

my view is that it is. They are questioning about what is happening with Medicare. And I think the American people have not understood that when we have considered changes in Medicare that we have not sought to cut Medicare but instead to restrain the growth of Medicare. We have looked at an increase in funding for Medicare in excess of 10 percent a year. We have sought to reach compromise between Democrats and Republicans to restrain the growth somewhere in the 7-percent range, give or take a little. And that is two or three times the rate of inflation. But if we are to maintain Medicare, we are going to have to be able to pay for it and to contain the rate of growth on Medicare.

I am pleased that we have established in the recent legislation a commission which will take up Medicare in some detail on a bipartisan basis to try to give assurance to the public that what we are doing here is sound governmentally and sound financially. It is not for political scare tactics. We had the Commission for Social Security back in 1983 which put Social Security on a solid basis.

We had then Senator Pepper as a Member of the House, a very distinguished representative of senior citizens, someone the senior citizens had a lot of confidence in. We had a slight increase in the tax on Social Security and a slight delay in receiving benefits and put Social Security on a sound basis back in 1983. And it is my hope that we will be able to do that again.

People want to know about a trust fund, why we do not have Social Security off budget. That I believe, Mr. President, is something we ought to be doing. It is currently part of the unified budget so that it makes the deficit appear smaller. But it really ought to be segregated in a trust fund.

Similar concerns were expressed about the highway trust fund. Across Pennsylvania, and I think reflective of America, people want the moneys used for the gasoline tax to be used for the highway trust fund or mass transit. Across my State, I hear enormous concerns about Continental 1, a major highway, transcontinental highway, which will start in Toronto, Canada, and go all the way to Florida. It picks up a stretch of highway known as U.S. 219 in Pennsylvania where people are very anxious to have that on the books. And we would have the money, if we use the highway trust fund, for that purpose.

We had amendments narrowly defeated in both the Senate and the House by 2 votes, I recollect, 216 to 214 in the House, and I know it was 51 to 49 here in the Senate where we attempted to allocate more funds for highways. I hear concerns all over my State about the need for more transportation funding. And the Mon Valley Expressway linking Fayette County, Uniontown to Pittsburgh would be a bonanza to develop that section of southwestern Pennsylvania which has been hit so

hard by the losses of the steel industry, the coal industry, and the glass industry.

And all over the State there is this interest in highways. I can personally attest, traveling around the back roads of my State, how tough it is to travel, to get behind a big truck. It happens all the time on a two-lane highway, and what had been planned as a 45-minute trip takes an hour and 10 minutes. The infrastructure is so very, very vital. We ought to be taking a much closer look there.

There are similar concerns on airports, as I traveled through the State, where airports ought to be improved. Infrastructure would improve job opportunities. Major corporations, companies want to settle in communities which have access to air service.

I also heard grave concern about what is going on with the managed care and with HMO's and with the issue of the so-called gag rule where family doctors are not permitted to have a referral to a specialist. We legislated on what was called the drive-by deliveries, requiring that women giving birth spend at least 48 hours in the hospital. Further, we have pending legislation on so-called drive-by mastectomies, where women who undergo that very difficult operative procedure are not ousted from the hospital. These complicated issues are obviously matters which are better left without congressional micromanagement, but something which we may have to get into, to some extent. But there is grave concern as managed care move across America, that there be fair access for the people who are insured and concern about HMO's paying their fair share on medical education and the so-called DSH proposals of disproportionate share for care for the indigent.

These are some of the items which I heard a great deal about as I traveled through my State.

RUBY RIDGE

Mr. SPECTER. Mr. President, I see no other Senator on the floor seeking recognition, so I will amplify my remarks at this time about the concerns which I have on the congressional oversight and the need for additional congressional oversight on the incidents arising out of Ruby Ridge.

Mr. President, the incident at Ruby Ridge has been very heavily publicized. And there have been a number of investigations on this subject. And investigations are continuing at the present time.

This incident occurred back on August 21, 1992, which is more than 5 years ago. With the possible exception of the incident at Waco, this incident at Ruby Ridge has caused tremendous consternation with respect to action by the Federal Government.

The essential events at Ruby Ridge were that a man named Randy Weaver had been arrested for selling two sawed-off shotguns and had not made

his court appearances. A large contingent of Federal law enforcement officers went to his home at Ruby Ridge in Idaho to take Mr. Randy Weaver into custody. It is a very complex matter, a very lengthy matter. I will only summarize the essential factors. A firefight broke out on August 21, 1992. In the course of that firefight, a Federal marshal, deputy marshal, Mr. William Degan, was killed, 14-year-old Sammy Weaver, son of Mr. Randy Weaver and Mrs. Vicki Weaver, was killed, and Mrs. Vicki Weaver was killed.

The large force which had assembled there to take Mr. Randy Weaver into custody did so because of reports by the Alcohol, Tobacco and Firearms agency, which were false, that there had been prior convictions as to Mr. Randy Weaver—and he had not been convicted of anything—and that Mr. Weaver was a suspect in bank robbery cases, which is untrue.

The essential findings, the essential overstatements, were summarized by FBI Director Louis Freeh, who testified at our Judiciary subcommittee hearings on October 19, 1995, as follows: "One misstatement of fact exaggerated to another one, into a huge pile of information that was just dead wrong." As a result of those erroneous statements, this firefight occurred and these deaths occurred.

There have been a number of investigations conducted. Most recently, a brief report was filed by the Department of Justice on Ruby Ridge, which is only a small part of the full report which was filed. This one is eight pages. It was issued back on August 15. In the course of this report, there is a notation of some six prior investigations on this matter. There had been an exhaustive report by the Department of Justice task force that was issued on June 10, 1994. There was an investigation conducted by the FBI Inspection Division. There was an investigation initiated by the Department of Justice Office of Professional Responsibility, following a letter from special agent Eugene Glenn, who was the on-scene commander in Idaho. He was an FBI agent in charge in Idaho. Then the Judiciary subcommittee conducted its inquiry, and then there was an investigation conducted by U.S. attorney Michael Stiles, who is the U.S. attorney for the eastern district of Pennsylvania. He took over for the U.S. Attorney for the District of Columbia. Mr. Eric Holder had recused himself because he knew some of the agents who were involved.

I had expressed my own concern on a number of occasions about the length of time that the Department of Justice investigation was taking because there were a number of FBI officials who had been suspended, with pay, and were simply sitting dormant. Based upon the knowledge that I had of this incident, because of the hearings which we had through the Judiciary subcommittee, it seems to me that the matter should have been concluded a long time ago.

Our subcommittee held 14 days of hearings from September 6 to October 19, 1995, heard testimony from 62 witnesses, interviewed many others, reviewed thousands of documents, including the entire transcripts and exhibits from the trial of Mr. Randy Weaver and Mr. Kevin Harris and various internal reports prepared by the Department of the Treasury, the Department of Justice, and the Federal Bureau of Investigation. Based upon that detailed knowledge of this incident, it seemed to me, and also based on the experience I have had as district of attorney in Philadelphia in some background investigations, this is a matter that should have been concluded a long time ago. I took this matter up on many occasions with the Attorney General and, in fact, back on November 25, 1996, I called for a meeting and had one in my office with Attorney General Reno, then Deputy Attorney General Gorelick and U.S. Attorney Michael Stiles on November 25, 1996. I continued to discuss this on many occasions to Attorney General Reno and Deputy Attorney General Gorelick and U.S. Attorney Stiles, and as illustrative of my ongoing concern, wrote to them on February 26, 1997, as follows:

Dear Attorney General Reno: I again express to you my deep concern about the long delay of the Department of Justice in completing the investigation of certain FBI officials arising out of the incidents of Ruby Ridge. As you know, the Judiciary Subcommittee on Terrorism completed exhaustive hearings in September and October of 1995 and published a voluminous 154-page report in December 1995.

I expressed my concern to you on the Department of Justice delay months ago and met on this subject with you and Deputy Attorney General Gorelick and Michael Stiles on November 25, 1996. I would appreciate your prompt response on when you expect this investigation to be completed.

I had a response from the Attorney General that it would be completed soon. I then brought it up again with her in Department of Justice oversight hearings on April 30, 1997, and again was told that it would be completed soon. Then this Department of Justice abbreviated report was, as I say, submitted on August 22, but it is not the conclusion of the matter because there has been a referral here to the Department of Justice Management Division which will propose what, if any, disciplinary sanctions should be imposed on the individuals under investigation and also to the Justice Department Office of Professional Responsibility, which had been investigating this matter back in August of 1995.

So the matter is still ongoing and incomplete so far as the Department of Justice is concerned.

When I sought to have subcommittee hearings back in the summer of 1995, that was opposed in a number of quarters, including the Department of Justice. We finally moved ahead, but because of the August recess, we scheduled for immediately after Labor Day, and then in late August, we proceeded

with our subcommittee hearings. It is not an easy thing to do when there is a public statement by the Deputy Attorney General that Senate action will impede the ongoing investigation. That has a certain political overtone which is very difficult to move against. But we did, and I think our investigation has spurred more activity by the Department of Justice because it was our inquiry on the so-called rules of engagement which led to further the Department of Justice investigation.

I should say, Mr. President, that it is not possible to outline all of the things which have happened in this matter, but in the Federal trial which was completed against Mr. Randy Weaver and Mr. Kevin Harris, both were acquitted. One of the issues which was an outgrowth of that Federal trial was the activity of one of the key FBI agents to destroy a record which had been ordered to be produced by the Federal judge. That individual is now awaiting sentencing. In October of 1996, Special Agent E. Michael Kahoe, of the FBI's Violent Crimes and Major Offenders Section, was charged with and later pleaded guilty to obstruction of justice relating to his destruction of an FBI after-action critique on the Ruby Ridge matter. He is scheduled for sentencing on September 11.

The FBI has had an extraordinary record for law enforcement in this country and abroad, and I think it has been a very, very important law enforcement agency. From time to time there are problems with the FBI, as there are with any agency, but it certainly is a matter of overwhelming concern for someone who has the responsibility of being the chief of the Violent Crimes and Major Offenders Section who destroys a report ordered to be produced by a Federal judge. That is the case here.

There are other major matters which our subcommittee looked into and which have been investigated by the Department of Justice where they concluded they did not have sufficient evidence to charge two other senior FBI officials with criminal conduct on falsifying the so-called rules of engagement which were a part of the controversy at Ruby Ridge. The rules of engagement provided that if any adult is observed with a weapon prior to surrender announcement, deadly force can and should be employed if the shot can be taken without endangering any children. The second aspect: if any adult in the compound is observed with a weapon after the surrender announcement is made and is not attempting to surrender, deadly force can and should be employed to neutralize the individual. Mr. President, those rules of engagement, simply stated, violate the U.S. Constitution. That was the judgment of the Department of Justice task force. That was the judgment of the Judiciary subcommittee, and that was the judgment of the FBI Director, Louis Freeh, that those rules did violate the constitutional standard for use

of deadly force. You just cannot do that in America.

To the credit of FBI Director Louis Freeh, those rules of engagement were changed and the procedures of the hostage rescue team were changed. We have yet to see an acknowledgment by the Alcohol, Tobacco and Firearms unit of their inappropriate conduct in this matter, either from the Secretary of the Treasury, Robert Rubin, or the director of the Alcohol, Tobacco and Firearms unit, John Magaw. I know that is a strong statement, but that happens to be the fact. I have met personally with Mr. Rubin and Mr. Magaw, and they have not taken responsibility for what the Alcohol, Tobacco and Firearms agency did in this matter, which was spread false information about Mr. Weaver with respect to saying he had prior convictions, which he had not, and saying he was a suspect in a bank robbery case, which he was not.

In any event, Mr. President, the matter goes on in the eight-page report which has been filed by the Department of Justice. As the saying goes, more questions are raised than are answered. I have made a request to see the entire report and am told that will not be made available until the Office of Professional Responsibility finishes its work, and that may occur at some point in the future, which is very, very difficult to predict. At any rate, we have this eight-page report, and as I say, it raised a good many new questions.

The scope of the investigation conducted by the Department of Justice, headed by U.S. Attorney Stiles, has this to say under the section of Scope of the Criminal Investigation:

The investigative team used a variety of techniques to collect all available evidence in this matter. They gathered large amounts of documented material that had never come to light during prior internal inquiries into the events at Ruby Ridge.

Now, the question was raised in my mind, if these documents had not come to light on prior internal inquiries into the events at Ruby Ridge, why not? The question is raised in my mind as to whether the FBI made available to the Senate Judiciary subcommittee all of the documents which we had requested. This report goes on to say, "The FBI offices were searched, and more than half a million pages of documents were obtained and analyzed, including previously unreviewed files containing the bulk of the FBI headquarters' records, including files of the FBI's Strategic Information and Operations Section and the Violent Crimes and Major Offenders Section."

So a question is raised immediately as to whether the Department of Justice task force which worked back in 1994 and whether the FBI Inspections Division and whether the prior investigation by the Office of Professional Responsibility and whether the Senate hearings which called for all of these documents, whether those documents were produced at that time.

This is just a brief thumbnail description as to some of the questions that we have and that are pending yet. My sense is that it is indispensable that the Judiciary Committee move ahead with the inquiry that was conducted back in 1995 to find out specifically why it took the Department of Justice approximately 2 years to come to this stage of their inquiry and take a look at the findings that led to a declination of prosecution as to some individuals in the face of what appears to be significant evidence on a falsification of the rules of engagement.

We do know that at the hearings conducted in 1995, there was another set of rules of engagement which discussed a permissive use of force, specifically noting where deadly force may be used. During the course of our subcommittee hearings, we could never determine precisely who issued the rules of engagement because no one would take responsibility for them. But the way this investigation has been conducted by the Department of Justice, certainly in my judgment, urgently requires congressional oversight. We know that the prosecuting attorney of Boundary County has now issued an indictment against a special agent sharpshooter, whose firing resulted in the death of Mrs. Vicki Weaver, on charges of involuntary manslaughter.

Had I been the prosecuting attorney there, I would not have brought that prosecution, under all the facts of the case. I have been a district attorney and have made judgments that involve when a prosecution ought to be brought. But I can understand why the district attorney of Boundary County brought the charges in light of the bad bungling that the Department of Justice has made of this case. And there are many, many collateral matters that have not yet been answered satisfactorily. The Attorney General approved the promotion of Mr. Potts to be Deputy Director of the FBI, in a context where red flags were present about Mr. Potts' qualifications for that job, being a very close personal friend of FBI Director Freeh. That was inquired into at some length during the Judiciary subcommittee hearings, but we did not have the benefit of the Attorney General's testimony in that matter. She took the position that she does not testify before subcommittees because there are so many subcommittees. The point the subcommittee raised at that time was that we were not asking her opinion on a variety of legislative issues where there are so many issues and subcommittees, but we asked for her testimony as a fact witness as to why she personally approved the promotion of Mr. Potts. But she declined to appear. We declined to issue a subpoena or have a confrontation on the issue.

When I discussed this personally with the Attorney General, she restated her position and said maybe she should have appeared. I told her at that time, months ago, she might have occasion

to appear yet. I hope that she does have occasion to appear on the questions relating to many issues in this very complex matter, because as stated in the statement issued by U.S. Attorney Stiles, this was approved by the Department of Justice and, inferentially, by the Attorney General herself. These are matters that have to be inquired into.

On the subject of having this matter now taken to the Office of Professional Responsibility, I have grave questions about what will happen there and what the time sequence will be, and their explanation as to why they took so long is there are many statutory requirements that may be reviewed by the Congress. The incident involving William Jewel in Atlanta occurred back in July 1996, and it took a full year to get oversight hearings before the subcommittee on that matter. Those hearings did not do any credit to the Office of Professional Responsibility, where Mr. Shaheen, the director of that unit, testified. Mr. Shaheen testified that Mr. Jewel's constitutional rights were violated, but it was nowhere in the report. I asked the very fundamental question, "Why doesn't the report say so?" It is one thing to testify before a subcommittee that the constitutional rights of a suspect were violated. But to fail to do so in the report does not give guidance to other agents in the field. It was in the context that Mr. Jewel was told he was being questioned for a training film purpose, and he was misled by the FBI agents under those circumstances. It was later concluded that his Miranda rights had been violated. In a repeated line of questioning, Mr. Shaheen could not cite any part of the report that said that. He cited sections of the report that did not say what he said he said, and he admitted that. Then, after the hearing was over, on the same day, Mr. Shaheen sent me a two-page letter saying that he had misspoken, that the Office of Professional Responsibility had not in fact found that Mr. Jewel's constitutional rights had been violated—a conclusion which is a little hard to understand in light of his extensive testimony on this subject.

Madam President, this is a very important matter. As I have said earlier, it is a matter which is still resonating in America. I was in Pennsylvania, at my open house town meetings on the 13th, 14th and 15th, when the report came out that the Department of Justice would not bring any prosecutions and a week later when the prosecuting attorney of Boundary County, ID, brought the indictments against Kevin Harris for murder in the first degree against Deputy Marshal William Degan and involuntary manslaughter against Special Agent Horiuchi. It is my hope that we will continue this inquiry with congressional oversight, because only the Congress can really undertake the kind of questioning of department heads, the Attorney General, the Director of the FBI, or the Director of Alco-

hol, Tobacco and Firearms, or the Secretary of Treasury, of that rank, to find out what has happened, so that we can tell the American people what the facts are. There is tremendous unrest on this subject, which is part of the unrest and distrust of Government that I have referred to earlier, confirmed by the earlier public opinion poll.

Madam President, in the absence of any Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

DEPARTMENT OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The Senate continued with the consideration of the bill.

Mr. SPECTER. Madam President, we are currently on the legislation of the appropriation bill for the Department of Labor, Health, Human Services, and Education. I, again, repeat the earlier request that anyone who has an amendment to offer, come and do so at this time. There is plenty of time available right now. Earlier the majority leader had been on the floor, and Senator HARKIN and I and Senator LOTT, our majority leader, had discussed the timing. It was our hope that we might complete action on this bill by tomorrow evening. We request that anybody who has amendments to file do so by the close of business today or, in any event, not later than noon tomorrow. We have a vote scheduled for 9:30 tomorrow morning. It is the practice that Senators will be present at that time to vote, so we can move ahead if there are amendments to be considered on this bill.

CAMPAIGN FINANCE REFORM

Mr. SPECTER. Madam President, in the absence of any other Senator on the floor, I will utilize this time to comment on the subject of campaign finance reform. I stated earlier that in my travels through Pennsylvania during part of the month of August, I heard considerable concern about the necessity for campaign finance reform, and I had commented about the over-tone throughout my open house town meetings about people of my State being very suspicious of Government, very distrustful of Government. One of those items was Ruby Ridge, and I spoke at some length about that. Another item was the subject of campaign finance reform, where I have found very considerable interest, disagreeing with some of the pundits and some of the public comments.