reached the level of debt that our country is expected to face in the next century without monetizing the debt, printing more money, and experiencing destructive, rampant inflation.

If inflation drives the cost of basic goods and services beyond the reach of most Americans—if, for example, bread costs $100 a loaf—it will not matter that a retiree's $1,000 Social Security check arrives promptly in the mail. The worst enemy of those on fixed incomes is inflation.

So the exemption neither guards against cuts in benefits nor ensures that the government has the ability to repay its debts to the trust fund to cover future benefits. It is a false promise to the millions of Americans who depend on Social Security to meet their most basic of needs.

Leaving Social Security under the balanced budget amendment will, however, make sure that the retirement system remains safe, sound, and balanced. And that is important because, while the system is running annual surpluses now, it will soon begin running huge deficits. Beginning in 2012, Social Security will begin spending more than it collects in payroll taxes. By 2029, benefits will amount to more than all payroll tax revenue, accumulated surpluses, and interest—meaning that the trust fund will have neither sufficient income nor savings to meet then-current obligations. If allowed to continue operating in deficit, the Social Security Program will rack up $7 trillion in debt by 2070. These deficits are the greatest threat to the Social Security system.

Mr. President, the exemption will not protect benefits or guarantee repayment of IOU's to cover future benefits. It will not even ensure that Social Security surpluses are invested in something other than government IOU's. But it will make it far more difficult to balance the rest of the budget by not allowing the amounts invested in Government securities to be counted toward a balanced budget.

That would mean Congress would have to cut spending, raise taxes, or both by an additional $706 billion over the 5-year period 2002 through 2007 beyond what would be necessary to balance a unified budget.

The exclusion would force deep spending cuts—an additional across-the-board reduction of 10 percent—in education, the environment, Medicare, law enforcement, and other discretionary spending programs. Or, it would require huge tax increases—up to 12 percent higher than they are today.

To put that into perspective, President Clinton's 1993 tax increase amounted to $241 billion. Last year's congressional budget resolution proposed slower Medicare-spending growth to provide savings of $158 billion, and discretionary spending savings totalling $291 billion.

The $706 billion in additional deficit reduction that would be required by the Social Security exemption would amount to more than the Clinton tax increase and those two sources of savings combined. It would obviously be very difficult to find any consensus for such huge reductions, and therein lies the rub. I am very concerned that the Social Security issue—that older Americans—are being made the scapegoats for a vote against the balanced budget amendment.

Mr. President, if proponents of the exemption are serious about wanting to balance the budget, excluding Social Security, then they should lay out how they will deal with tomorrow's Social Security deficit as well as how they intend to cover the $706 billion gap in the short term.

Or they should simply admit that they do not support a balanced Federal budget.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

MORNING BUSINESS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, without losing my right to the floor, I yield 2 minutes to the Senator from Texas.

FRANK M. TEJEDA POST OFFICE BUILDING

Mrs. HUTCHISON. Mr. President, I thank the Senator from Iowa, because it is very important that we pass a bill tonight. It is for a fallen colleague on the other side of the rotunda. We lost the Congressman from San Antonio a few weeks ago at the age of 51 to a battle with cancer.

Frank Tejeda was a great Congressman, he was a great friend, and he was a patriot for this country. He left high school at the age of 17, joined the Marine Corps, came back and graduated from St. Mary's University. He then went on to distinguish himself and earn degrees in law from U.C. Berkeley and Yale, as well as a masters in public administration from Harvard.

Frank Tejeda was a hero. He earned the Bronze Star for valor, and received the Purple Heart for wounds sustained in combat in Vietnam. But most of all, he never forgot where he was from—south San Antonio, TX. As a leader in his community and as a public servant, Frank always remembered the people he represented and was always there for them.

For that reason, Mr. President, my colleague Senator GRAMM and I want to name the Postal Service facility being constructed at 7411 Barlite Boulevard in San Antonio, TX, as the ''Frank M. Tejeda Post Office Building.'' So I am going to make two unanimous-consent requests to discharge H.R. 499, which passed unanimously in the House of Representatives on February 5, 1997, in order to complete the naming of this post office for a great patriot, a great friend, and a wonderful Congressman from Texas.

Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 499; and further, that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 499) to designate the facility of the United States Postal Service under construction at 7411 Barlite Boulevard in San Antonio, Texas, as the ''Frank M. Tejeda Post Office Building.''

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. GRAMM. Mr. President, I am honored to join my colleague, Senator KAY BAILEY HUTCHISON, in offering a tribute to our late colleague, Congressman Frank Tejeda.

Frank will be remembered as a man who dedicated his life to serving America. He was widely admired for his friendly common sense, but in particular for the special place that he kept in his heart for the men and women who wear the uniform of our country.

In his short tenure, Frank Tejeda left his mark on our country, on the people of Texas, and most personally on the people of San Antonio, who knew him best. It is most fitting that we designate the Post Office facility to be constructed in San Antonio as the ''Frank M. Tejeda post office Building,'' not to remind people of who Frank was, for they do not need to be reminded. We designate the facility in Frank's name to recall for future generations that a man, whose life was too short, made a difference and will live in our hearts.

The Frank M. Tejeda Building will stand as a monument for dedication, commitment, and for the precept that with God-given talents and the will to work, we can do anything we set out to do in America. Frank Tejeda epitomized those qualities in his life and we honor him.

Mrs. HUTCHISON. Mr. President, on behalf of Senator PHIL GRAMM and myself, I ask unanimous consent that the bill be deemed read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 499) was deemed read the third time and passed.

Mrs. HUTCHISON. Thank you, Mr. President. We have now finally passed the bill in both Houses of Congress that will name a post office for Frank M.

Tejeda. It is a fitting tribute to a wonderful former Member of the U.S. Congress. Senator GRAMM and I are very proud to have served with him and to cosponsor this bill.

I thank the Senator from Iowa, and I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

THE FBI AND THE ALCEE M. HASTINGS MATTER

Mr. GRASSLEY. Mr. President, yesterday I spoke to my colleagues about management problems within the FBI, and within the Bureau's reputed crime lab. I spoke about the consequences of this mismanagement. Confidence and trust in the Nation's premiere law enforcement agency is dwindling. It is because of the FBI's own abuses of its very enormous powers.

Yesterday, I mentioned that I would talk about a specific case, with specific allegations. The case involves apparent false statements and evidence tempering by an FBI agent in a high profile case brought before the Federal judicial system and the U.S. Congress.

In a letter to me dated February 21, FBI Deputy Director Weldon Kennedy stated that the Justice Department inspector general ''found no instance of perjury evidence tampering, evidence fabrication, or failure to report exculpatory evidence.''

Mr. President, my first response to that is as follows: The IG investigation was not a criminal investigation. It therefore would not find perjury, evidence tampering, evidence fabrication, or failure to report exculpatory evidence. If it had been a criminal investigation, I believe Mr. Kennedy would not have said what he said. His credibility is undercut by the facts.

This morning's Washington Post contains a story about how one FBI agent, Special Agent Michael P. Malone, apparently shaved evidence, provided false statements, and tampered with evidence for an Eleventh Circuit Court proceeding involving then-Judge ALCEE L. HASTINGS. Mr. HASTINGS is now a Member of the House of Representatives. Mr. Malone is still an FBI agent, and has testified in thousands of cases.

Despite well-documented evidence of this wrongdoing, the FBI covered it up. The evidence was documented by an FBI lab scientist, who performed lab tests on a piece of evidence in the Hastings case. Malone falsely claimed to have done the tests himself.

The FBI scientist who made the allegations is not Dr. Frederic Whitehurst, the more well-known whistleblower from the FBI lab. Rather, it is Dr. William Tobin of the same lab. By the way, this undercuts the FBI's assertion that Dr. Whitehurst is the only one in the lab making these allegations.

A memorandum written by Dr. Tobin in 1989 details the alleged false statements, evidence shaving, and evidence tampering by Agent Malone. It was the basis of reports in the last 24 hours in the media. Mr. President, I ask unanimous consent to have printed in the RECORD the Washington Post story.

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

[From the Washington Post, Feb. 26, 1997]

FBI ROLE IN IMPEACHMENT PROBED

(By Pierre Thomas)

The Justice Department inspector general has been investigating whether the FBI intentionally gave misleading testimony to a judicial panel that was deliberating whether to recommend that then-U.S. District Judge Alcee L. Hastings be impeached.

The Justice Department probe has uncovered evidence that an FBI examiner who worked on the Hastings case, now a Democratic representative from Florida, vigorously challenged the bureau's laboratory analysis of a key piece of evidence relating to the judge's truthfulness in a bribery trial in the early 1980s. But Justice Department investigators found that FBI supervisors largely ignored the examiner's critique and never provided the dissenting information to Congress, which later removed Hastings from the bench.

The revelation is the first detailed account supporting allegations by FBI whistleblower Frederic Whitehurst about shoddy FBI laboratory work. Whitehurst claims that bureau officials routinely manipulated forensic work and allowed flawed expert testimony during court proceedings if it helped prosecutions.

''It is not just Dr. Whitehurst who has alleged wrongdoing in the FBI crime lab,'' Sen. Charles E. Grassley (R-Iowa) said yesterday.''. . . I fear the FBI has covered up the lab's shortcomings.''

Documents obtained by The Washington Post in connection with the Hastings investigation raise questions about the bureau's willingness to address criticisms of its laboratory procedures, even when its own employees raised them, Grassley and others said.

''The misrepresentations and misstatements in the transcript (regarding FBI forensic testimony in the Hastings case) . . . represent a glaring pattern of conversion of what should have been presented as neutral data into incriminating circumstances by complete reversal of established laboratory test data with scientifically unfounded, unqualified and biased testimony,'' wrote frustrated FBI examiner William A. Tobin in 1989.

Tobin wrote that, while he agreed with the FBI's overall forensic assessment in the Hastings case, he was concerned that the bureau's testimony had gone too far in an apparent attempt to bolster the case against Hastings. Tobin's memorandum noted no fewer than 27 exceptions, or challenges, to bureau testimony against Hastings, Florida's first black federal judge, after he was acquitted of federal bribery charges. The judicial inquiry begun after his acquittal raised allegations of racism from African American leaders.

During an interview with the Justice Department inspector general's office, Tobin reiterated his concerns to investigators, according to sources familiar with the inspector general's ongoing review. He also told investigators that he turned his memorandum in to his supervisor, but the bureau apparently did nothing to address his concerns. In fact, he never heard back from his superiors on the matter, Tobin said. In addition, sources said that investigators have been unable to find Tobin's original forensic report, which should have been used to prepare for the testimony in the Hastings case.

''Alcee Hastings and I have believed for some time that a fair amount of evidence against him was manipulated or manufactured,'' said Terence Anderson, Hasting's attorney during impeachment proceedings.

Hastings called the revelation ''astounding beyond belief. I need to understand who withheld this information, why they withheld it and what effect it would have had if it were presented to Congress,'' which impeached and convicted him.

Whitehurst's attorney, Stephen Kohn, agreed, saying that ''if the FBI could put forth false evidence regarding a sitting judge, every American is at risk to FBI lawlessness.''

In response to a broad inspector general investigation of the FBI crime laboratory, Justice Department officials have notified at least 50 state and federal prosecutors of potential problems in their cases.

Hastings was charged in 1981 along with friend and Washington lawyer William A. Borders Jr. of engaging in a conspiracy to accept a $150,000 bribe from an undercover FBI agent posing as the brother of two men convicted of racketeering. In exchange, Hastings was to reduce the men's sentences and return nearly $1 million in forfeited property.

Borders was convicted of the crime. Hastings, in a separate trial in 1983, was acquitted of the same charges. He has steadfastly maintained his innocence.

But after a 3½-year investigation prompted by an ethics complaint from several of his fellow judges, successive judicial panels concluded that Hastings had not only engaged in a bribery conspiracy, but lied and manufactured evidence at the trial to win acquittal.

Investigators sought to challenge Hastings' truthfulness on a number of fronts.

Hastings testified he was with Borders at the time he was alleged to have taken the bribe in part because he was trying to find a leather shop to repair a men's purse whose strap had broken.

FBI forensic experts were asked to test the strap to see if it could be snapped by accident, as Hastings described, or whether it was too strong and would have had to have been cut. The FBI's lab experts concluded the strap had been cut. The inference was that Hasting had cut the strap in an attempt to concoct an alibi.

Tobin generally agreed with that conclusion but said he was deeply troubled about FBI testimony in the case and believed it ''revealed a pattern of complete omission of crucial conditions, caveats, premises and or assumptions which may be viewed as tending toward exculpatory.''

Mr. GRASSLEY. Higher ups in the FBI never did a thing about this problem. Yet, it speaks to exactly the charge made by Dr. Whitehurst; namely, that the culture within the FBI is to overstate lab results to get a conviction. They do this by withholding any data that might show the opposite.

That makes me think of an analogy, Mr. President. Imagine me standing by a dog. You ask me if my dog bites. I say ''no.'' You reach down to pet the dog, and he bites you. You say, ''I thought you said your dog doesn't bite.'' And I say, ''That's not my dog.''

The point is, I withheld valuable information to keep you from having an informed judgment. That is what the FBI does, according to Dr. Whitehurst, and in this specific case according to Dr. Tobin. And when the IG's investigative report comes out next month, we'll see if there are other examples that need following up.

In an interview with Federal investigators, Dr. Tobin called this ''forensic prostitution.'' Those were his

words, Mr. President. Forensic prostitution. It must be really bad when a senior, supervisory agent in the FBI's own lab calls that practice ''forensic prostitution.'' What does that say about the standards in the lab? And does not that back up what was charged by Dr. Whitehurst? Of course it does.

The impact of the Tobin memo, in my view, is not whether it would change the outcome of the ALCEE HASTINGS case. I have heard arguments on both sides. I don't know, for instance, whether it would make enough of a difference for me to have changed my vote to convict Mr. HASTINGS. One thing is for sure: Agent Malone sure thought it was important. But is not it simply a matter of fairness for Mr. HASTINGS?

And that is not the only issue. The impact is much broader, much more serious. It raises questions about the integrity of the criminal justice process, especially the FBI's role. It raises the inference, in this highly visible case before the American people, that other evidence could have been tainted.

This alleged wrongdoing by an FBI agent wasn't done to a terrorist, or a mad bomber. He was a sitting Federal judge, a man who held a position of prestige and influence in a separate and coequal branch of our Government. The testimony was used in a court of law, and before the U.S. Congress.

Senior officials in the FBI knew about this. Nothing was done to correct the record. And nothing was done to discipline the agent. Is this because the culture in the FBI condones this? Is Dr. Whitehurst correct? Is Dr. Tobin correct, that forensic prostitution is condoned?

Last night, Director Freeh issued a statement saying that this was the first time he was aware of the Tobin memo. I don't understand this, Mr. President. The Justice Department's inspector general looked into this matter. It is in the report that has been sitting on Mr. Freeh's desk since January 20. How can he say that this is the first time he has heard of this?

Instead, he has his deputy, Weldon Kennedy, out making misleading statements to the public about how the IG didn't find any problems in the lab. I detailed this in my statement yesterday. And now we hear the Director telling us he was unaware of an issue that was on his desk for over a month.

There is another serious issue, Mr. President. There appears to be a missing document. The Tobin memo was written after the fact of Agent Malone's allegedly false testimony. But the original report by Dr. Tobin of the testing he did on the evidence has been missing. Director Freeh's statement last night alludes to that document and the fact that it was sent to the chief counsel of the 11th Circuit, which found Judge Hastings unfit to serve.

However, there was not a copy of that report within FBI headquarters, where it should have been. The reason it should be there is in case the inspector general or others wanted to investigate what happened. The fact of Mr. Freeh document, and that the eleventh circuit has it, does not answer the relevant question.

Also not mentioned in the Freeh statement are concerns about the public's perception of all this. The public's confidence in Federal law enforcement is already on the wane. The FBI lab situation will only add to that. I sense that the FBI is still dancing around the truth and full disclosure. Nothing short of the truth can and will be tolerated.

I have written today to the Justice inspector general requesting that he investigate the circumstances surrounding the disappearance of the original Tobin analysis. I have also written today to the Attorney General asking that the IG take the lead on this investigation because of possible conflicts of interest for the FBI.

Finally, Mr. President, let me reiterate a warning I made yesterday about action against Dr. Whitehurst or any of the other scientists who might come forward. This Congress will not tolerate action against Dr. Whitehurst, or any other individual who might come forward with the truth. And that message goes for Justice Department officials, as well, who have now removed authority from the FBI for any action taken against Dr. Whitehurst.

Mr. President, I ask unanimous consent to have printed in the RECORD the Tobin memo, plus attachments, and the two letters I sent today, to which I referred earlier.

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

Memo To: Section Chief Ken Nimmich.

From: SA William A. Tobin.

Subject: Exceptions to Testimony of SA Michael P. Malone in the Matter of U.S. District Judge Alcee S. Hastings.

Purpose: To advise of exceptions taken to testimony of SA Malone in 11th Circuit judicial inquiry, Atlanta, Georgia.

Details: In preparation for anticipated congressional testimony on August 3, 1989, SA Tobin reviewed the transcript of the 11th Judicial Circuit testimony in Atlanta, Georgia, of SA Malone. Because of the potential for serious conflict and substantial embarrassment to the Bureau, an audience was requested with you late in the day of August 3, 1989, wherein you requested the specific details of may objections, my exceptions to SA Malone's testimony, and technical analysis as to the effect of the testimony.

Attached hereto are the requested exceptions and analysis, as well as two photographs of test breaks.

Recommendations: None. For information only.

EXCEPTIONS TO TESTIMONY OF SA MALONE RE U.S. DISTRICT JUDGE ALCEE L. HASTINGS

1. p. 113, line 2: Metallurgical testing procedures utilized were not ''winging it''. I did not have to ''design a test''. The apparatus is, in fact, designed to test any solid material (including hairs).

This statement, repeated in various forms several additional times, undermines the legal value of the metallurgical testing as not in compliance with the Frye and ''generally accepted guidelines'' rules.

2. p. 116, line 23: False statement. SA Malone had no participation in the tensile testing, and had only requested to watch because he had ''. . . never seen such a test . . .'' and wanted to see how they were conducted.

3. p. 117, line 11: False statement. Either the writing is that of SA Tobin or the evidence has been altered subsequent to the tensile testing. On every nonmetallic item in which I have induced tensile failure on behalf of the FBI Laboratory, I have placed evidence or plain white tape at the fracture in order to identify Laboratory-induced failures, with Sharpie Marking Pen writing ''test tear'' and an arrow pointing to the failure. If my recollection serves me correctly, I believe I noticed when I saw the purse some time later that my own markings had been removed and those of SA Malone had replaced them.

4. p. 117, lines 21–23: False statement. Photos were made outside the presence of SA Malone by SA Tobin during the course of metallurgical examinations.

5. p. 118, lines 17, 18: False statement. Neither the test tears nor the photographs were made by SA Malone.

6. p. 120, line 22: Not true. I did not have to ''jury rig it'' . . . I used standard test fixtures for this type material and specimen. The equipment was designed for any solid material of suitable configuration. The testing was in conformance with the Frye and ''generally accepted guidelines'' rules, contrary to the manner in which the testimony is presented.

7. p. 123, line 23: False statement, particularly following the specific words ''actually'' and ''yourself''.

8. p. 124, lines 3–5: Incorrect. In fact, designers and users abhor sudden breaks because of the potential for catastrophic loss of life. Designers, therefore, attempt to insure gradual failures so that it is not instantaneous. The terms ''gradual'' and ''slowly'' are deceptive and relate only to the strain rate selected by SA Tobin for the testing: almost any strain rate could have been selected for the test.

9. p. 124, lines 6, 7, and 15: The tears did not proceed (propagate) on a ''. . . diagonal line across the entire strap until finally the entire strap went.'' The effect of this ''observation'' is to enhance differences between the questioned tear and the test tears. In addition, characterization of the test tears as ''diagonal across the entire strap'' puts the failure mode in a different category (when reviewed by a metallurgist or materials scientist), not supported by either expectations or actual test behavior.

10. p. 124 line 24: Use of the term ''pressures'' is not appropriate and is not interchangeable with ''force'' posing a potential technical review problem. On a strap approximately ¾″ wide and ⅛″ thick, a force of 29 lbs. results in approximately 309 lbs/in^2 on the same cross sectional area results in a force of 2.7 lbs exerted on the strap, a significant difference on technical review.

11. p. 126, lines 1–3: same comments as #9 above.

12. p. 127, lines 13–15: same comments as #5 above.

13. p. 126, line 9:

14. p. 129, line 9: Direct contradiction to laboratory (AE) findings supported by data. Presents apparently and potentially exculpatory information as incriminating.

15. p. 129, line 11: Contrived/fabricated response and false. Renders metallurgical test data very likely inadmissible because such data can be deemed to fail the Frye test and the ''generally accepted guidelines''.

16. p. 130, line 14, 15: Deceptive, if not outright false.

17. p. 130, line 24: Not true. The figure is not meaningless with regard to the strap.

18. p. 131, line 14: Contradicts #17 above, and not accurate. ''Pressures'' likely vary along the entire length of strap.

19. p. 132, lines 2: Unfounded and in direct contradiction to laboratory test data. In fact, test data indicates the strap would not be capable of supporting or hanging 30 pounds. Aggravates incriminating nature of evidence/data and omits assumptions, premises or qualifying stipulations which might be viewed as potentially exculpatory.

20. p. 133, line 15: Inaccurate and deceptive.

21. p. 133, line 19: Failure initiation and propagation assessment is completely fabricated.

22. p. 134, lines 3–8.

23. p. 135, lines 6–10: Completely fabricated failure propagation assessment.

24. p. 135, line 21: ditto.

25. p. 136, line 4: ??? as to where cut started. Unfounded and not supported by data.

26. p. 143, line 17: Unfounded. There is not data or indication that the cut was made by a person.

27. p. 144, line 24 and p. 145, lines 7, 8: Inaccurate observations and contrary to expected and actual test data.

Again suppresses apparent exculpatory material behavior and presents test specimens as incriminating data.

EFFECT OF TESTIMONY

The misrepresentations and misstatements in the transcript would, on review by metallurgical/materials personnel, represent a glaring pattern of conversion of what should have been presented as neutral data into incriminating circumstances by complete reversal of established laboratory test data with scientifically unfounded, unqualified and biased testimony. [See exceptions #8, 9, 11, 14, 17, 18, 19, 21, 23, 24, 26, 27].

Additionally, the transcript reveals a pattern of complete omission of crucial conditions, caveats, premises and/or assumptions which may be viewed as tending toward exculpatory in nature. Even Mr. Doar had to intercede to bring the testimony back to reality (see p. 146, line 14).

As an example, existing laboratory reports indicate that the strap failed consistently at approximately 29.2 lbs. and that a weight up to that of an individual can be exerted on the strap by anyone attempting to break the strap. After applying what is one of the weakest motions for exerting force by an individual (pulling an object with both hands exerting forces in opposite directions), he testified that, as a 200 lb. ''weightlifter'', he could not break the strap. [It does not require an expert to visualize how an individual might apply loads greater than what SA Malone exerted]. The strong inference is that it is impossible to accidentally or intentionally exert a breaking load on the straps and, therefore, the strap must be cut to successfully break it. Another example [exception #26] is the statement that a person made the cut.

The opinions expressed in the transcript can not be viewed as constituting professional differences. The witness has no apparent academic or empirical training to provide such testimony. Even had the witness undertaken the minimal studies for such testimony, to include Introduction to Materials, Strength of Materials, Engineering Materials, Behavior of Matter, Properties of Materials, Materials and Advanced Materials Laboratories, Mechanical Testing & Laboratory, and Failure Analysis courses or their equivalents (26 credit hours of study), he has not conducted any such testing, utilized the test apparatus, or even observed its use in the prior 15 years or more.

The testimony, almost in complete entirety, relates to materials strain or deformation, stress applications, tensile test procedures, tensile data, and failure (propagation) assessment. It was very apparent even before SA Malone testified in Atlanta, Ga., that the metallurgical examinations and test results would be of importance to the inquiry, but I was told that I was not needed. From the early stages of judicial proceedings I was queried a number of times for information as to these topics with an explanation of ''personal curiosity''. However, both the number of queries and complexity (specificity) indicated more than a casual interest. I cautioned SA Malone about attempting to present the metallurgical data without some of the crucial caveats, premises or assumptions which must be made, such as system constraints (eg., wearer's hand grasping the strap), lack of complete specimen adjustment to applied forces (varies with the manner in which individual is carrying purse), initial condition statements, strain rate considerations, and manner of stress application. All of these cautions have been ignored and omitted in the testimony, and all of them can be viewed as exculpatory in nature.

Contributing to the perception of complete exculpatory information suppression, review of the transcript reveals no indication that the Chief Judge or the 11th Circuit panel was in receipt of FBI Laboratory report 51025051 S RU; in fact, it suggests the contrary.

Further, the metallurgical test data may well be rendered inadmissible because the witness states that I was ''. . . winging it'', that I had to ''jury rig'' and ''fiddle'' with the test apparatus, and that ''. . . nobody in our . . . lab had ever done a test like this, and I have never heard of any studies being published, it's almost a meaningless figure . . .''. Testifying as, what the court thought was, an expert in that area, this is a fairly strong indictment of the testing. These statements beg for a ruling of inadmissability in view of the Frye and ''generally accepted guidelines'' standards.

These exceptions were originally discussed with Section Chief Ken Nimmich because of a potential for serious and embarrassing conflict in congressional testimony tentatively scheduled for August 3, 1989. Not unexpectedly, our testimony was not needed in the congressional proceedings. However, this is being made a matter of record to indicate that the testimony is not reflective of the metallurgical testing, test data and guidance provided.

Overall, the exceptions to the testimony of SA Malone do not affect the technical assessment that the purse strap has been cut.

U.S. SENATE,
Washington, DC, February 26, 1997.

Hon. JANET RENO,
Attorney General, Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL: I am writing in reference to my meeting on February 24, 1997 with the DOJ Inspector General during which I requested an investigation into the matter of an alleged missing document detailing an initial F.B.I. analysis of the tests performed on evidence in the case against Alcee L. Hastings.

According to a February 25, 1997 statement released by F.B.I. Director Louis Freeh, the F.B.I. will be looking into this matter also. I have attached a copy of his statement.

I have asked the Inspector General to investigate this matter for reasons of ensuring the public's confidence in resolving this matter. In this regard, I believe it is better for an independent investigation rather than one by the F.B.I. Questions have been raised in the public arena in recent years regarding the F.B.I.'s ability to investigate itself. An independent investigation will ensure that there is no question of all the facts being disclosed.

Please provide a response to this letter by close of business on Friday, February 27, 1997. Your assistance is greatly appreciated.

Sincerely,

CHARLES E. GRASSLEY,
Chairman, Subcommittee on Administrative Oversight and the Courts.

U.S. SENATE, COMMITTEE ON THE JUDICIARY, SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS
Washington, DC, February 26, 1997.

Hon. MICHAEL R. BROMWICH,
Inspector General, Department of Justice, Washington, DC.

DEAR INSPECTOR GENERAL: I am writing in reference to our meeting on February 24, 1997 during which I requested that you look into the matter of an alleged missing document detailing an initial F.B.I. analysis of the tests performed on evidence in the case against Alcee L. Hastings. You agreed to see what you could find out.

According to a February 25, 1997 statement released by F.B.I. Director Louis Freeh, the F.B.I. will be looking into this matter also. I have attached a copy of his statement. However, because of potential conflict of interests, I believe it is extremely important that your office take the lead in this matter.

Therefore, as Chairman of the Judiciary Subcommittee on Administrative Oversight and the Courts, I formally request that you proceed with this investigation, especially in light of the attached statement by Director Freeh.

Please respond to this request by March 5, 1997. Your assistance is greatly appreciated.

Sincerely,

CHARLES E. GRASSLEY,
Chairman.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I ask unanimous consent to speak in morning business for up to 10 minutes.

The PRESIDING OFFICER. The Senator has that right.

HOMOSEXUALITY IN THE MILITARY

Mr. COATS. Mr. President, I want to briefly address an item that was in the news this morning titled ''New Study Faults Pentagon's Gay Policy.'' This morning the New York Times reported that with great alarm. It seemed that 850 men and women were discharged last year from the military for being homosexuals. They talk about an alarming increase in the number of people discharged under this policy that the Congress enacted just a couple of years ago.

First of all, we should put this in perspective. The 850 discharged amounts to six one-hundredths of 1 percent of active duty military personnel, and I do not think anybody on that basis can claim there is some kind of vendetta or witch hunt or anything else going on. It is really important for us to stand back and review where we are today following the debate that we had on gays in the military in 1994.

First, it is important to understand that the U.S. military maintains a