

the ground in His own image, and breathed into his nostrils the breath of life. And man became a living soul. That is good enough for me.

So, Mr. President, as we approach this Easter, let us learn again the message that comes to us from Him who said 2,000 years ago: "I, if I be lifted up from the Earth, will draw all men unto me."

Mr. President, I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, before I speak on the subject that I am here to speak on, I want to thank the Senator from West Virginia for his statement. I know that he believes what he says. And I think that he does a wonderful public service by the expression of that philosophy.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

#### EXPLANATION OF ABSENCE

Mr. WARNER. Mr. President, in reference to today's vote concerning the certification of Mexico, I was unavoidably absent due to delays in travel returning to Washington from a previously scheduled speech in Richmond, VA, to the Richmond Bar Association. Had I been present, I would have voted "aye" during the recorded vote on the Coverdell/Feinstein substitute amendment to House Joint Resolution 58, the Mexico drug certification.

#### UPSIDE-DOWN MANAGEMENT IN THE CRIME LAB

Mr. GRASSLEY. Mr. President, this is the fifth time I have taken the floor to make observations about the FBI's upside-down management of its crime lab.

In my view, the FBI's Director, Louis Freeh, continues to mislead the public about the lab. He would have us think that the FBI lab has met the highest standards. He has maintained that the allegations of the lab's whistleblower, Dr. Frederic Whitehurst, are all wrong. He has said that no other scientist in the lab has come forward with similar accusations. His testimony before Congress recently was totally consistent with that image.

But documents belie the Director's rosy portrayal of the lab., and of his dark portrayal of Dr. Whitehurst.

Thus far, I have released documents showing there is credibility to some of Dr. Whitehurst's allegations. I have pointed to press accounts in which the public has learned the IG's still-secret report uncovers problems in three specific cases. Thus backing up Dr. Whitehurst with specifics. I released documents showing that Director Freeh was aware of the exact same allegations, investigated them, yet covered them up. I revealed that there was a second scientist who came forward with serious allegations that paralleled those of Dr. Whitehurst.

I do not know what it will take for Mr. Freeh to admit these things, Mr. President. Perhaps the public needs to see more of the FBI's documents that underscore my points. That's fine by me. Because documents don't mislead. They do not have a motive to. But, people do. And when leaders of the people mislead, there's a breakdown in confidence and trust.

And so, I am here today, Mr. President, to test the boundaries of Mr. Freeh's denials. Today, I am releasing yet more FBI documents, obtained through the Freedom of Information Act. These documents contradict Mr. Freeh's own assertions. The American people have a right to know this.

Today, I will reveal a third scientist in the FBI lab, who substantiated some of Dr. Whitehurst's more serious allegations. He substantiated them just months after the FBI Director and his team of lawyers whitewashed them. This third scientist, in fact, was Whitehurst's unit chief in the lab.

Here are the facts. In December 1992, Dr. Whitehurst made the serious allegations that his lab reports were being altered by other agents who lacked authority to do so. Altered reports could constitute tampering with evidence and obstruction of justice, and could therefore be criminal.

The universe of cases being looked at was 48 cases. Not all of them were altered. But all had to be checked. Some appeared to contain substantial changes. The Whitehurst memo of allegations went to the Assistant Director of the FBI for the Laboratory Division.

In May 1994, a review of the Whitehurst allegations—much more extensive than just the altered reports issue, but including them—was done by Mr. Freeh's lawyers, rather than by an independent body with some scientific background. Ironically, it was the IG's investigation that supplied the needed independence and a scientific approach, and only then did these problems get aired.

But, the FBI's review was headed by Mr. Freeh's general counsel, Howard Shapiro. He's the Director's top lawyer, himself a controversial figure with Congress. Mr. Shapiro felt there was no need to have an independent review because, as he said, the FBI has a long, proud history of doing its own reviews. Upon completion, the review was eventually read and signed-off-on by Director Freeh.

So, here is what the FBI's own review found. First, there were no major problems in the lab. Everything was hunky dory. On the specific issue of altered lab reports, here is what Mr. Shapiro found.

[Laboratory Division] management made it clear that this will not be tolerated and has instructed the Unit Chief's (sic) to reiterate this policy.

How about that for a finding for this crack review team, Mr. President. They're investigating serious, possibly criminal activities. Instead of finding out whether it happened, Mr. Shapiro

merely said it's not supposed to happen. His recommendation? If there were alterations, just correct the written report.

You see, Mr. President, under the long-standing Brady decision, the government is required to provide the accused with any information that might point to their innocence. Material alterations of lab analysis might fit into that category. If changes had been discovered in some reports, the proper thing to do was to judge the impact of any alterations on each court case. Instead, Mr. Shapiro thought justice would be served by simply correcting the paperwork. Cases closed.

By October 1994—about 5 months after Mr. Shapiro's review was issued—the IG got hold of the same allegations. The IG began its own review of the 48 cases.

Meanwhile, in September 1994, the FBI lab managers discovered another agent making the same allegations of altered reports as Dr. Whitehurst was making. The allegations by then were being investigated thoroughly by lab personnel.

By January 1995, the lab's investigation was completed. An FBI unit chief, whose name I will not divulge, wrote a memo of investigation to his section chief. In it, he stated that 13 of Whitehurst's 48 cases had significant alterations. He recommended the following:

That [Supervisory Special Agent] (blank) be held accountable for the unauthorized changes he made in the [Auxiliary Examiner] dictation of SSA Whitehurst by administrative action to include both oral reprimand and a letter of censure.

The unit chief concluded his memo this way: "(Blank) committed errors which were clearly intentional. He acted irresponsibly; he should be held accountable; he should be disciplined accordingly."

The scientist-unit chief writing the memo, and who backed up Dr. Whitehurst's allegations, identified the culprit. I won't reveal who either one is. But the memo is significant. It reveals yet another scientist—a unit chief, no less—who substantiated Whitehurst's allegations. It is another apparent example of an FBI lab agent shaving the evidence to get a conviction.

What was covered over by Mr. Shapiro's team of crack lawyers less than 1 year before, was now popping up. The lab's management was finding the opposite of what Shapiro and his lawyers found. That meant there were conflicting findings. And that is serious. The lab unit chief's report was at odds with Director Freeh's. What was senior management—those above the lab managers—to do?

The answer was not long in coming. During this time frame, FBI management indeed found a suitable discipline for this rogue agent. Mr. President, they promoted him. They made him a unit chief. The agent found to have intentionally altered evidence was promoted. That tells us how senior management resolved the dilemma. They