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## COMMENTS TO THE INSTITUTE OF MEDICINE BY THE C-123 VETERANS ASSOCIATION

16 JANUARY 2013

### *Summary:*

Air Force C-123 transports used for spraying Agent Orange during the Vietnam War were contaminated with TCDD until their destruction as toxic waste in 2010. Veterans who were assigned to these aircraft need military herbicide exposure medical benefits from the Veterans Administration. VA denies, stating TCDD not actually shown to cause harm to humans, TCDD on the aircraft could not have exposed crews via ingestion, inhalation or dermal routes, and TCDD on the warplanes was dried

<http://www.c123kcancer.com>

<http://www.c123kcancer.blogspot.com>



## THE C-123 VETERANS ASSOCIATION

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January 16, 2013

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MAJ Al Harrington, Aerial Port  
LTCOL Paul Bailey, Statistician  
MAJ Gail Harrington, Nurse Corps  
LTCOL Bob Karpinski, Medical Service Corps  
Mrs Joan Carter, MA, MS, Family Liaison  
Mrs Audrey McElwain, Administration  
Vietnam Veterans of America – DC Liaison

### MISSION STATEMENT:

**VA RECOGNITION OF C-123 VETERANS'  
AGENT ORANGE ILLNESSES**

Committee to Review the Health Effects in Vietnam Veterans  
of Exposure to Herbicides  
The Institute of Medicine of the National Academies

Dear Members of the Committee:

Along with 1560 other veterans we bring to the attention of the Committee the fact of our exposure to Agent Orange and other military herbicides. Agent Orange was sprayed during the Vietnam War from our modified C-123 transports. Following the war, these airplanes returned to the United States. Spray apparatus was removed, thus about 42% of all our airplanes as former spray aircraft. Along with my friends, I flew them between 1972 and 1982. Then, the C-123 fleet was labeled obsolete and retired to desert storage.

The problem: USAF and GSA records released in 2011 detailed the C-123 contamination by military herbicides, which lingered long after Vietnam. AF toxicologists first officially confirmed contamination by military herbicide residue in 1979 following complaints from our maintenance personnel. The problem was better revealed with far more extensive official testing in 1994 in which toxicologists confirmed our airplanes were "heavily contaminated" and "a danger to public health." The contamination was not theoretical, but confirmed many times by Air Force military and civilian toxicologists, as well as contract laboratories, and also described under sworn testimony in federal court. In 2010, the C-123s, still judged too contaminated for landfill, were all destroyed as toxic waste except for a few museum displays.

Aircrews and maintenance personnel knew of a terrific stench, later determined to be Malathion residue with a mixture of Agent Orange, and the usual aviation petroleum distillates. After the 1979 tests we were assured the airplanes posed no health concerns. Of our 18 aircraft, official records show ten were spray airplanes, and it turns out that all remained contaminated with military herbicides, and one both malathion and military herbicides. Several had that characteristic stench we still remember. Although we understand that Agent Orange itself was odorless, this might suggest the odor was caused by a combination.

We dug from nooks and crannies a dirty brown tar substance and generally scrub down the aircraft to decrease the stench. Advisory teams came from HQ Air Force Material Command, but could only advise ineffective scrubbing with Dawn detergent. Eventually, efforts ceased when depot-level maintenance failed to correct the problem and we were told the wings would have to be pulled and cargo decks removed to improve the situation. Our problem proved impossible to resolve without depot-level disassembly of the wing structure and cargo deck and thus had to be tolerated.

In 1994, twelve years after our airplanes were retired, the USAF Armstrong Laboratories did the first extensive testing on them. 100% of the test surfaces proved positive for TCDD contamination, "heavily contaminated" wrote Dr. Ron Porter, the civilian toxicologist's report. In 1996, the USAF Office of Environmental Law directed all contamination information "be kept in official channels only." This was because two contaminated aircraft had accidentally been sold to Walt Disney Films, and others to foreign governments, so the contamination became a potentially embarrassing political issue. There the matter lay until details were released via Freedom of Information Act requests made by the veterans in 2011.

Affected veterans then approached the VA claiming exposure to military herbicides and were advised that no exposure was possible. We have been assured that no exposure occurred during the full decade we flew the C-123, with hundreds of hours aloft, hundreds of hours on the ground, hours spent cleaning, scraping, grinding, repairing, sleeping aboard during tactical deployments, trying to clean the airplanes and also to fly our assigned missions throughout the Western Hemisphere and Europe.

VA advanced an illogical position, claiming that human skin is a near-perfect barrier preventing "dry dioxin transfer." The dioxin had dried on all surfaces inside the cargo area (although it also formed a tar-like substance in many nooks and crannies). VA also claims no exposure occurred in this unpressurized, high-vibration old airplane through which rain flowed like a river when we went through storms. We often flew in raincoats or ponchos flying through rain, amusing our Army passengers until they got wet.

We disagreed with the VA. We learn from IOM and other reports that much occupational exposure to dioxin is via the dermal route. The VA's slant has been described as "unscientific" by toxicologists, ten of whom joined with five physicians in forwarding their challenge to the Secretary of Veterans Affairs on 29 November 2012. Names on their letter are familiar to this Committee – Drs. Jeanne Stellman, Arnold Schecher among them...experts we see named throughout the several IOM reports and cited so very frequently. Expert scientists and physicians who concluded our C-123 crews were exposed and need dioxin exposure care.

Dr. Tom Sinks, Deputy Director of the Agency for Toxic Substances and Disease Registry, evaluated our situation and stated "I believe aircrews operating in this, and similar, environments were exposed to TCDD." Drs. Schechter and Stellman differ only in the degree of exposure our crews experienced, with Stellman saying it was more than Vietnam ground soldiers and Schechter saying exposure was about the same as the troops.

At meetings chaired by Senator Burr's staff, VA executives promised me to refer the C-123 issue for an IOM special project. That promise was broken this fall, wasting another year as we try to qualify for VA as the VA continues to deny every veteran's claim. My own claim was also recently denied, with extra language added by Mr. Tom Murphy of the VA's Compensation Service who informed me "In summary, there is no conclusive evidence that TCDD exposure causes any adverse health effects." He summarized the "dry dioxin transfer" concept, claiming dermal transfer impossible even with broken skin, or skin that was moist, soiled or oily. He said opinions from physicians were considered, but not those from scientists. He did not discuss the physicians' opinions that I had included, but instead seems to have simply ignored their expert opinions.

Our survivors range in age from 60 to 85. This seems to be the only situation where VA recognizes a contamination situation but denies exposure. We believe this to be because VA feels compelled to keep the numbers of veterans seeking their care at a minimum. Although VA assures us C-123 veterans will be considered on an individual basis, they also carefully deny *every* veteran's claim...on an individual basis. VA even rejected claims because the pilot didn't prove a particular airplane had flown in Vietnam, the records needed unavailable until 2011.

Your committee rules govern what might be done to help us. We understand IOM actions are based on information presented in the peer-reviewed published biomedical literature but clearly, adequate literature and source documents *already* exists to permit IOM to help us. That literature is further supported by the opinions of experts you respect. The numerous official tests performed on our airplanes by competent toxicologists are adequate evidence to help form a conclusion.

The committee's responsibility is to "review and evaluation of the available scientific evidence regarding the statistical association between exposure to dioxin and other chemicals in the herbicides used in Vietnam and various adverse health outcomes." We fall squarely within your charter because we have do have adverse health outcomes from exposure to herbicides used in Vietnam, although we present here a post-Vietnam issue, and we do have scientific evidence and testimony to provide of interest to the committee.

We have to ask that in some way, there be an expression by IOM that our C-123 veterans have met the VA's requirement for evidencing both contamination and exposure. There's no new science required. As Dr. Stellman concluded, *less exposure than Ranch Hand veterans but more than Vietnam ground soldiers*. Dr. Schechter wrote "*In my professional judgment you are at increased risk for illness from the dioxin in Agent Orange because of your exposure to it from your military service.*"

We stress an important point: No consideration has been allowed by the VA of the fact that tests weren't done until decades after the Vietnam spray missions and after many decades of dioxin breakdown. No new science is needed to understand that the dioxin was more intense 1972 to 1982 than when tested in 1994. The airplane testing "heavily contaminated" in 1994 had to have been even more toxic twenty years earlier.

There are only approximately 1500 to 2500 of us, with about a third Vietnam veterans and an unknown number service-connected in the VA system. We have more retired military than other services, as flyers and maintenance folks tend to make it a career and thus are covered by Tricare. Altogether, we are not much of a threat to the VA's healthcare budget.

There is no science or justice in leaving this issue unresolved for more years. The Air Force should have told the veterans of our exposure once the 1994 tests were done at Wright-Patterson AFB. We have the Air Force and other government source documents to verify each of our points at [www.c123cancer.org](http://www.c123cancer.org) . Thank you for your very kind consideration of our situation and for this opportunity to place our concerns on the record. Thank you especially if the committee can find a manner, however publicly or privately it may be expressed, to further the issue with the VA.

Respectfully submitted,

/signed/

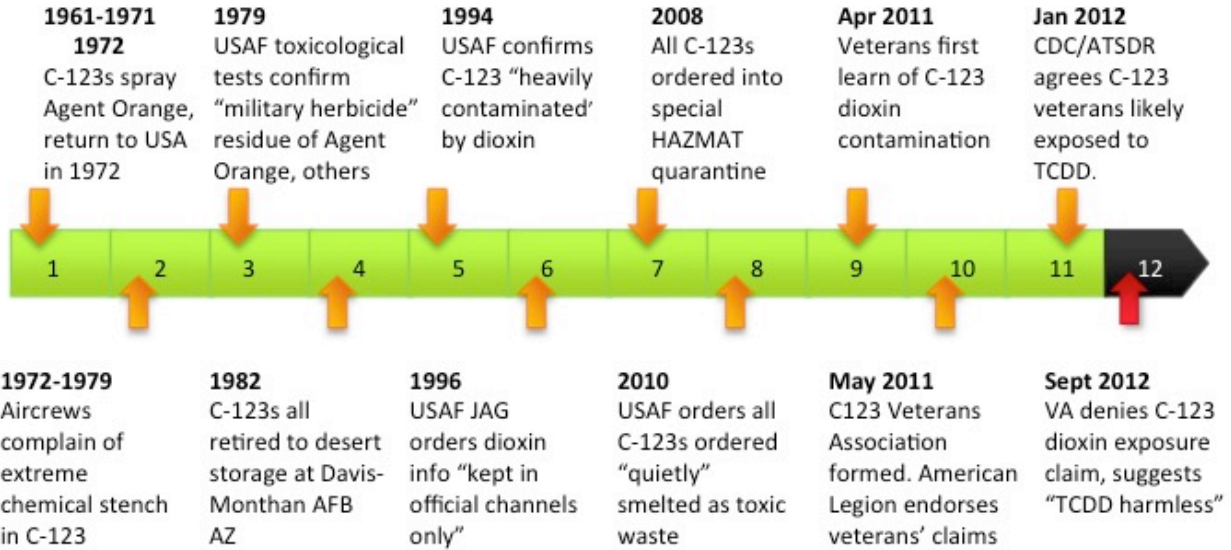
Wesley T. Carter

Chair, The C-123 Veterans Association



# C-123 Agent Orange Timeline

(greatly abbreviated)



**AGENT ORANGE**

1961-1971: C-123 transports sprayed Agent Orange in Vietnam and became contaminated with dioxin. The warplanes were flown by the USAF until 1982, then retired. In 2000 USAF confirmed in Federal court C-123 fleet remained "heavily contaminated" and "a danger to public health."



USAF employees with required HAZMAT protection after C-123 contamination was identified. We flew for ten years wearing only regular flight suits without such essential protection (USAF Official Photo)

## CHART COMPARING C-123 AND BLUE WATER NAVY DETAILS

C-123 veterans and Blue Water Navy veterans alike seek service-connection for exposure to Agent Orange. Each group advances different arguments in explanation of their entitlement. A fundamental difference is that naval vessels never even transported Agent Orange, while that was the very mission of the C-123.

C-123 veterans do not in any way disparage claims put forth by Blue Water Navy veterans, but we note a different and more comprehensive body of supporting evidence available regarding contamination and exposure with the airplanes. The Blue Water Navy veterans advance a different set of claims for their entitlement.

Obviously, the C-123 was used for spraying Agent Orange during Vietnam, and its veterans claim exposure via dermal, inhalation and ingestion routes to TCDD. The contamination of the airplanes,, all of which were considered still contaminated with dioxin by the Air Force in 2009, is not contested by VA. VA does, however, contest the bioavailability of dioxin on the airplanes and the amount of it and thus denies service connection.

The 1991 Agent Orange Act makes no mention of bioavailability, nor of the amount of dioxin a veteran must evidence to perfect a claim for service connection, merely the likelihood of an exposure and the diagnosis of an Agent Orange-presumptive illness. Thus, veterans substantiating their claims with evidence of exposure, regardless of amount or bioavailability, meet the law's requirements. To set VA standards distinct from those set by law is inappropriate.

C-123 veterans further substantiate their claims by numerous expert independent medical and scientific opinions, including opinions from world-renown experts frequently cited by Institute of Medicine, Center for Disease Control, and Agency for Toxic Substances and Disease Registry publications. In particular, Dr. Arnold Schecter, Dr. Jeanne Stellman, and Dr. Linda Birnbaum are together properly considered the leading scientists in this field, and each has concurred that C-123 veterans were exposed.

Other government agencies have also evaluated the exposure claims of C-123 veterans. Dr. Tom Sinks, Deputy Director of the Agency for Toxic Substances and Disease Registry, states that "veterans in this, and similar, environments were exposed to TCDD." The NIH, reviewing Dr. Sinks' findings, deferred to his and his agencies' expertise. It is not the function of the Department of Veterans Affairs to challenge other federal agencies with the responsibility of making such determinations, but rather to be guided by their scientific findings. If an agency with such acknowledged expertise such as ATSDR states that, after their evaluation, a group of veterans such as C-123 veterans has been exposed, the Department of Veterans Affairs cannot casually dismiss such conclusions.

C-123 veterans also note the opinion put forth by Mr. Thomas Murphy of the VA's Compensation Service, in which he recommended denial of a veteran's Agent Orange claim by dismissing the opinions of numerous reputable scientists because they were not physicians. The 1991 Agent Orange Act states that the Secretary of Veterans Affairs will evaluate both scientific and medical information, and indeed, toxicology is a scientific and not medical field with



uniquely appropriate bearing on Agent Orange exposure claims. C-123 veterans also note that Mr. Murphy ignored

the opinions of qualified, board-certified physicians who were part of that veteran's application. Further, contrary to the established position of the Department of Veterans Affairs as well as the world of science and medicine, Mr. Murphy recommended denial of the veteran's claim stating "*there is no conclusive evidence that TCDD exposure causes any adverse health effects.*" This is a remarkable statement, given that dioxin (TCDD) is considered one of the most potent toxins, and is classified as a human carcinogen by both the EPA and WHO.

Even in 2009, the remaining C123 aircraft were all still contaminated by trace to low levels of dioxin, and USAF officials confirmed that the 1996 tests showing intense contamination were applicable to the entire fleet. AF officials, quoting Dr. Al Young, recommended general officer approval of destruction of the C-123 aircraft because of the concerns veterans might learn of the contamination. Major General Busch approved.

The following chart illustrates the numerous areas in which C-123 veterans have substantiated their claims for Agent Orange exposure benefits. These points are offered because the recently-denied Blue Water Navy claims would most certainly have succeeded in reaching the threshold required for the Department of Veterans Affairs to grant service connection, had the BWN veterans been able to advance them.

C-123 veterans have compiled an argument that has surpassed any reasonable, legal, moral, scientific and logical barrier to granting service connection. These veterans, upon proof of their service aboard post-Vietnam C-123 aircraft and upon evidence of a recognized Agent Orange-presumptive illness, must be granted service connection.

*Attached:* comparison chart, C-123 & Blue Water Navy which is NOT meant to suggest and differences in validity of arguments, only that the well-established claims of the C-123 veterans which still do not persuade the Department of Veterans Affairs to follow the law.

| Military Herbicide Issue:   | Blue Water Navy Ships | C-123 Transport Aircraft  |
|---|-----------------------|---|
| Plane or ship ever confirmed Agent Orange contamination?  | <b>No</b>             | <b>Yes</b> , repeatedly between 1979-2009; AF toxicologists confirmed under oath in federal testimony                                   |
| Plane or ship ever destroyed due to Agent Orange contamination?   | <b>No</b>             | <b>Yes</b> – all still in USAF custody except specially decontaminated airplanes  |
| Surplus sales ever canceled due to Agent Orange contamination?  | <b>No</b>             | <b>Yes</b> , but some <i>already</i> sold to Walt Disney Films, foreign governments, US Forest Service                                  |
| Plane or ship ever ordered into Agent Orange HAZMAT quarantine?   | <b>No</b>             | <b>Yes</b> , entire fleet of surplus planes   |
| Personnel ever confirmed exposed to military herbicides by NIH, CDC, and independent scientists?          | <b>No</b>             | <b>Yes</b> , per NIH, ATSDR, J. Stellman, T. Sinks, F. Berman, A. Schechter, L. Birnbaum, L. Schwartz, J. Goepfner, W. Dwernychuk, etc. |
| Personnel ever ordered into HAZMAT protection re: Agent Orange?   | <b>No</b>             | <b>Yes</b> ; all C-123 personnel at Wright Patterson AFB and at Davis-Monthan AFB   |
| Plane or ship ever professionally decontaminated of Agent Orange?   | <b>No</b>             | <b>Yes</b>  |
| Plane or ship ever officially described by military, including flag rank, as “Agent Orange contaminated?” | <b>No</b>             | <b>Yes</b>  |
| Plane or ship Agent Orange contamination ever restricted into “official channels only?”                   | <b>No</b>             | <b>Yes</b> , in 1996 per order of USAF Office of Environmental Law  |
| Plane or ship ever ordered destroyed re: Agent Orange contamination to avoid EPA \$3.4 billion fine?      | <b>No</b>             | <b>Yes</b> , entire fleet; shredded because metal shreds aren’t classified as toxic waste but entire airplane was                       |

**CHRONOLOGY OF SUPPORTING DOCUMENTS** (*generally newer to older*)<sup>1</sup>: note: About one-quarter of all C-123K/UC-123K aircraft were used for spraying Agent Orange in Vietnam until 1971. Most Vietnam-based aircraft returned USAF Reserve inventory in 1971-1972, then flown until 1982 when most were sent to Davis-Monthan AFB AZ for storage with some diverted to museum use. 42% of all post-Vietnam C-123 aircraft had been Agent Orange spray airplanes during the war. Full documentation & discussion at <http://www.c123cancer.org>

3 Jan 13. [Independent Medical Opinion](#), Arnold Schechter M.D., Univ. of Texas School of Public Health; "aircrews were exposed."

29 Nov 12. [Experts' Joint Letter](#), Ten scientists & five physicians challenge to VA re: poor scientific procedures used to deny Agent Orange exposure finding to C-123 veterans, cover letter authored by Dr. Jeanne Stellman.

25 Sept 12. [Advisory Opinion](#), Mr. Thomas Moore, Director Compensation Services, Dept of Veterans Affairs. Asserted TCDD is harmless, scientists' expert opinions inadequate to veterans claims.

6 May 12. [Agent Orange - 50 Years History and Newest Concerns](#), Dr. T. Irons & others, poster display at San Francisco SOT, argued against C-123 veterans exposure via "dry dioxin transfer."

6 Mar 12. [Independent Scientific Opinion](#), Dr. Jeanne Stellman, Mailman School of Public Health, Columbia University. Confirmed aircraft contamination and aircrew exposure.

4 Mar 12. [Independent Scientific Opinion](#), Dr. Fred Berman, Director, Toxicology Department, Oregon Health Sciences University. Confirms aircraft contamination and aircrew exposure therein. With attachments.

22 Feb 12. Scientific Review of Agent Orange in C-123 Aircraft, VA Public Health announcement of low probability of crew TCDD exposure and unlikely long-term health problems from the contamination.

26 Jan 12. [Official Letter](#), Dr. T. Sinks, Deputy Director Agency for Toxic Substances and Disease Registry, that C-123 aircraft were contaminated, aircrews exposed, and exposure even higher before first test were completed.

19 Dec 11. [Independent Scientific Opinion](#), Dr. J Goeppner (LtCol, USA Chemical Corps, Ret), confirming aircrew exposure to harmful levels of dioxin.

15 Dec 09. *Email*, Mr. Karl Nieman to Mr. Wayne Downs, re: value of C-123 engines and possible parting-out. *Herbicide Characterization of UC-123K Aircraft*, Phase I.

12 Nov 09. [Memorandum](#) and Support Paper for AMARG/CC from Mr. Wm. Boor, requesting "special handling for UC-123K aircraft because of Agent Orange." All C-123s were smelted as toxic waste May 2010.

27 Jul 09. [Memorandum](#), Dr. Alvin Young to Mr. Wm. Boor, re: disposal of UC-123K aircraft. Recommends no add'l sampling to save money and to avoid necessity of designating more aircraft as toxic if tested contaminated.

July 09. [Final Dioxin & Herbicide Report Characterization of UC-123K Aircraft](#), Phase I, Dr. W. Downs 75CEG HAZMAT Program Manager.

26 Jun 09. [Memorandum](#), Dr Alvin Young to Mr. Jim Malmgren, 505<sup>th</sup> ACSS re: Decision Memo for Contaminated UC-123K Aircraft. Discussed disposal of aircraft, preventing veterans' awareness re: claims.

24 Jun 09. Memo for the Record. Summarizes Jim Malmgren's presentation and response to comments.

24 Feb 09. [Decision Memorandum on Contaminated C-123K Airplanes](#) Dr. Alvin Young to Major C. McCrady. Suggests need for speedy destruction of aircraft, proper wording of press release for media.

Mar/Aug 08. [UC-123 HAZMAT Safety Plan](#), Mr. Wayne Downs, 75ABW/CEG and Mr. Karl Nieman, Select Engineering Layton, UT. Reviewed contamination & dioxin tests, C-123s moved into AMARG quarantine area

31 Jul 03. [Study Memorandum](#) for AOO-ALCD/LCD from AFIOS. 100% contamination of all surfaces tested at Air Force Museum; contamination of remaining surplus planes, concerns about contaminated ground soil, etc.

05 Aug 97. [Memorandum](#) for Secretary of the Air Force/IA from Vice Commander, Air Force Security Assistance Center, WPAFB, Ohio. Details of C-123K aircraft provided allied military forces under Military Assistance Program.

18 Mar 97. [Memorandum](#) for AFCM/SG from Dr Ron Porter, Toxicologist Health Risk Assessment/Armstrong Laboratory. Concludes "potential for individual exposure to associated with residues of past mission activities".

10 Jan 97. [Memorandum](#) for AMARC/CD, from Brig. Gen. D. Haines, disposition of contaminated C-123 aircraft. Discusses sale by State Department & other agencies of toxic airplanes. Directed AF to seal all remaining C-123s.

8 Jan 97. [Memorandum of Caution](#) from Ms. Peggy Lowndes, General Services Administration to Major U. Moul, Staff Judge Advocate, AF Office of Environmental Law; describes GSA sales of dioxin aircraft to Disney.

30 Dec 96. [Note](#), Brigadier General O. Waldrop Staff Judge Advocate HQ AFMC to BG Harris, "the political risk, cost of litigation and potential tort liability of third parties make FMS disposal of contaminated aircraft imprudent."

26 Dec 96. [Memo](#) from Brigadier General Todd Stewart HQ/AFMC/CE to Brigadier General Hanes, HQ AFMC/LG regarding sale of contaminated aircraft as inappropriate, unjustified double standard.

18 Dec 96. [Letter](#), Major U. Moul to Mr. Doug Boylan GSA Sales, advising GSA of need to cancel sale of ten surplus UC-123K due to Agent Orange contamination

5 Dec 96. [Memorandum](#), Ralph Shoneman Executive Director to HQ AFMC/LGH, Disposition of Dioxin Contaminated C-123 Aircraft.

31 Oct 96. [JAG Memorandum](#) from Major S. Gempote, Office of the Command Surgeon AFMC. Addresses contaminated C-123K at AMARC, concerns re: military and civilian workers and C-123 dioxin contamination.

31 Oct 96. [Memorandum](#) for HG AFMC/LtGen Farrell from Mr. R. Schoneman, Executive Director AMARC, re: "disposal contaminated C-123 aircraft" Dioxin-contaminated C-123K aircraft sold by GSA to general public.

30 Oct 96: [Memo](#), HQ AFMC/LOG/JAV to ESOH C&C: JAG attorney Major Ursula Moul, endorsed by Colonel John Abbott, recommends "*I do not believe we should alert anyone outside official channels of this potential problem.*"

30 Oct 96. [Staff Summary](#), Brigadier General G. Haines to staff, decontamination and legal liabilities mentioned. Memo recommended "*for information only.*"

16 Aug 96. [Industrial Hygiene Survey C-123 Aircraft](#), DO Consulting Ltd for AMARG. Tested presence of 2,4-D and 2,4,5-T. Water wipes confirmed herbicide contamination present 25 years after last Vietnam spray missions.

17 Apr 96. [Memo](#), Mr. Wm. Emmer, Chief of Safety 355AMDS, directed personnel HAZMAT protection around all stored Davis-Monthan AFB stored C-123K airplanes.

19 Dec 94. [Memorandum](#) for 645 Med Group./USAF Museum, Capt. Wade Weisman, BSC & Dr. Ron Porter, AF Staff Toxicologists. Tested C-123 Tail #362 (*Patches*) as "*heavily contaminated on all test surfaces.*" Recommended HAZMAT protection, restricted access, decontamination. Dr. Porter testified "*a danger to public health*" in a federal court action.