



**United States
General Accounting Office
Washington, D.C. 20548**

**National Security and
International Affairs Division**

B-261888

February 1, 1996

The Honorable Strom Thurmond
Chairman, Committee on Armed Services
United States Senate

The Honorable Sam Nunn
Ranking Minority Member
Committee on Armed Services
United States Senate

This responds to your request for our views on the issues raised in correspondence to the Committee from Colonel Danny Piper, USAF (Ret.). Colonel Piper's daughter, First Lieutenant Laura Ashley Piper, USAF, was among the fourteen U.S. service personnel who died in the downing of two Blackhawk helicopters over Northern Iraq on April 14, 1994. Other casualties of the shutdown included a State Department employee and ten foreign nationals. You asked for our comments on the issues Colonel Piper has raised regarding U.S. payments to the families of the foreign victims.

As you know, the helicopters were shot down by American forces enforcing the "no-fly" zone maintained to protect Kurdish civilians. The shutdown occurred when U.S. Air Force personnel erroneously identified the Blackhawks as Iraqi Hind helicopters. The Secretary of Defense authorized payments of \$100,000 each to the surviving families of the foreign victims as a humanitarian gesture intended to convey this government's regret over the incident. The payments were authorized under section 127 of title 10, United States Code, which permits the Secretary to pay unanticipated expenses of an emergency or extraordinary nature incurred in connection with activities of the Department.

Colonel Piper's first concern is that the payments to the families of the foreign victims would not have been authorized under regulations implementing the Military Claims Act and the Foreign Claims Act. These Acts and their implementing regulations prescribe conditions for the payment of claims against the U. S. government for property loss and damage and for personal injuries or death that result from the noncombat activities of U. S. armed forces. Neither these Acts nor

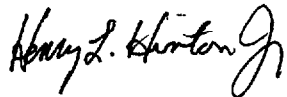
the regulations that implement them, however, restrict the Secretary's authority to make discretionary payments under section 127 of title 10. As Colonel Piper acknowledges, section 127 authorized the payments that were made in this case.

Although Colonel Piper agrees that the payments were authorized under section 127, he contends that similar payments should have been made to compensate the families of the American victims. He argues that treating the survivors of the foreign and American victims differently constitutes discrimination on the basis of national origin in violation of title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (1988), which prohibits such discrimination in federally assisted programs. Title VI, however, applies to entities receiving federal grants and loans, such as hospitals and universities, and to the administration of federal programs dispensing services and benefits. It does not apply to discretionary payments to individuals. Within the Department of Defense, the programs to which title VI applies are predominantly civil defense programs and Corps of Engineers projects. The regulation cited by Colonel Piper, 32 C.F.R. Part 195, contains an appendix that lists the programs covered by the regulation. Nothing in the regulation indicates that emergency payments of the type made to the families of the foreign victims would be subject to title VI.

Finally, Colonel Piper contends that the Department of Defense released incorrect information concerning his daughter's life insurance, and that this release was an invasion of privacy. Colonel Piper refers to a Dallas newspaper's report that his daughter had life insurance, when in fact she did not. We found no official press release from the Department of Defense, nor any mention of this matter in official press briefings of the period. It appears, therefore, that the error in the Dallas newspaper did not originate with the Department of Defense. In this regard, The Washington Post reported on August 27, 1994, that all but one of the American victims of the downing had subscribed to government life insurance at the maximum benefit level of \$200,000. The Post story named Lieutenant Piper as the one victim with no life insurance.

B-261888

We trust that the foregoing will be of assistance to you in responding to Colonel Piper.

A handwritten signature in black ink, appearing to read "Henry L. Hinton, Jr.", with a stylized flourish at the end.

Henry L. Hinton, Jr.
Assistant Comptroller General

(703113)

Ordering Information

The first copy of each GAO report and testimony is free. Additional copies are \$2 each. Orders should be sent to the following address, accompanied by a check or money order made out to the Superintendent of Documents, when necessary. VISA and MasterCard credit cards are accepted, also. Orders for 100 or more copies to be mailed to a single address are discounted 25 percent.

Orders by mail:

**U.S. General Accounting Office
P.O. Box 6015
Gaithersburg, MD 20884-6015**

or visit:

**Room 1100
700 4th St. NW (corner of 4th and G Sts. NW)
U.S. General Accounting Office
Washington, DC**

**Orders may also be placed by calling (202) 512-6000
or by using fax number (301) 258-4066, or TDD (301) 413-0006.**

Each day, GAO issues a list of newly available reports and testimony. To receive facsimile copies of the daily list or any list from the past 30 days, please call (202) 512-6000 using a touchtone phone. A recorded menu will provide information on how to obtain these lists.

For information on how to access GAO reports on the INTERNET, send an e-mail message with "info" in the body to:

info@www.gao.gov

**United States
General Accounting Office
Washington, D.C. 20548-0001**

**Bulk Rate
Postage & Fees Paid
GAO
Permit No. G100**

**Official Business
Penalty for Private Use \$300**

Address Correction Requested
