



United States General Accounting Office
Washington, DC 20548

National Security and
International Affairs Division

B-286114

August 21, 2000

The Honorable Dan Burton
Chairman, Committee on
Government Reform
House of Representatives

Subject: Department of Defense: Military Assistance During the Branch
Davidian Incident

Dear Chairman Burton:

As you requested, we have reviewed the July 26, 2000, Department of Defense (DOD) response to your inquiry regarding the Army's delivery of 250 rounds of high explosive ammunition to agents of the FBI during their standoff with the Branch Davidians at Waco, Texas, in 1993. As you know, we issued a report on the military assistance provided to law enforcement agencies at Waco¹. That report dealt with the requirements for authorizing military support to the Bureau of Alcohol, Tobacco, and Firearms and the Federal Bureau of Investigation (FBI) as well as the type, costs, and reimbursements of the military support that was provided. One of the items we identified in our report as being provided to the FBI was 250 rounds of high explosive, 40mm grenade launcher ammunition.

Specifically, you asked DOD to explain the purported delivery of these high explosive rounds. In your letter to us, you asked whether we would change any of the findings or opinions expressed in our August 1999 report based on DOD's response. To respond to your inquiry, we reviewed DOD's response in relation to relevant documents gathered during the course of our earlier review.

RESULTS OF OUR ANALYSIS

From our review of DOD's response to your inquiry and related documents, we concluded that our August 26, 1999 report remains an accurate reflection of our findings and does not need to be modified. The relevant findings in our August report were that (1) the ammunition in question qualified as military support for a civilian

¹ *Department of Defense: Military Assistance Provided at the Branch Davidian Incident (GAO/NSIAD/OSI-99-133, Aug. 26, 1999).*

agency and the Army should be reimbursed as required by the Economy Act and (2) the Army was not reimbursed by the FBI for the 40mm grenade launcher ammunition (200 practice rounds, 50 illumination rounds, and 250 high explosive rounds). Nothing in DOD's response to you indicated that DOD had any information to refute our report. In addition to this overall conclusion, we would like to offer the following clarifying comments on two aspects of DOD's response to your inquiry: (1) whether the high explosive ammunition was, in fact, provided to the FBI and (2) whether it was fired at the ranges at Fort Hood, Texas, when the FBI was present.

On the first point, DOD said that it had not been able to definitively determine whether the high explosive rounds were provided to the FBI. This finding was based on individuals' recollections of what occurred rather than on official records or personal notes. While we cannot conclusively prove that the Army provided high explosive ammunition to the FBI, the Army's official documentation indicates that it may have been provided. For example:

- Although DOD referred to the July 30, 1993 Memorandum of Understanding between the Army and the FBI as "a preliminary effort to create a master list of items provided to the FBI", it nonetheless used the list as the basis for establishing the cost of items to be reimbursed, including the cost of ammunition. Also, the accompanying July 23, 1993, Army memorandum transmitting this document for approval stated that among other costs to be reimbursed was "ammunition (\$5K)."² This cost was also referenced in the attachment to the agreement. The Commanding General, Garrison Commander, and Chief of Staff at Fort Hood and several other Army officials concurred with the Memorandum of Understanding, as noted in the transmittal memo.
- On January 23, 1996, the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict provided the Chairman of the Subcommittee on National Security, International Affairs and Criminal Justice, House Committee on Government Reform, with "more detailed information about DOD support to the Bureau of Alcohol, Tobacco, and Firearms and the FBI." This documentation noted that ammunition costing \$5,066 was provided to the FBI. While the Assistant Secretary listed only the practice and illumination rounds as being provided by the Army, the \$5,066 cost provided in the documentation agreed with the total amount in the Memorandum of Agreement for all three types of ammunition to include the high explosive rounds.

On the second point, DOD said that the Department had no record that any high explosive ammunition was fired at any of the ranges at Fort Hood during the period the FBI was present. What physically happened to the military items provided to the FBI was not the focus of our earlier report. However, we were told that the term consumed, noted next to the ammunition items in documentation provided to us during our review, was used to indicate that the materials that the Army provided to the FBI were no longer in its inventory. The notation did not necessarily mean that

² The actual amount for the 40mm ammunition was \$5,066, which the Army accounted for as follows: 50 illumination rounds, \$1,242; 200 target practice rounds, \$346; and 250 high explosive rounds, \$3,478.

the ammunition was fired at the Fort Hood ranges. Also, a notation on another document shows that the FBI was granted permission to take away any unused ammunition from the firing range. In commenting on our draft report, DOD officials said that it is unlikely that the FBI would have fired the high explosive rounds at the Fort Hood range since doing so would have damaged the range.

In closing, we see no need to change any of the information in our report on the military assistance provided during the Branch Davidian incident. As noted in our 1999 report, DOD officials indicated that they accepted our findings on the matters as presented. Moreover, the Department of Justice and the FBI indicated that they agreed with the substance of our report.

DOD officials reviewed a draft of this report and concurred with its contents. We have incorporated their comments where appropriate. We conducted our work in August 2000 in accordance with generally accepted government auditing standards.

As arranged with your office, unless you publicly release its contents earlier, we plan no further distribution of this report until 30 days after the date of this letter. At that time, we will send a copy of this report to the Honorable Henry Waxman, Ranking Member, House Committee on Government Reform. If you have any questions, please call me on 202-512-5140. Key contributors to this report were Bill Solis, Leo Jessup, and Melissa McDowell.

Sincerely yours,



Carol R. Schuster
Associate Director, National Security
Preparedness Issues

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