

FURTHER INVESTIGATION OF THE
FBI'S ACTIONS AT RUBY RIDGE

Mr. GRASSLEY. Mr. President, I rise today to discuss the need to revisit an unfortunate chapter in the FBI's history: the investigation of the FBI's actions at Ruby Ridge.

While there have been a number of internal investigations of the FBI's actions at Ruby Ridge, the most recent investigation, sponsored by the Justice Management Division of the Department of Justice, was completed in 1999. The results of this investigation have raised serious questions about the integrity of the previous joint investigation by the Department of Justice and the FBI, which was completed in 1993. Among these questions is whether FBI supervisors who headed that previous investigation were personal friends of some of the senior executives they were investigating. These questions, and many others, were raised in the testimony of four FBI Agents who appeared at a Judiciary Committee Hearing on FBI Oversight, chaired by Senator LEAHY, last month. These exemplary Agents exposed the double standard that has existed in how rank and file FBI Agents are punished versus FBI Senior Officials.

So, you might think that the Justice Management Division's report would have cleared this matter up. Well, you'd be wrong. As a matter of fact, most of us didn't even realize the existence of this report until it was brought to light by the testimony of these Agents. It was also then that we found that Justice Management sat on this report for two years before releasing it internally in January of this year. And, despite clear and convincing evidence of irregularities in how FBI officials have been punished in this matter, Justice Management division has ruled that no new discipline would be imposed against any FBI personnel. One of the FBI Agents testifying at the hearing described this decision as "outrageous" and "alarming."

Three weeks ago, I joined Chairman LEAHY and Senator SPECTER in requesting documents relating to the Justice Management Division's report. While the Department of Justice was responsive in providing the requested materials, many of these documents were subject to protection under the privacy act and our staffs could only review them for a short period of time.

Once again, Senator SPECTER and I have joined Chairman LEAHY, along with Ranking Member HATCH, and Senator KOHL, to request that these documents be provided again, this time with appropriate redactions to comply with Privacy act concerns. I ask that this letter be made part of the RECORD.

Less than twenty-four hours ago we confirmed the nomination of Robert Mueller to head the Federal Bureau of Investigation. In his testimony before the Senate Judiciary Committee, Mr. Mueller stated, as their new Director, the FBI would be honest and forthright about mistakes. While, I understand

that the mistakes of Ruby Ridge did not occur on Mr. Mueller's watch I truly believe that the FBI will never truly make a clean break with the past unless matters such as these are resolved.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, July 27, 2001.

Hon. JOHN ASHCROFT,
Attorney General, Department of Justice, Washington, DC.

DEAR GENERAL ASHCROFT: As you are aware, the Senate Judiciary Committee is conducting oversight hearings on the Federal Bureau of Investigation. At our hearing last week, three present FBI agents and one former agent testified that there is a widespread perception among FBI agents that a "double standard" has been applied in FBI internal disciplinary decisions, with members of the FBI's senior executive service receiving far lighter punishment than line agents for similar infractions.

As a case in point, the witnesses cited the various internal investigations that the FBI conducted into the 1992 incident at Ruby Ridge. A 1993 investigation conducted by a DOJ/FBI task force led to the imposition of discipline against 12 FBI employees in 1995. However, information that subsequently came to light has called into question the integrity of that internal investigation. It was alleged for example, that FBI supervisors who headed the internal investigation were personal friends of some of the senior executives they were investigating and that they failed to take basic investigative steps that would have uncovered significant new evidence on questions such as who had approved the FBI's rules of engagement during the Ruby Ridge siege. Based upon this new information, the Office of Professional Responsibility for the Department of Justice and a Task Force of the Justice Management Division recommended in 1999 that two FBI senior executives be suspended and that the FBI Director and one other FBI agent be censured. They also recommended that discipline imposed in 1995 on three FBI agents be rescinded because of procedural irregularities in their disciplinary proceedings as well as exculpatory evidence that had subsequently been developed. However, in January of 2001, the outgoing Assistant Attorney General for the Justice Management Division ruled that no new discipline would be imposed against any FBI agents and that no previously-imposed discipline would be rescinded. One of the agents at our hearing described this decision as "outrageous" and "alarming."

In order to evaluate these issues, we requested the production of documents relating to the Justice Management Division's disciplinary decision. The Department of Justice's Office of Legislative Affairs provided our Committee with outstanding cooperation and managed to pull together the requested material in a short period of time. However, because the material contained information that was subject to protection under the Privacy Act, we agreed to return all of the material, with the exception of one document, at the conclusion of the hearing. We have requested, however, that the Office of Legislative Affairs provide us with copies of these documents with appropriate redactions to comply with Privacy Act concerns.

Although our review of this material has necessarily been limited by time constraints, what we have seen thus far has confirmed

that this material is relevant to the issues that our Committee is examining, including the Justice Management Division's January 2001 decision. It appears that the former Assistant Attorney General's decision was based entirely upon an April 17, 2000 memorandum by two Deputy Assistant Attorneys General. That memorandum contains some surprising conclusions. For example, the memorandum appears to conclude that the FBI's rules of engagement at Ruby Ridge were not contrary to any established Department of Justice policy. As you may know, the Senate Subcommittee on Terrorism, Technology and Government Information, after conducting extensive hearings on the Ruby Ridge incident in 1995, concluded that the rules of engagement were clearly unconstitutional and contrary to the FBI's policy on the use of deadly force. Indeed, the illegality of the rules of engagement was conceded in testimony before the Subcommittee by former Deputy Attorney General Gorelick and former FBI Director Louis Freeh. Further, two FBI agents were disciplined in 1995 for their part in promulgating the rules of engagement, precisely because the rules were inconsistent with established FBI policy on the use of deadly force. It is therefore mystifying how anyone could still believe that the rules of engagement were lawful.

The April 17 memorandum raises other troubling issues. For example, the authors concluded that no discipline was appropriate for senior FBI executives who conducted incomplete investigations into the Ruby Ridge matter because there was insufficient proof that their failures were the result of intentional misconduct. However, under the precedents employed by both the Department of Justice's and the FBI's OPR, intentional misconduct has, in our view, never been a prerequisite for imposing internal discipline; rather, it has been sufficient that an FBI employee acted in reckless disregard of an obligation or standard imposed by law, applicable rule of professional conduct, or Department regulation or policy. For example, according to other documents we have reviewed, it appears that an FBI Inspector who prepared the Ruby Ridge shooting incident report in September 1992 was suspended for five days because Director Freeh found that his analysis of the justification for the shootings was incorrect and incomplete and because his report showed "inattention to detail" in referring, for example, to Vicki Weaver as "Vicki Harris." It is difficult to square the suspension imposed on this lower-level FBI employee with the ruling of the Justice Management Division that no discipline may be imposed on senior FBI executives in the absence of proof of intentional misconduct.

We, of course, understand that none of these matters occurred under your watch. However, we believe that it is important for our Committee to review carefully how decisions on matters of internal discipline are made within the FBI. As we are sure you can appreciate, the poisonous perception that there is a double standard being applied threatens to undermine FBI morale as well as public confidence. We would therefore appreciate your providing us with appropriately-redacted copies of the documents previously produced to our Committee as soon as possible. In its report on Ruby Ridge filed in December of 1995, the Subcommittee on Terrorism, Technology and Government Information noted that allegations of a cover-up in Ruby Ridge were then under investigation by the Department of Justice, but that "a full public airing of this matter must eventually be undertaken" and that "the Subcommittee will consider additional hearings to deal with the cover-up allegations." (p. 1124). We intend to pursue these matters

within the Committee to ensure that Congress, and the public, are fully informed as to how the FBI handled these important investigations.

Sincerely,

PATRICK J. LEAHY,
Chairman,
CHARLES E. GRASSLEY,
Senator,
ARLEN SPECTER,
Senator,
ORRIN G. HATCH,
Ranking Republican
Member,
HERB KOHL,
Senator.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred June 4, 1996 in Santa Monica, CA. Lawrence Ford, 61, a retired stockbroker, was found beaten to death in his apartment, allegedly killed by a man who believed Ford was gay. Michael Robert Schafer, 28, was arrested and faced first-degree murder and hate crime charges.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, August 2, 2001, the Federal debt stood at \$5,730,045,940,032.12, five trillion, seven hundred thirty billion, forty-five million, nine hundred forty thousand, thirty-two dollars and twelve cents.

One year ago, August 2, 2000, the Federal debt stood at \$5,656,022,578,326.22, five trillion, six hundred fifty-six billion, twenty-two million, five hundred seventy-eight thousand, three hundred twenty-six dollars and twenty-two cents.

Five years ago, August 2, 1996, the Federal debt stood at \$5,172,008,136,975.88, five trillion, one hundred seventy-two billion, eight million, one hundred thirty-six thousand, nine hundred seventy-five dollars and eighty-eight cents.

Ten years ago, August 2, 1991, the Federal debt stood at \$3,569,166,000,000, three trillion, five hundred sixty-nine billion, one hundred sixty-six million.

Twenty-five years ago, August 2, 1976, the Federal debt stood at \$623,367,000,000, six hundred twenty-three billion, three hundred sixty-seven million, which reflects a debt increase

of more than \$5 trillion, \$5,106,678,940,032.12, five trillion, one hundred six billion, six hundred seventy-eight million, nine hundred forty thousand, thirty-two dollars and twelve cents during the past 25 years.

ADDITIONAL STATEMENTS

HONORING DR. FRED GILLIARD

• Mr. BAUCUS. Mr. President, I want to take this opportunity to recognize a good friend of mine and a man who has committed his life to education—Dr. Fred Gilliard.

Dr. Gilliard announced this year that he will retire as President of the University of Great Falls on August 13, 2001.

I have seen first hand the impact Dr. Gilliard has had on the University of Great Falls community. Without a doubt, he was a huge success and will be missed.

Dr. Gilliard was proud of his students, staff and facility. Not only did he understand the importance of a good, solid education, but he followed the mission of the University at work and everyday in his life. When I read the mission of the University of Great Falls, three areas, in my view, tell us who Dr. Gilliard is and what he stands for:

Character—have a positive impact on the world and on the communities in which they live and work, particularly by recognizing and accepting personal accountability to themselves, to society and to God;

Competence—further their ability to live full and rewarding lives by becoming competent working members of society who know the basics of their professional field and have access to future learning;

Commitment—find meaning in life which enables them to participate effectively in society while transcending its limitations, by living according to their own moral and religious convictions, as well as respecting the dignity and beliefs of other people.

Dr. Gilliard achieved so much during his tenure as President. From introducing the Student Service Learning Center, moving the institution from "College" to "University" status, and broadcasting classes over the Internet, to completing a successful capital campaign, completing the Jorgenson Library addition and re-starting the Argos men's and women's basketball program. These are just a few Dr. Gilliard's successes.

In early 2000, I called Fred to see if he would be interested in hosting "Montana's Economic Development Summit" at the University of Great Falls. Without hesitation he said, "yes." Since that time, Dr. Gilliard has continued to work tirelessly to help me grow Montana's economy.

I wish the best to Dr. Fred Gilliard and his wife, Berry Lynn. I know Dr. Gilliard will be spending lots of his free

time cheering for the Detroit Tigers with his grandson.

Semper Fi, Fred.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 9:31 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 208. A concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

At 12:36 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 988. An act to designate the United States courthouse located at 40 Centre Street in New York, New York, as the "Thurgood Marshall United States Courthouse."

H.R. 2501. An act to reauthorize the Appalachian Regional Development Act of 1965.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 89. A concurrent resolution mourning the death of Ron Sander at the hands of terrorist kidnappers in Ecuador and welcoming the release from captivity of Arnie Alford, Steve Derry, Jason Weber, and David Bradley, and supporting efforts by the United States to combat such terrorism.

H. Con. Res. 179. A concurrent resolution expressing the sense of Congress regarding the establishment of a National Health Center Week to raise awareness of health services provided by community, migrant, public housing, and homeless health centers.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2501. An act to reauthorize the Appalachian Regional Development Act of 1965; to the Committee on Environment and Public Works.

The following concurrent resolutions were read, and referred as indicated: