have tried in this report to set out what I believe to be the main principles worth striving for to achieve an efficient and effective response to major hostage/barricade incidents where political interests become inextricably involved. I am under no illusion but that some of my recommendations may be very difficult to implement. I hope, however, that, in considering them, at least some progress might be made towards the desirable goal of achieving unity of purpose at the scene of such incidents, at the government level and in the liaison arrangements between the two. Indeed, if I were asked to identify three keywords to be borne in the minds of those developing plans for the handling of future such incidents, these would be: clarity, unity and simplicity. If those three can be achieved I believe the US will be well-prepared to face whatever the future might hold.

53. A summary of my conclusions and recommendations is attached.

54. I submit this report for your consideration.



C E Birt

31 August 1993

## SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

1. A list of factors should be drawn up to assist local decision-makers to decide when an incident or operation is likely to attract significant political interest. The list should be distributed to all relevant law enforcement agencies and government departments.

### The response at the scene

2. There should be one accepted law enforcement agency in the lead for all incidents which exceed the agreed threshold. This should be the FBI.
3. There should be only one Command Post at the scene.
4. A Forward Control Point should be set up close to the incident itself and its role and status clearly established.
5. An Overall Incident Commander and Forward Control Point commander should be appointed by the lead agency.
6. The FBI's Hostage Rescue Team (HRT) should be much expanded and renamed. Response teams should be based at strategic locations so as to provide an agreed minimum deployment time nationwide.
7. A coordinating group should be established within the Command Post to advise and assist the Overall Incident Commander.

### The response at the government level

8. There should be one accepted government department in the lead. This should be the Department of Justice.
9. There should be a single government crisis centre with clear terms of reference. Its membership should be

sufficient to ensure that all government interests in the incident are satisfactorily covered. Once activated, it should remain in continuous session until the incident is concluded.

10. The Justice Department should be in the chair and, from time to time, the Attorney General (or his or her Deputy) should chair meetings in the crisis centre. To ensure political cohesion in the government's response to the incident those meetings should be attended by other relevant Cabinet members, their Deputies or Assistants.

#### The link between the scene and government

11. There should be a direct line of communication between the government crisis centre and the incident scene.
12. A government liaison officer should be deployed to the Command Post to provide this link. This should be a Department of Justice representative.

#### General matters

13. A national document or manual should be produced which sets out in full the agreed response arrangements. This should be distributed to all those likely to be involved in the response. This document should be regularly updated to reflect the lessons learned from exercises and real incidents.
14. A national exercise programme should be established to test and refine the response arrangements. This will require the active participation, once a year, of all those (including Cabinet members) who would have a significant part to play in a real incident.



Weil, Gotshal & Manges  
M E M O R A N D U M

August 31, 1993

BY HAND

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Ronald K. Noble  
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FROM: Richard J. Davis

RE: Report to the Departments of Justice and Treasury

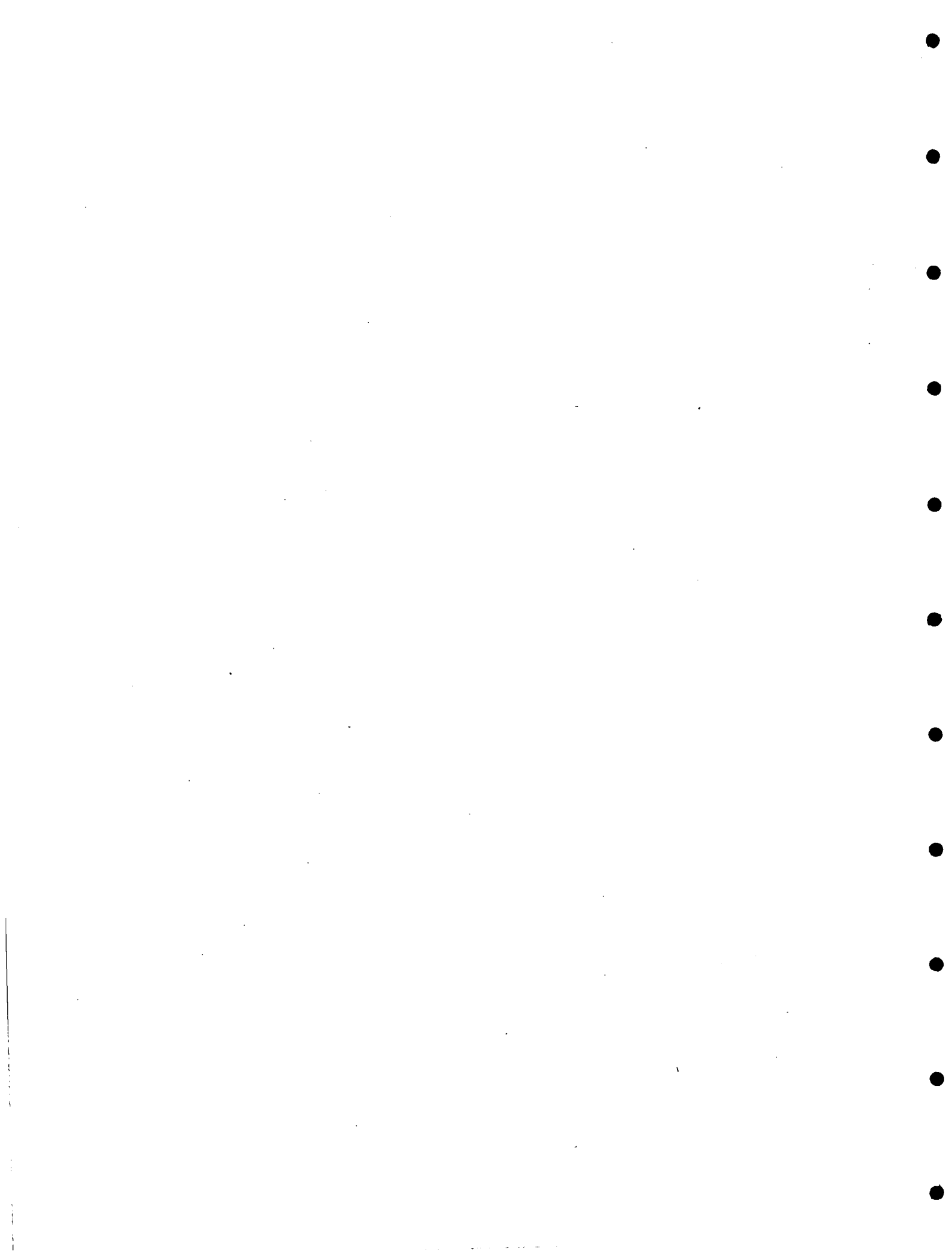
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Enclosed are my recommendations concerning steps that can be taken in the aftermath of what occurred at Waco. Given the exigencies of time, this report is being submitted prior to my having an opportunity to read the final fact-finding reports of the Treasury and Justice Departments. Thus, it may be possible that in light of those reports I might have additional comments and/or desire to modify some of these recommendations.

I appreciate the opportunity to work with you on this project and I look forward to discussing with you my report, as well as those of the other experts. As described in my report, one certainty when you get input from experts is that the experts will not all agree. I only hope that my set of recommendations is of assistance in helping you develop an overall program to deal with hostage/barricade situations in the future.

RJD

Enclosure



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Richard J. Davis

### I. Introduction

There can be little doubt that the events at the Branch Davidian compound in Waco, Texas require careful review. The planning of the initial ATF raid, and then the decision to proceed with it after the element of surprise was lost, plainly raise serious questions. The ensuing 51-day standoff -- and its resolution -- presented the kind of enormously difficult challenges which inevitably generate varying opinions as to the law enforcement response. Critiquing how these operations were conducted is, however, the work of others. My assignment is to see how we can build from this experience, and to make recommendations looking towards the future.

The focus of these recommendations will primarily be on the organization, command, control and resource areas. My primary theme will be the need to create from among the scores of agencies with some responsibility for these mat-

ters, the clearest possible lines of authority and accountability in connection with planning and implementing responses to barricade/hostage situations. Selection of particular strategic and tactical approaches will involve often difficult judgments based on the circumstances being confronted, but we significantly increase the probability that the right choices will be made if it is clear who is responsible for making them, and if those responsible have prepared in advance as to how they should go about doing so.

Before turning to my recommendations, I would like to make certain preliminary observations. The first is that we must remember that there often is no risk-free solution in these situations. Press, public and political figures alike often act as if there always is some solution -- which the responsible officials are just not wise enough to identify -- which will both get the job done with certainty, and involve no risk of loss of life to the involved law enforcement personnel, those barricading themselves, or any innocent persons they may be holding. The reality is that in many circumstances there is no perfect solution, but the decision makers must nonetheless decide what to do while recognizing that all available alternatives, including deferring any aggressive action, entail some clear and foreseeable risks.

Second, one cannot contemplate the issues involving hostage/barricade situations without considering the critical role that intelligence can play in avoiding and/or resolving these incidents. I recognize that within the context of a democratic society there are, and should be, some limits on what can be done in this regard. We cannot, however, avoid or effectively deal with these events, particularly in the terrorist context, unless the Government, including the FBI, CIA and NSA, is doing all that is possible, consistent with necessary legal constraints, to obtain needed intelligence.

Finally, in making these recommendations I have had the benefit of briefings from the FBI, ATF, Secret Service, Customs Service, Marshall's Service, DEA, the Federal Law Enforcement Training Center, the National Institute of Justice, the Treasury Office of Enforcement and from those Justice and Treasury Department officials responsible for gathering information about what happened at Waco, both in connection with the ATF raid and the ensuing siege. Given the relevant time deadlines in connection with this process, I have not, however, had an opportunity to review their final written reports.

## II. General Organizational Issues

The FBI, the Drug Enforcement Administration, the Bureau of Alcohol, Tobacco & Firearms, the Secret Service, the National Park Police, the Capitol Police, the GSA Protective Service, the Customs Service, the Bureau of Prisons, the Marshall's Service, the Immigration & Naturalization Service, the Internal Revenue Service, the Forest Service, the Defense Protective Service, the State Department Security Service -- this is just a partial list of the over 70 law enforcement agencies which operate at the Federal Government level, without even considering the added organizational complexities created by the involvement of state and local law enforcement agencies. These Federal agencies have varying, although sometimes overlapping, responsibilities, and they operate under the oversight of many different entities -- the Departments of Justice, Treasury, Interior, Agriculture, Defense and State, the General Services Administration and the United States Congress. But, while they have all these differences they all share one important attribute -- they may become involved in a hostage/barricade situation, including one that is terrorist linked.

With all these different agencies reporting to so many different entities, there is a clear risk that both in

planning for, and in actually confronting, hostage/barricade situations there will be confusion over who is in charge. Such confusion, troubling in any law enforcement activity, is extraordinarily dangerous in dealing with these situations, particularly where the offending group is a terrorist organization, a potentially violent religious cult, a racist or other violent political extremist group or another non-traditional criminal organization. Such groups do not share the motivations of those ordinarily committing crimes and their commitment -- and even obsession -- with particular causes creates special problems. In order to deal with this dispersion of law enforcement responsibility, I recommend the following:

A. The President should issue an Executive Order making it clear that the Justice Department is responsible for planning, research and operations in all domestic hostage/barricade situations where there is involvement of a non-traditional criminal group, such as a terrorist organization, potentially violent religious cult, racist or other violent political extremist group.<sup>1</sup> The Executive Order should also make clear that the Justice Department not only would plan for and oversee the response to such incidents,

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1. The Executive Order also would apply to other extraordinary circumstances (e.g., a deranged gunman holding tourists as hostages in a National Park).

but would have at least review and approval rights of any action by any Federal law enforcement agency directed at any such group. In addition, it would be made clear that the Department has oversight over all domestic counter-terrorism activities, including the right (to the extent exercised at the appropriate level) to issue instructions to non-Justice Department agencies.

It simply should not matter whether the incident takes place in a National Park, an Embassy in Washington or in Waco, Texas -- the Federal response should be controlled by the Justice Department, and it should be their responsibility to obtain appropriate input from other agencies. Thus, for example, under such an Executive order approval by the Justice Department would have been required for an activity like the initial ATF raid. Such a requirement hopefully would help assure that the justification for a raid was fully vetted, that alternatives were fully explored in a detached manner, that the planning, expertise and intelligence of other agencies was brought to bear, and that quality control of the raid tactics was routinely available.<sup>2</sup>

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2. Except in extraordinary circumstances, the Executive Order would not apply to the execution of warrants not involving these types of groups.



B. While obviously the Attorney General would have ultimate responsibility, within the Justice Department a single position should be identified as being responsible for carrying out the Department's responsibilities under the Executive Order. By having such a position there would be a clear focal point within the Federal Government for domestic counter-terrorism programs and for activities involving these types of non-traditional criminal groups.

One possibility is that the person given this responsibility would be the Deputy Attorney General, who would be supported by an Associate Deputy Attorney General whose sole responsibilities would be domestic counter-terrorism, barricade and hostage situation planning and operations. This latter person presumably would be a senior career official. Another alternative would be to create a career position of Special Assistant to the Attorney General who would have these responsibilities.

Whichever official -- the Deputy Attorney General supported by an Associate Deputy Attorney General, the Special Assistant or some other senior official -- has this role, that person would have day-to-day overall responsibility and accountability for this function. This official thus would be responsible for contingency planning, research, overseeing inter-agency coordination as well as

coordination between Federal and state and local agencies, assuring input from all relevant Government agencies as well as from outside sources, maintaining liaison with other governments and controlling the Federal Government's response during an actual incident. During an incident this official would also be the means for the dissemination of information to other Departments and agencies in Washington with a need to know, assuring that the Incident Commander is not distracted by having to respond to such inquiries.

In this connection, it is inevitable that in high visibility situations, or where there could be significant collateral international or other consequences, that major non-emergency strategic decisions may be made, or approved, at the Cabinet, or even Presidential, level. Creating the senior accountable official described above will facilitate this process. It will also assure that the chain of command is as short and clear as possible, running from the Incident Commander to the designated senior official (e.g., the Deputy Attorney General or the Special Assistant), working with designated FBI Headquarters officials. The designated senior official would be responsible for making sure that input had been received from other relevant agencies and from, where necessary, non-government resources.

C. In order to coordinate planning for responses to hostage/barricade and other potential terrorist incidents, the Executive Order should create a Contingency Planning Group, chaired by the Justice Department and with representatives from, at least, Treasury, State and the CIA. If not regular members of the Group representatives of other relevant agencies (e.g., National Park Police, GSA, Capitol Police, FAA) should attend such meetings when issues relevant to their jurisdictions are being discussed.

D. The Executive Order should also establish the FBI and its Hostage Release Team (HRT) as the Government-wide entity responsible for dealing with domestic hostage/barricade situations involving these non-traditional criminal groups, as well as in any other situation sufficiently serious to require a Federal law enforcement response of this type.<sup>3</sup>

In one sense, this Executive Order provision would be doing little more than recognizing reality. No other Federal law enforcement agency has created within itself an

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3. This means that where other agencies are participating in an operation, they are, in effect, under the control of the FBI Incident Commander and, ultimately, the Department of Justice.

HRT type capability." They have appropriately recognized that it would be inefficient for them to do so and that, absent the dedication of the extensive resources required, it is best to look either to HRT or local law enforcement SWAT Teams to fulfill this role. Indeed, several organizations (e.g., ATF and the Marshall's Service) have trained groups of agents for use in high risk entry or arrest situations on the understanding that any ensuing hostage/barricade situations of any duration would be handled by others.<sup>5</sup> In ordinary situations the hand-off would be to a local SWAT team, and local law enforcement officers are often present when search or arrest warrants

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4. The Delta Force is the Army's group trained for rescue type operations. The use of Delta Force in domestic situations, however, raises several issues. First, the Posse Comitatus Act incorporates a fundamental historical policy prohibiting the use of the military in a domestic law enforcement context. Given this strong policy, to the extent the President was prepared to waive this statutory prohibition, any such waiver would likely be done only on a case by case basis as actual situations develop. Handing a domestic situation over to the military also involves adopting a military, rather than law enforcement, approach (e.g., greater willingness to accept casualties) to its resolution. For all of these reasons the policy decision appropriately has been made to rely on the FBI in domestic incidents, recognizing that in an extreme emergency Delta Force could still be used.

5. Even in connection with the protective responsibilities of the Secret Service, the agents are given extensive "first response" training. In the event of a true hostage or siege situation, however, operational responsibility would be given to HRT.

are being executed. Among other things, this provides instant communications to local SWAT teams should the need arise.<sup>6</sup>

The Executive Order would, however, make clear at least two points which may not currently be understood. First, in situations involving non-traditional groups the relevant agency, where circumstances allow, would be required to call in HRT, as opposed to local SWAT teams, unless the designated senior Justice Department official determines that doing so is not required. Obviously, in emergency situations, local SWAT teams could respond immediately, before it would be possible for HRT to deploy. In such circumstances, as discussed below, there will be a need for clear coordination between Federal and local authorities.

Second, in circumstances where HRT is asked to respond, overall operational responsibility for the incident, including the negotiating function, would also be transferred -- insofar as the Federal Government is involved -- to the FBI and the Justice Department. It should be clear that HRT is not being placed under the operational control of other agencies.

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6. The issue of training to deal with the transition period between a "failed" raid and the deployment of HRT or a local SWAT team is discussed below.

E. FBI Special Agents in Charge should continue to engage in regular discussions with state and local law enforcement agencies within their jurisdictions in order to avoid operational confusion as incidents unfold. Given the large number of agencies involved and the large variety of situations which may develop, it likely will not be possible to have clear understandings with all potential agencies concerning all the various contingencies. In addition, various localities (e.g., New York and Los Angeles) traditionally have had superb capabilities for dealing with hostage/barricade situations. While this obviously is a plus in terms of responding to incidents, this "positive" can also become a "negative" if rivalries are allowed to impede needed cooperation. Maintaining sound working arrangements with such agencies (including both with police agencies and relevant elected officials) thus is particularly important, and assuring that this occurs presumably would be a high priority not only of local Special Agents in Charge, but of the designated senior Justice Department official discussed above. In general, joint training exercises between HRT, local FBI SWAT teams and state and local law enforcement agencies also are important to assuring adequate coordination when an actual incident arises.

### III. Agency Responsibilities

In addition to the general organizational issues raised by the events at Waco, that experience also suggests that agencies need to review how they structure their own participation in these types of events. In this connection, I recommend the following:

A. There should be no presumption that a particular agency's senior local official (e.g., Special Agent in Charge, Regional Director) will be in command of an operation involving non-traditional criminal groups taking place in such person's jurisdiction. Based on briefings received in this review, it appears that agency practice is inconsistent in this regard. The operative rule, however, should be absolutely clear. While the reliance on local supervisors to perform this function may have had no adverse consequences in dealing with the events at Waco, for major incidents (whether it be terrorist activity, a prison uprising, cult-related action or an event involving a political extremist group), each agency should assign the most experienced and capable person in such events as the Incident Commander with full responsibility for the operation subject to appropriate headquarters oversight.<sup>7</sup> The

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7. In addition to applying to hostage/barricade situations, this should also be true of major actions like the initial ATF raid.

process of selecting an Incident Commander should operate so that it is not viewed as a rebuke to the local agent in charge if someone else becomes the Incident Commander.

In addition, the fact that agents normally under the supervision of a particular Special Agent in Charge are participating in an operation should not give that person any authority in the operation. Operational responsibility and authority should be in the hands of the Incident Commander.<sup>8</sup>

B. While the U.S. Attorneys do not have operational responsibility, in major actions such as the initial ATF raid at Waco they are obligated to do more than simply arrange for the issuance of necessary warrants. They should make certain that there has been appropriate coordination with, and input from, other agencies, that the proposed action has been considered at senior Justice Department levels and that the overall plan seems likely to achieve its objectives.

C. Relevant senior officials, including the Deputy Attorney General, the Assistant Secretary of the Treasury (Enforcement) and a senior State Department official and, in

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8. Apparently, in connection with the initial ATF raid, certain SAC's whose offices provided agents for the operation had some form of abort authority by virtue of their positions.



at least some exercises, a senior White House official, should participate in periodic contingency planning exercises. Local authorities, including those from predictably relevant jurisdictions (e.g., New York), also should participate in some of these exercises. Unless senior officials actually participate in these exercises -- no matter how busy they might be -- we will not be as prepared as we should be to timely respond to major terrorist incidents. To the extent it is not done now, full reports of these exercises also should be submitted to all relevant cabinet officers. The President should be appropriately briefed on these exercises, as well as on contingency planning in general, so as to be assured that adequate contingency planning is in place.

D. Incident Commanders on the scene always must have the right to respond to emergency situations as they evolve, and to be in charge of the implementation of basic strategic decisions.<sup>9</sup> In various situations, however, it is appropriate that final clearance on non-emergency major strategic

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9. While senior policy officials should not take over operational responsibility for such actions, it is appropriate -- and indeed desirable -- in major incidents for them to understand the tactics being used, raise any questions they have and assure themselves that procedurally all necessary steps, including coordination and consultation with other agencies, have been taken. Hopefully, through advanced planning many of the tactical issues can be resolved before an incident develops.

decisions be made at the Justice Department or, in particularly important and sensitive incidents, by the President. In these circumstances, however, the line of communication needs to be clear and capable of swift action. It would run from the Incident Commander to the designated Senior Justice Department Official described above (who would assure any needed input is obtained from FBI headquarters, other agencies or non-official resources) and the Attorney General, and if appropriate in the circumstances, to a designated White House official and the President.<sup>10</sup> The White House official participating in this process should be identified now so that such person can participate in some of the contingency planning exercises discussed above.

E. Raids like that conducted by ATF should never be conducted without the involved agency seeking all available intelligence and support from other Federal agencies.

F. So that agencies can maintain maximum possible operational security, media representatives should not be invited to accompany agents on raids or given advance notice of such operations.

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10. It appears that in connection with the 51 day standoff at Waco that the line of communications was sufficiently short and the local Commanders reportedly were satisfied with the timeliness of responses.

G. There should be an ability to obtain court ordered electronic surveillance in connection with firearms offenses. While I understand the political issues involved whenever firearms is the topic, in a world where guns are the currency of terrorists, violent cults and other extremists, it makes no sense to preclude law enforcement from using this technique when investigating firearms offenses by such groups. It seems clear that if ATF did have access to electronic surveillance in this investigation, then they would have been in a position to develop a more effective strategy to execute the warrants.

#### IV. Resource Issues

The HRT has approximately 50 Agents assigned to it on a full time basis. In addition, other FBI offices have SWAT teams and each region has an enhanced SWAT team which trains together up to 5 days a month, but whose agents otherwise are assigned to regular duties. Some of these SWAT teams are led by former members of HRT. Other Federal agencies have groups trained for especially difficult operations, but do not have HRT-type capabilities. In connection with resource issues relating to hostage/barricade situations, I recommend the following:

A. The size of the HRT needs to be significantly increased. Ideally, it should be increased to approximately 150 Agents, with 75 stationed in Quantico and 75 stationed elsewhere in the United States. While separately based, these groups also could train together for one week a month.

In considering the resource issue, it is important to remember that units of HRT's nature must execute operations requiring split-second timing. Thus, those performing these operations cannot be an amalgam of different entities; they must be members of a unified group that regularly trains together. In this connection, experts have estimated that 60 or more agents would be needed to deal with a hijacked 747. Other incidents could require an even larger force. In addition, there may be a need to deal with multiple incidents over a short period of time. Having two seventy-five person groups thus would provide geographic flexibility to minimize response time and provide sufficiently trained agents for major operations.<sup>11</sup>

It is fair to remember, however, that in the current environment budget decisions all involve trade-offs. Putting more resources into one area requires that fewer resources be allocated to others. In considering the issue

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11. Obviously, in the event of an extraordinary crisis, Delta Force could also be deployed.

of resources for hostage/barricade situations a relevant issue is how much the Government should spend to deal with contingencies which may not develop. Because of the extraordinary danger created if a major terrorist-linked hostage/barricade situation does develop, I favor devoting to this function the resources described above. Nonetheless, I understand that others may evaluate the cost-benefit risks differently. If they do, a possible alternative which would improve the current situation, but provide lesser protection against larger risks, might involve:

1. HRT being increased to up to 100 agents; and
2. At least two enhanced regional SWAT Teams being given increased training, including spending time each month training with HRT.

B. Additional resources should be devoted to research concerning the resolution of hostage/barricade situations, both in the United States and around the world. While significant information is currently available, it does not appear to be collected on a systematic basis. The FBI should have the responsibility for performing this function.

C. There should be a review of the sufficiency of resources devoted to the FBI negotiating function.

D. The current approach of not replicating within each agency the FBI Hostage Release Team-negotiating

expertise present in the FBI makes sense. It does appear, given the importance of the first hours of any incident, that there should be a review of the adequacy of negotiation and crisis training given to agents and field supervisors in other law enforcement agencies responsible for high risk entry situations, so that they are fully equipped to deal with the transition period until the situation is turned over to the FBI or local SWAT teams. In addition, current training curriculums at FLETC should be reviewed to make certain that adequate training is being provided on high risk entries.

#### V. Reliance on Outside Experts

When dealing with hostage/barricade situations, particularly where cults such as the Branch Davidians are involved, there can be little doubt that it is necessary to consult outside experts with particular understanding of such groups and/or of the individuals involved. In particular cases relevant experts could involve psychiatric experts, cult experts or religious scholars. In seeking such input, however, those responsible for deciding how to proceed will have to deal with certain realities:

- a. The opinions they will receive from the experts often will not all be consistent;

b. It is impossible in a highly visible situation to consult with everyone who believes that they are the one expert with the critical insight necessary to making the correct decision; and

c. Expert opinions are only one resource -- also critical is input from individuals who have direct personal experience with those involved in the incident.

Given these realities it is important that those supporting the Incident Commander and the designated senior Justice Department official contact as wide a variety of sources as possible. The goal should be to receive input from people with many different perspectives, understanding that some of those contacted may have biases in their approach to these matters which will have to be considered. Those receiving these various opinions thus need to sift through and evaluate them. In the end, however, final decisions will have to be made by those in charge of the incident with the knowledge that, except in rare circumstances, they will not have received uniform expert advice.

## VI. Technological Support

Technology obviously can be helpful in dealing with hostage/barricade situations. The Branch Davidian experience suggests:

A. There is plainly a need for continued research in the area of "less than lethal" technologies. In this connection, any classified research in the area previously undertaken by the military or by intelligence agencies should be made available so that potential civilian applications can be evaluated in a more expedited manner.

B. There should be a capability for the expedited enhancement of tape quality in connection with electronic surveillance used in hostage/barricade situations. It is clear that in Waco the decision makers would have benefitted greatly from the knowing about conversations which only became decipherable when the surveillance tapes were enhanced after the incident. The Department of Justice should consult with the NSA in this regard.

## VII. Rules of Engagement

There apparently were several occasions when Government sharpshooters had David Koresh in sight, and thus had the capability to kill him. They did not. The reason was that the rules of engagement did not allow shooting at



someone unless that person then posed a danger to the lives of others. Thus, it would have been possible to kill Koresh during the initial battle, but not during the standoff, unless it appeared that he was about to commit an act which would endanger the life of others.

For many, I suspect that there will be an inclination to believe that the FBI should have used these opportunities to kill Koresh, on the theory that this would have led to a collapse of resistance and thereby saved lives. While this, in hindsight, may have been true, it simply is not consistent with our general notions of due process to kill a suspect who is not posing an imminent threat to anyone's life. Thus, this situation -- where there were no hostages in the classic sense -- is different from a true hostage situation. In the latter circumstance, the lives of the hostages are under constant threat, and, if considered to be the right tactical response, it should be appropriate to kill someone holding hostages, even if it is during a period when no direct violence seems imminent.

#### VIII. Law Enforcement Reorganization Issues

The issue of broader law enforcement reorganization, and the extent to which the merger of agencies and/or the transfer of agencies to the Justice Department would

enhance the ability to deal with hostage/barricade situations was raised in our briefings.

It does not require extensive analysis to come to the conclusion that, as a matter of abstract logic, Federal law enforcement agencies are not perfectly organized. A major narcotics investigation would easily involve four agencies -- DEA, the FBI, Customs and ATF, and a bombing investigation could easily involve at least two agencies -- the FBI and ATF. Indeed, in the Branch Davidian case itself the matter was referred to ATF only after it first had been referred to the FBI, which declined to pursue the investigation.

These logical imperfections do not exist because they have not been noticed. On the contrary, they have been the subject of periodic studies and frequent discussion over many years. Rather, they exist as a result of a combination of philosophy, accidents of history and political reality.

First, as to philosophy, there appear to be two arguments. One is the general notion that it is more consistent with -- and some argue necessary to -- our democratic traditions that there not be a single national law enforcement agency. The risk of abuse, under this view, simply is too great if such enormous power is centralized in one entity. The second argument is that creating separate

agencies for particular functions is necessary if those functions are to be given the necessary attention. Putting all or nearly all Federal law enforcement responsibilities into one agency inevitably will reduce the priority given to functions that are now the central mission of a separate agency.

Accidents of history, however, have been as important as philosophy in creating the current configuration of many law enforcement agencies. Thus, for example, because the initial Federal firearms laws were tax statutes, responsibility for their enforcement was given to a component of the IRS which later evolved into ATF. And the concept of a separate narcotics enforcement agency -- which has evolved from the Bureau of Narcotics into DEA -- originated because in the days of J. Edgar Hoover the FBI was unwilling to undertake drug investigations.

Political reality has traditionally operated to maintain the status quo, and to prevent meaningful reorganizations. Appropriations subcommittees in the Congress and involved Executive Branch officials have tended to try to protect their "turf." And, of course, involved interest groups are often reluctant to see their established relationships with existing agencies broken up through the loss of that agency's identity. A related obstacle to

reorganizations has been the reality that different agencies have different cultures, which affect their internal operations as well as how they work with other agencies, including those at the state and local level.

My view is that some rationalization of Federal law enforcement agencies would be helpful. While I do not favor creation of a single monolithic Federal law enforcement agency, there is a wide range of acceptable choices between the risks associated with having one agency and having over 70 Federal law enforcement agencies. Simply moving agencies as a whole from one Department to another, however, would provide only the most marginal operational benefits.

My real concern with any significant reorganizations, however, is that once reorganization proposals are made, such proposals tend to linger and then die. While they are going through this process, however, their mere existence has the effect of destroying morale at the affected agencies, freezing policy initiatives, and hurting the ability to recruit personnel. Beginning the process thus is dangerous, unless there is some reasonable certainty it can succeed and those pursuing these changes are prepared to stay the course.

An alternative to law enforcement reorganization, which could have some modest benefits, is to codify, and give more meaning to, the accepted notion that the Attorney General is the nation's Chief Law Enforcement Officer. In addition to the Executive Order discussed above, one way to do this would be to provide a budgetary role for the Attorney General, acting in conjunction with OMB and possibly a very small non-Justice Department special staff, to review, coordinate and rationalize the overall budget for all Federal law enforcement agencies. Similarly, the Attorney General could be given the authority to set policies applicable to all Federal law enforcement agencies covering such matters as use of informants, undercover operations, arrest and raid techniques, and use of force.

#### IX. Conclusion

The events at Waco, regardless of how one assesses the law enforcement strategies applied, were plainly tragic. While numerous children were saved in the early days of the siege, the obsession of the Branch Davidians led not only to the loss of life of Federal Agents, but of their own as well. The reality, however, remains that in these situations no one approach assures that life will not be lost. We need to do all we can, however, to try to maximize the

chances for the best possible result by creating clear organizational responsibility and accountability, by proper training and planning, by assuring clear simple lines of communication during operations, and by allocating the necessary resources. What I have tried to do in this report is to offer some suggestions as to how this might be done.

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August 26, 1993

The Honorable Philip B. Heymann  
Office of the Deputy Attorney General  
United States Department of Justice  
10th & Constitution Avenue, N.W.  
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Washington, D.C. 20530

Dear Phil:

I will be leaving the country later today, returning September 8. I want to get my thoughts to you, rough and unorganized as they may be, before I leave. After I return, I will be happy to amplify and reorganize them should you so desire.

While I was not able to participate in the Waco briefings, I did attend the meeting of your consultants in Quantico and found that to be very useful.

I will divide my comments into two parts: first, the coordination of federal law enforcement efforts, particularly in crisis situations, and second, some thoughts about reconfiguring the existing federal law enforcement components, focusing more specifically on the FBI-DEA relationship and the proliferation of 1811 law enforcement components throughout the federal government.

## I. Coordination

Except for situations involving attacks upon the President and certain key government officials<sup>1/</sup> there is relatively little legislative guidance on lines of authority and coordination in emergency situations involving concurrent or overlapping jurisdictions in which more than one federal and state agencies may have a role to play. In the federal system, law enforcement agencies are accountable to their respective heads of department who are in turn accountable only to the President. Lead agency and turf issues are often resolved through memoranda of understanding, often loosely couched. These tend not to work well during periods of major crisis and issues are often determined on a highly personal basis.

In far too many situations, emergencies under the jurisdiction of agencies outside the Department of Justice are handled without full consideration of the legal and policy issues that are routinely addressed by the Attorney General within the Department of Justice. Actions being contemplated by law enforcement agencies in emergency situations could have significant consequence to the President and the country. In such situations, the Attorney General should be consulted and should have the opportunity to make the final policy decisions, and if necessary to seek guidance from the President. For this purpose, I think we should have either a statute or an Executive Order which places the Attorney General in substantially the same

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<sup>1/</sup> 18 U.S.C. § 1751 (h) and (i).



role and authority with respect to law enforcement decisions as the Director of Central Intelligence currently exercises authority and leadership within the intelligence community. This would be a role focused on establishing policy, designating lead agency responsibility and approving the law enforcement response to the more sensitive and life threatening events of emergency proportions.

The kinds of events I have in mind are these (there may be others):

- civil unrest
- hostage situations
- unusual fugitive situations
- gang-type resistance
- terrorist activity

This leads to a few thoughts on management of our major response capabilities to these types of events. First, I believe that a civil response is almost always preferable to military units. There are differences in training and there are differences in basic approach. The military training tends to emphasize ending the incident quickly. The civilian approach puts greater emphasize on negotiated solutions which better protect hostages and innocent lives. It was because of these differences, and because no President is apt to want to commit to waving posse comitatus in advance, that I authorized the development of the first FBI hostage rescue team. This civilian team, approximately 50 in number, was designed to meet situations

exceeding the physical capacity and skills of swat teams located throughout all the field offices. The motto of the hostage rescue team is "To Save Lives". The HRT has been extraordinarily useful and successful against a wide range of challenges. The unfortunate tragedy at Waco does not in any way diminish my admiration for the men and women who serve in HRT or my sense of their importance to the country. If present projections continue, it would be well to obtain authorization to equip and train a second HRT of equal size. The HRT has trained and coordinated with many of the best special forces of friendly countries, and is widely viewed as the best civilian response team in the world.

In recent years, there has been an increasing tendency among other agencies to attempt development of such capabilities. The level of competence varies throughout the country and among the various federal agencies. Special response teams (sometimes inaccurately called "super swat") continue to proliferate. The FBI, DEA, ATF and the U.S. Marshall Service all purport to have such capabilities. I suspect that the Boarder Patrol and the Customs Service have similar teams, but I do not know for certain. What I do know is that these units should not be used in emergency situations without prior consultation with the Attorney General. My own view is that these units are redundant, often lacking in appropriate training and skills, and it would be good federal management to eliminate them entirely and create a larger FBI HRT response capability as I previously recommended.

This is the type of judgment that the Attorney General, if properly authorized to do so, could make and implement in the future.<sup>2/</sup>

If I were further defining these authorities in terms of the DCI model, I would also vest the Attorney General with authority to develop programs to deal with the increasing risk of civil unrest, usually urban, in terms of planning, coordination, training, command, control, communications and intelligence and utilization of the National Guard.

## II. Reorganization

I recommend that the President or the Attorney General commission a study on consolidation and coordination of law enforcement resources to achieve the following objectives:

- maintain consistently highest standards in
  - training
  - emergency response
  - performance
- improve information gathering and sharing
- reduce interagency friction
- establish lead agency selection preferable by

Executive Order or statute

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<sup>2/</sup> I am not addressing the traditional swat teams or metro squads which are much smaller in number and are regularly used to deal with much smaller emergencies throughout the country in the discretion of the authorities at the scene.

- develop a community in fact headed by the Attorney General with go-no go authority at predesignated levels of crisis and sensitivity

In making these suggestions I think it is important to underline that those exercising policy judgment must at all times show respect for professional operational judgment, but exercise policy judgment on such complex and sensitive matters as:

- cults and other radicalized groups
- kidnapping
- fugitives in foreign countries
- information and disinformation
- guidelines for sensitive activity
  - undercover activity
  - electronic surveillance
  - searches for national security purposes
  - Foreign Intelligence Surveillance Act
  - monitoring conspiracies

If the wish fairy would allow me to reorganize the federal law enforcement system by decree, I would make the following changes:

1. Drug Enforcement Administration.
  - Transfer all regulatory and state and local responsibilities to the Department of Justice.
  - Transfer all law enforcement responsibilities and all law enforcement personnel to the FBI. Establish a drug

enforcement division and consider consolidating with the work of the organized crime section.

- Combine training at the FBI Academy at Quantico with a significant drug enforcement component. Provide training and retraining as required for all special agents.

- Admission standards to be at least equal to FBI standards and modified as necessary to determine aptitude for drug enforcement.

- Review existing field offices for consolidation in optimum combined locations.

- All major crisis capabilities combined under HRT.

2. Alcohol, Tobacco and Firearms.

Transfer all law enforcement (1811) functions to FBI. Retain all regulatory functions in Treasury under the Assistant Secretary for Law Enforcement or elsewhere.

3. Secret Service.

No major changes. Continue to provide protective services, investigate counterfeiting and certain areas of financial fraud as determined by the Attorney General. Consideration should be given to the fluctuating needs of the Secret Service during election years and provide sufficient off-year work of the kind mentioned above to retain valued personnel. Secret Service should not maintain a major response team. Responsibility of support of Secret Service in crisis situations should reside in the Department of Justice, the FBI and the HRT.

4. U.S. Marshalls.

Review fugitive jurisdiction, especially with Attorney General policy review of activities in foreign countries. The U.S. Marshalls should not maintain a major response team. Responsibility of support of the U.S. Marshalls in crisis situations should reside in the Department of Justice, the FBI and the HRT.

5. U.S. Customs.

No major changes. The U.S. Customs should not maintain a major response team. Responsibility of support of the U.S. Customs in crisis situations should reside in the Department of Justice, the FBI and the HRT.

6. Immigration and Naturalization.

Retain the boarder patrol. No major response capability.

Proposed FBI-DEA merger

The FBI entered the drug arena in 1981. Since that time, it has focused its drug efforts primarily on organized crime and drugs, identification and breakup of major distribution systems and links between drugs and terrorism. Both DEA and FBI are members of the DCI counter-narcotics center. In the early 1980's, when DEA was nominally reporting to the director of the FBI, I brought the DEA training unit to the FBI Academy at Quantico. The administrator of DEA increased the admission standards to be substantially equal to those of the FBI.

In a decade, much progress has been made in recruiting, training and utilizing comparable and compatible personnel. I do not ignore the minor rivalries and political in-fighting that have resisted an amalgamation of the two agencies. Nevertheless, I believe it is time to consider seriously putting the two together, taking advantage of economies in scale and dedication to an important mission. Drug trafficking today implicates almost all of the FBI's major commitments and priorities. The "single mission" objection to merger seems to me to be counterproductive. What is needed is more awareness of the inner-play between drug dealers and other major criminal enterprises.

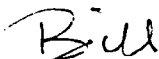
It is argued that foreign governments would distrust the FBI in drug work because of its counterintelligence responsibilities. My experience tells me this is an unsupported assumption. I have seen absolutely no evidence of this, either in my work in FBI or in Central Intelligence. The FBI has actively participated in working groups on drugs, such as the Italian-American working group and the Trevi organization of Western European countries.

There would probably be substantial vocal opposition from some committees in the Congress. I suspect that this has more to do with oversight responsibilities than the logic of consolidation. It may also be sparked by considerable agency

lobbying despite policies against it. These are not insurmountable obstacles. I believe we are at a moment in time when there may well be support for the more efficient and effective use of scarce resources. I recommend you try.

In summary, these are some of my thoughts developed over many years of working in the law enforcement and intelligence arena. I particularly urge that steps be put in place to identify the Attorney General as the senior law enforcement official with specific authority to act, especially in emergencies. When emergencies occur, such as have been described, the delays and uncertainties associated with the loose arrangements currently in place can create delays, indecision, internal conflicts and occasionally bad judgment. And it will be carried live on the national electronic media. I urge you to start the process of reorganization now.

Sincerely,



William H. Webster

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