

Mr. President, I will continue to work with the administration, with Members of both parties here in Congress to make sure this goal gets the attention that it needs.

EXHIBIT 1

U.S. DEPARTMENT OF STATE,
Washington, DC, February 6, 1997.

Hon. MIKE DEWINE,
U.S. Senate.

DEAR SENATOR DEWINE: I read with interest your January 24 OpEd article in the Wall Street Journal.

I wholeheartedly concur with you on the need for further reforms in the police, judiciary and economy if Haiti is to realize the full benefits from the restoration of democracy. In this regard, I believe you would be interested in some developments that have occurred since your November visit to Haiti which address these shared concerns.

Police and Judicial Reforms: The Inspector General (IG) of the Haitian National Police (HNP) has continued to crack down on police officers implicated in malfeasance or other improper activity, including during the last month the detention of four HNP officers involved in a November 5 shootout in the Delmas suburb of Port-au-Prince. Over the last year, IG investigations have resulted in the dismissal of dozens of police officers. As you note, one of the most positive elements of our own effort to strengthen the fledgling Haitian National Police has been the contribution of U.S. police mentors working with their Haitian counterparts. Responding to continued Haitian Government interest in this program and to your recommendation that additional U.S. civilian police officers be assigned to Haiti, the current U.S. contingent of 22 officers will be augmented this week with the arrival of ten new mentors.

I also believe that additional measures are needed to ensure a thorough investigation of the murders of Haitian political figures. Two additional experienced, Creole-speaking U.S. investigators have been assigned to the Special Investigation Unit (SIU), and in response to a formal request from Haitian authorities, the FBI has agreed to provide a medical examiner to perform autopsies. We will give positive consideration to additional areas of support to the SIU that might be identified during a forthcoming FBI visit to Haiti to develop an investigation plan for the SIU.

In the area of judicial reform, strengthening prosecutorial capabilities and the courts remain a priority USG effort, and we will work with the Congress to provide adequate resources for these efforts.

Economic reforms: I agree with you that progress on privatization and tariff reform are essential to encourage economic development and private-sector investment. The Department remains committed to working closely with the Congress to establish and apply realistic conditions that will encourage sustainable economic development. We also plan to target USAID safety-net programs toward those most in need including, as you recommend, maintaining feeding programs directed at vulnerable sectors such as mothers and their infants.

Again, I wish to express my appreciation for your interest in Haiti and your desire to work with the Administration in pursuit of democratization, political security and economic reform. Your visits have helped to galvanize a bipartisan effort that, in turn, will help Haiti to help itself. National Security Advisor Sandy Berger and I hope to visit Haiti in the near future. I look forward to continuing close cooperation with you to address the problems of the poorest and least developed of our neighbors.

Sincerely,

STROBE TALBOTT.

Mr. DEWINE. Mr. President, I thank the Chair for his indulgence and yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

ISRAELI SETTLEMENTS POLICY IN JERUSALEM

Mr. BYRD. Mr. President, last week the Israeli leader, Prime Minister Benjamin Netanyahu, decided to authorize a politically volatile housing project for Israeli settlers in predominantly Arab East Jerusalem. This disappointing act has thrown into confusion the promising opening that was generated by the long and difficult, but successful negotiations last month, which culminated in an agreement returning control of the West Bank city of Hebron to the Palestinians. The United States invested very considerable efforts, negotiating talent and prestige to move the peace process along. The agreement over Hebron gave the world great hope that a long-term peaceful settlement of the outstanding issues between Israel and the Palestinians was on an upward track.

Therefore, it is very unfortunate, in my view, that the reality of the substantial success over Hebron prompted the right wing of Israeli politics to pressure Prime Minister Netanyahu into this latest act on housing settlements. According to the New York Times of March 2, 1997, "a powerful group of Mr. Netanyahu's conservative colleagues" "leaned on him" to prove his commitment to Jerusalem by building Har Homa, threatening to bring down the government if he failed. With new territorial concessions to the Palestinians looming, Mr. Netanyahu told Americans and Palestinians privately that he had to "fill his right wing tank" on Har Homa if he was to keep on the peace route.

This is a most disappointing situation. Progress on peace is regarded as a threat by the Israeli right wing and has resulted in efforts to force the Prime Minister to retreat from his own success. The Israeli right wing should know that their behavior will have consequences in the United States, and I for one will relate my support for their agenda to their support of that of the United States, which is a fair, equitable and just peace in Jerusalem and the Middle East. The process of American intermediations between the Israelis and Palestinians is a serious matter and we cannot stand by and watch the Israeli right wing, at their whim, pull the rug out from under whatever progress is accomplished. Such actions should be understood to have consequences for support for Israel's various interests as they are considered by Senators.

I hope the Israeli Prime Minister will do better at withstanding the pressure of his right wing and, that the considerable influence of American groups will be exercised to counter those nega-

tive pressures. I hope, as I am sure my colleagues do, that the peace process will not be derailed by the actions of an extreme right wing minority in Israel and that the settlements issue will be adjusted by the Prime Minister to reflect the opportunity that the successful Hebron agreement has provided.

Mr. President, I thank my friend from Indiana, Senator COATS, for his courtesy in allowing me to proceed ahead of him. I thank him very much indeed.

Mr. COATS. Mr. President, it is not difficult to yield to the Senator from West Virginia because the content of what he says is always instructive, and I am always pleased to be on the floor when he is speaking because I always learn something.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I thank the Chair.

(The remarks of Mr. COATS pertaining to the introduction of S. 409 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GRASSLEY. Mr. President, I ask unanimous consent to extend the normal time of 5 minutes to 13 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

FBI MANAGEMENT FAILURES— PART THREE

Mr. GRASSLEY. Mr. President, troubling facts continue to surface in the FBI crime lab issue. These facts are putting flesh on the bones of allegations that much of the lab's analysis is sloppy, not credible, fabricated, or all of the above.

The FBI has charged that these allegations are unfounded, and that they are the musings of one Dr. Frederic Whitehurst. Dr. Whitehurst has come forward as a whistleblower with serious charges against the lab and its management. The FBI chose to shoot the messenger instead of taking Dr. Whitehurst seriously.

After a year of studying Dr. Whitehurst's claims and his information, I was not so sure the FBI took the wise course. Then, after a private briefing by the Justice Department's inspector general on his investigation into these matters, I was even more convinced that the FBI has taken the wrong course. And now that the FBI has taken personnel action against Dr. Whitehurst in retaliation for his telling the truth, I am convinced that the Bureau is dead wrong.

The FBI's defense—some would say coverup—is slowly unraveling. Last week, we discovered that it wasn't just Dr. Whitehurst that has raised serious concerns. Another respected scientist, Dr. William Tobin, had raised equally serious allegations in 1989. He alleged that an FBI agent tampered with evidence and made a series of false statements while testifying in court proceedings against then-Judge ALCEE L.

HASTINGS. I discussed this before this body on February 26, Mr. President.

The FBI covered up this matter. There may be a missing document. Last week, at my request, the Attorney General ordered that the FBI not be involved in the investigation. The investigation has been given instead to the IG. This is because there are major questions about the FBI's ability to police itself. The Attorney General gets much credit for recognizing the potential conflict involved when the FBI investigates these issues.

In the past 2 weeks, two additional cases—in addition to the Alcee Hastings case—appear to reveal similar improper behavior by FBI agents testifying in Federal cases. If it sounds to you like a pattern is developing, Mr. President, you have been paying close attention. Up to now, the FBI's denials had been set in concrete. What you are hearing now is the sound of concrete cracking.

Thus far, the IG has had remarkable success keeping the draft report under wraps. But a few press stories about its contents have been popping out. Last week, the Miami Herald ran a story about a Florida case reviewed by the IG. In that 1988 case, George Trepan was convicted of murdering his neighbor by poisoning her soft drink. Mr. Trepan was sentenced to death, and is still on death row.

But as the Herald reports, the testimony of evidence linking Mr. Trepan to this murder may have been tainted by an FBI lab supervisor. The supervisor may not have had adequate scientific support to identify the poison as he did. If the Herald is correct, this is another example of the problems found in the Hastings case.

And now there's a third case, Mr. President. The Associated Press reported yesterday that the IG found similar problems in the VANPAC case. That is the case involving the 1991 conviction of Walter Leroy Moody for the murder of U.S. Circuit Judge Robert Vance and Georgia civil rights attorney Robert Robinson. It was Justice Department attorney Louis J. Freeh who prosecuted the case.

Before I get into the specifics of the FBI's wrongdoing apparently uncovered by the IG in this case, let me provide some context.

More than a year before the bombing tragedy in Oklahoma City, Director Freeh and his general counsel, Howard Shapiro, had been fully briefed about Dr. Whitehurst's allegations of misconduct within the lab. They were aware of Whitehurst's charges of a systemic quality control breakdown in the lab.

On February 7, 1994, Whitehurst's attorney wrote to Mr. Shapiro informing him of the sensitive nature of the allegations, and how a thousand cases could be affected. Whitehurst asked that a special, independent, or outside counsel review the matters.

But the FBI chose another course. It did not empanel an independent review.

Instead, the matter was assigned to two attorneys within the Office of the general counsel. They reported directly to Mr. Shapiro and Mr. Freeh.

No scientist was placed in the decisionmaking chain of command. Mr. Freeh, in conjunction with his attorneys, decided they could perform a diligent and thorough internal investigation. Mr. Shapiro's exact words in his February 14 reply—and remember these words, Mr. President, because I intend to refer to them liberally in the future—his exact words were, "The FBI has a long and proud history of performing diligent and thorough internal investigations."

What is amazing to me is that neither Mr. Freeh nor Mr. Shapiro recused himself from the decisionmaking role with respect to the review. After all, they had prosecuted one of the cases—the VANPAC case—in which Dr. Whitehurst alleged misconduct had occurred.

In other words, nonscientists with a conflict of interest assumed the authority to review significant allegations of scientific and evidentiary misconduct that could affect hundreds, if not thousands of cases.

I have now obtained a redacted copy of the results of that review, headed by Mr. Freeh and Mr. Shapiro. The findings and recommendations were approved by both.

The first thing they did was fire at the messenger. On the very first page, the FBI notes that Dr. Whitehurst could be disciplined for providing information about the lab's misconduct to Congress.

You see, Mr. President, providing information to Congress—and I'm quoting the FBI—"violates FBI and DOJ regulations." Were you aware, Mr. President, that FBI and DOJ regulations override the first amendment guarantee of the people's right to petition Congress? If I could anticipate your response, Mr. President, neither was I.

The second issue: During this 1994 review, Mr. Freeh and Mr. Shapiro learned that the lab "would not meet minimal accreditation standards." The report notes that it was "incredulous that the premiere forensic laboratory in the world" was "not accredited."

Instead of asking how the failure to reach minimal accreditation standards had impacted on past cases, or might impact on future cases, the FBI took a different course. The FBI concluded, "no further investigation or action" was needed.

In other words, rather than evaluating the potentially serious ramifications of the FBI's failure to meet minimal accreditation standards, the Bureau circled the wagons and whitewashed the problem. They set up a committee to come up with a timetable for accreditation. That was 3 years ago. Now, the Bureau tells us they'll be accredited in 18 months from now. And if you believe that, Mr. President—

This brings me back to the VANPAC matter. As I mentioned, Mr. Freeh had

been the lead prosecutor on that case. He got national recognition. Mr. Shapiro was his cocounsel. Larry Potts—of Ruby Ridge infamy—was the FBI's case agent.

Dr. Whitehurst had alleged that there were problems with the evidence in the VANPAC case. Despite the clear conflict, Mr. Freeh and Mr. Shapiro did not recuse themselves. They recused themselves about a year and a half later—in September 1995. But at this point in time—February 1994—they kept themselves at the top of the investigation into misconduct in that case.

Instead of using real scientists to independently review the evidence—as the IG did, by the way—Mr. Freeh and Mr. Shapiro used their own subordinates. And what was their conclusion after reviewing the VANPAC allegations, Mr. President? "Whitehurst's allegations are not supported by any facts." That's what it says in their report.

Now we have a new account—by the Associated Press—that gives us an insight into what the IG found in VANPAC. And it seems to conflict with the FBI's interpretation. Remember, the IG followed up on Dr. Whitehurst's suggestion, and did an independent review. And, the IG went out and recruited five of the world's most renowned lab scientists for his investigation. In other words, the IG did a proper review.

According to the AP, the IG report states that "a lab witness overstated test results during the trial." And that's not all. Let me quote further from the AP story: "In addition to overstated testimony in VANPAC, the report found the lab lacked databases to support its conclusions, used unvalidated tests, lacked written test procedures, inadequately documented why it discounted test results that undercut its conclusions and lacked any record for some tests."

Now, this is interesting if true, Mr. President. Because less than 2 months ago, on January 23, Mr. Freeh told his deputy, Weldon Kennedy, "Based upon the VANPAC allegations investigated by the Office of the Inspector General [OIG], and despite their findings that none of the allegations regarding VANPAC are substantiated, I have decided to recuse myself from any of the Whitehurst-related disciplinary or administrative matters contained in the OIG report regarding the FBI laboratory."

Mr. President, I'm not sure whose version is correct—Director Freeh's or the AP's. But if this AP story is correct, this is the second time Mr. Freeh has been misleading on what's in the IG report. On February 26 I pointed out on this floor Mr. Freeh's other discrepancy. He said he had been unaware of the Tobin memo: Remember, he's the other scientist I referred to earlier who lodged complaints. I questioned how he could possibly say that when the IG report containing the Tobin allegations had been on his desk for a full month.

In sum, Mr. President, we're beginning to see some patterns that back up Dr. Whitehurst, and contradict Mr. Freeh and the FBI. First, other scientists have surfaced with allegations—not just Dr. Whitehurst. Second, it appears that three cases reviewed by the IG found misconduct and/or sloppiness.

When I was growing up back on the farm in Iowa, we had a saying. If you reach into a barrel of apples for the first time and pull out a bad one, the chances are pretty good there's more bad apples in there. Maybe a barrel-full of bad apples.

So far, based on press reports, that's three bad apples—three out of three. Those are pretty high odds.

What's to be done? Director Freeh made a big splash yesterday announcing a new way to handle internal reviews of alleged criminal behavior and misconduct. He will increase the number of people working on such reviews from 30 to 60.

The Director doesn't seem to get it, Mr. President. The issue is that the FBI can't police itself. Doubling the number of self-policers won't change the bottom line. Zero times two is still zero.

I'm beginning to think those 60 slots are a lot better off—from the taxpayers' point of view—being moved to the IG instead. And I intend to discuss this with my colleagues on the Judiciary Committee.

The FBI does not have a long and proud history of self-policing notwithstanding what Mr. Shapiro leads us to believe. Look at Ruby Ridge. That case certainly doesn't inspire confidence in the FBI's ability to self-examine.

Mr. President, I believe the American people are being misled by the FBI on the problems we're seeing in its crime lab. And all that does is continue the erosion of confidence the people have in the FBI.

It's time the Bureau stopped its narcissistic infatuation with its own image. It's time to stop selling an inferior product with false advertising. The American people deserve from its chief law enforcement agency a product with integrity. They deserve an FBI that does what it would have you believe it does. This is an issue of leadership. Quite frankly, I am beginning to join the ranks of those whose confidence in the Bureau's leadership is diminishing.

Mr. President, I yield the floor. I do not see any other Members ready to speak, so I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ENZI). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized for up to 15 minutes.

NOMINATION OF ANTHONY LAKE

Mr. GRAHAM. Mr. President, I wish to speak today on the nomination of Anthony Lake to be Director of the Central Intelligence Agency. This nomination has raised a troubling issue, an issue that has nothing to do with the candidate's qualifications. Rather, that issue is the credibility of the Senate Select Committee on Intelligence to conduct a fair, nonpartisan examination of this nominee.

That committee, of which I have been a proud member for 4 years, has a well-earned reputation for bipartisanship. But that hard-won reputation is being jeopardized by the committee's conduct in this matter.

In a speech before the Senate last night, Chairman SHELBY said he wants to treat the Lake confirmation "in a serious, thorough and fair manner." That is a laudable goal. It is a goal I fully support. I commend the chairman for establishing a high standard. The position of Director of Central Intelligence is an extremely sensitive one. We have a responsibility to the American people to subject the nominee to close scrutiny.

I accept and welcome the responsibility as a member of the committee. Unfortunately, it is a responsibility my colleagues and I have been unable thus far to exercise.

The reason for this failure is that the committee, although having officially received this nomination on January 9, has yet to conduct its first hearing on the nominee. Meanwhile, the Senate has acted judiciously but swiftly on two other members of the President's foreign policy team, the Secretary of State and the Secretary of Defense.

Mr. Lake remains the exception. Indeed, his hearings have been postponed not once, but twice. In the first instance, the chairman postponed the hearings "dependent upon the status of the Justice Department's investigation" into Mr. Lake's stock transactions and his role in the Iran-Bosnia arms sale.

The Department of Justice completed its investigation on February 7, giving Mr. Lake a clean bill of health in regard to the arms sale and determining there was no evidence that he ever took any action to conceal or misrepresent his or his wife's financial holdings.

Nevertheless, the chairman again postponed the hearings, this time asserting that the Department of Justice investigation "is only a small part of the Senate Select Intelligence Committee's overall, ongoing investigation * * *." He now cites new concerns.

After two delays, the chairman is now committed to a hearing on March 11. I welcome that commitment.

Mr. President, I fear, however, that the March 11 hearing is only a prelude to what is turning into an extended fishing expedition. If anyone doubts that, they only have to read the February 27 issue of the Washington Post, which reported that the Senate Intelligence Committee has now requested

White House documents involving Haiti—documents which our House colleagues requested last year as part of their extensive investigations into the administration's Haiti policy.

Those investigations have so far produced rather paltry results, despite extensive hearings, document reviews and testimony.

The International Relations Committee was able to generate only a majority staff report. The members of that committee—neither Republican or Democrat—signed the report—not exactly a vote of confidence.

The Republican majority of the House Permanent Select Committee on Intelligence has yet to produce any report at all.

In each case, the administration made available literally hundreds of documents for congressional review.

Although withholding approximately 50 documents, citing executive privilege, the administration did offer to brief House Members and provide certain redacted versions of those documents. Republicans rejected the proposal.

The administration has made the same offer to our committee. It is a reasonable one that balances congressional rights and executive privilege. I urge the chairman to accept it, rather than creating a pretext for further delay.

Mr. President, the Haiti issue is just one of several the committee is pursuing.

The implication of the chairman's remarks are that the committee now intends to investigate the Department of Justice's investigation of Mr. Lake's divestiture of stock. The Justice Department, as I mentioned earlier, found no evidence that Mr. Lake ever took any action to conceal or misrepresent his or his wife's financial holdings. It found no fault in his conduct of the Iran-Bosnia matter.

With regards to Mr. Lake's FBI file and the Tower nomination, the chairman has requested Mr. Lake's complete FBI file, based on the purported precedent of the nomination of former Senator John Tower for Secretary of Defense in 1989. As my colleague from Michigan, Senator LEVIN, stated yesterday, "neither the Armed Services Committee nor the full Senate ever had access to the raw investigative files used by the FBI to compile its summary of the background investigation of Senator Tower."

In his statement, Senator LEVIN further cites Senator Nunn's comments in 1989. Senator Nunn stated on the Senate floor that, "What we have in S-407 is the summary of interviews the FBI conducted. They prepare the summary. We do not see nor do we have the underlying interviews."

In the case of Mr. Lake, that summary has already been provided to the chairman and vice chairman of the Senate Intelligence Committee.

I am concerned that we are engaged in a fishing expedition in which the