

NLWJC- Kagan

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Roundup (ATF Etc.) [2]

TRANSCRIPT OF PROCEEDINGS

UNITED STATES SENATE

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COMMITTEE ON THE JUDICIARY

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FEDERAL LAW ENFORCEMENT AND THE GOOD OL' BOYS ROUNDUP

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Washington, D.C.

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FEDERAL LAW ENFORCEMENT AND THE GOOD OL' BOYS ROUNDUP

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FRIDAY, JULY 21, 1995

United States Senate,
Committee on the Judiciary,
Washington, D.C.

The committee met, pursuant to notice, at 10:08 a.m.,
in Room SH-216, Hart Senate Office Building, Hon. Orrin G.
Hatch, chairman of the committee, presiding.

Present: Senators Hatch, Thurmond, Grassley, Specter,
Thompson, DeWine, Abraham, Biden, Kennedy, Leahy, Heflin,
Simon, Feinstein, and Feingold.

The Chairman. If we can begin, Utahns and every other
citizen and resident of this great country, of every race,
creed, color, ethnic background, religion and gender, have a
right to equal justice under law. For most Americans, the
criminal justice system starts on our streets, in our homes
and neighborhoods, and in our places of work and recreation-
-anywhere where our law enforcement officers can reach us
color of law.

Being a Federal, State, or local law enforcement
officer is a public trust, an honorable profession, and
fulfills a vital social function, a vital, I have to say,
societal function. Indeed, there is no liberty without law,
and we owe our law enforcement officers a great deal in this

1 society.

2 Americans, though, must be able to rely on the
3 impartiality of those who enforce the law. I believe such
4 impartiality is the hallmark of the overwhelming number of
5 Federal, State, and local law enforcement officers. The
6 misconduct of some should not taint others who do not engage
7 in misconduct and who are doing the job for us throughout
8 our society.

9 But I think we on the Judiciary Committee, to the
10 extent we know about it, are deeply troubled by news reports
11 that for years some law enforcement agents, including those
12 from the Bureau of Alcohol, Tobacco and Firearms and some
13 other Federal, State, and local law enforcement agencies,
14 organized and participated in an annual formal social
15 gathering that is racially restricted and punctuated by
16 racist trappings. In recent years at least, the so-called
17 Good Ol' Boys Roundup has been attended by hundreds of law
18 enforcement officers.

19 According to news reports and our own investigations,
20 some participants in at least some of the events have put on
21 racist skits, displayed blatantly racist signs, and sold T-
22 shirts displaying, among other things, a picture of an
23 African American man sprawled across a police car with the
24 words "Boys on the Hood." According to the Washington Times
25 of July 11, 1995, quote, "nigger hunting licenses," unquote,

1 were available throughout the compound, at least this year.
2 If that happened, I can't imagine any true law enforcement
3 officer participating in anything that would have something
4 like that.

5 The precise details of these gatherings and the nature
6 of any participation of their employees are now under
7 investigation by a number of our law enforcement agencies,
8 so we look forward to the testimony of representatives of
9 some of these agencies today, understanding that these
10 investigations are incomplete. We are not exactly sure what
11 really happened. The explanations of organizers and
12 participants in these gatherings, I think, should be
13 reviewed and fairly evaluated. We did invite the organizer
14 of these roundups, who initially indicated he would appear
15 today, but then did not return our telephone calls.

16 Matters of life and death and the protection of our
17 liberties are entrusted to law enforcement officials. If
18 someone authorized to wield a gun in the name of the law can
19 knowingly organize, participate, and find comfort in
20 gatherings such as these that I just got through describing,
21 in my opinion, that person does not deserve the public
22 trust, and I don't know anybody else who would differ with
23 that.

24 Faced with a threatening situation or the perception of
25 a threat, can we be confident that such an agent would not

1 react based at least in part on prejudice if the situation
2 involved an African American and perhaps other minority
3 people?

4 This is not a matter of concern to African Americans
5 only. Prejudice is not so readily limited, and I would not
6 want someone exhibiting such poor judgment and such
7 prejudice enforcing the law with respect to me either.
8 Those who participate in such an event, knowing of its
9 racist nature, should not carry a badge, plain and simple.
10 It does not take very much judgment or wisdom to understand
11 that such a gathering is no place for a Federal, State, or
12 local law enforcement officer.

13 One purpose of this hearing, of course, is to send just
14 that message, and I hope that every law enforcement agency
15 in the country, including Federal, State, and local law
16 enforcement agencies, will adopt it.

17 While this matter has just come to public light, these
18 gatherings reportedly began at least as early as 1980 and
19 continued to this year. It is not clear to me at what point
20 the kinds of policies or behaviors that have given rise to
21 our concerns may have begun or exactly how pervasive some of
22 these activities were in any given year when they occurred.

23 While I want to know what current officials at the law
24 enforcement agencies represented here knew or should have
25 known about this so called roundup and what they did or did

1 not do about reports of these events, if any, circulating
2 within their agencies, I am also concerned about whether
3 attendance at these annual events should have been addressed
4 earlier still. We also need to know whether Government time
5 or property was used to organize these events.

6 I personally welcome all of our witnesses. My personal
7 belief is that we have excellent law enforcement leaders at
8 the top here in Washington, and they deserve our respect and
9 they certainly have mine. I am very grateful to have them
10 all appear here this morning to help us and aid us in this
11 quest to find out just exactly what did happen, and I hope
12 that we can ask some intelligent questions and hopefully let
13 the American people realize that our top officials are not
14 going to countenance this type of activity.

15 Senator Biden, we will turn to you.

16 Senator Biden. Thank you, Mr. Chairman. Let me start
17 off by making two points. Number one, we don't have the
18 facts, and so it is going to be difficult, at least for me,
19 to ask very specific questions, and it may be difficult for
20 you to give specific answers relative to the facts. But
21 that does not, in my view, prevent us from asking you about,
22 if the facts as alleged are true, what you all plan on doing
23 about it.

24 The second I would make is this is a big deal; this is
25 a big deal. Some of us, including at least three of you, I

1 know, at the table, started your careers in part to change
2 the culture, this culture that had permeated, in the minds
3 of many of us, the FBI. When I was a kid, I came to this
4 town--I have made no bones about it--with an utter
5 disrespect and disregard for J. Edgar Hoover. He
6 represented everything that I loathed about civil liberties
7 and civil rights and civil justice, notwithstanding that
8 everyone, even people who have those views, have very good
9 points. But the bad points so overtook, in my mind, the
10 positive he had done that I had no respect for him. I
11 served here as he served.

12 As I said, some of you began your careers and have
13 continued careers to change this culture, and what this
14 says, if the allegations turn out to be as true and
15 pervasive as alleged, is that maybe the culture hasn't
16 changed much at all. So it is real, real important, in my
17 view, in this environment where people who are young and
18 old, liberal and conservative, Democrats and Republicans,
19 God-fearing and atheist, have a diminishing trust in their
20 Government--State, local, Federal--and authority generally.

21 Whether you want it or not, you are viewed as the
22 pinnacle of that authority. You represent law enforcement
23 and you represent what is always advertised as, in my view,
24 and has been, the best of law enforcement. So if your folks
25 took part in any of the alleged activities and if they

1 occurred, that is a big deal.

2 That is a little bit like, if I can make an analogy
3 which is slightly different, but I think in terms of its
4 consequences to the American public--when I first got here
5 in 1972, a President got rid of a Secretary of Agriculture
6 because of a joke that he made about another culture. He
7 should have. Can you imagine if the Republican Party or the
8 Democratic Party had a good ol' boys gathering? None would
9 sit here; none of us would deserve to sit here. Yet, people
10 who are viewed with having even more power than they
11 actually have are alleged to have attended this event.

12 The allegations, if true, reveal a behavior that falls
13 far, far short of any standard of conduct and
14 professionalism that not only do we demand, but that we
15 should expect. I think that is why you are seeing the kind
16 of reaction you are seeing and, in talking to two of you,
17 why--I wish I could say on the record, which I don't think
18 is appropriate, how appalled your reaction was in reading
19 the accounts and wondering whether or not they are true.
20 But unless you all are able to communicate that, in fact, to
21 the American public, you all have a problem. We have a
22 problem; the Government has a problem; law enforcement has a
23 problem.

24 I remember Mr. Constantine was the head of the New York
25 State Police. You dealt with things like this, and dealt

1 with them swiftly. I met you when you were a local cop. I
2 think it is real important that the American people
3 understand that a guy like you who has come through the
4 ranks, or you, Director Freeh, who came up through the ranks
5 as an FBI agent--that you understand and how you feel about
6 this kind of thing. This is more than just what we are
7 going to factually find out. This is about what the soul of
8 this country is. This is about what the soul of law
9 enforcement is. That may sound melodramatic, but I truly
10 believe that.

11 Now, you are going to have people--no one on this
12 committee, and I mean that sincerely--who are going to love
13 demagoguing this on the other side, who probably have Nazi
14 posters hanging in their bedrooms and are going to talk
15 about how terrible you all are, or your folks are, or anyone
16 who attended this. So we are going to have some hypocrisy
17 that we are going to read through this process.

18 My strong suggestion to you is do not respond to the
19 hypocrisy because it will make it look like you are being
20 apologetic for anything that may have happened. But there
21 is going to be a heavy load of hypocrisy as well. Again, I
22 mean this sincerely, my word, not from anyone on this
23 committee, but you are going to read it. You are going to
24 read in publications their sense of outrage, the same folks
25 who fought against the Civil Rights Act for their whole

1 lives and the same folks who, you know, cheered Bull Connor.
2 But that does not dismiss how serious I think this is in
3 terms of going to the heart and soul of what people think
4 law enforcement and the Federal Government's law enforcement
5 agencies are all about.

6 Mr. Chairman, I have a longer statement, but let me ask
7 unanimous consent that I place it in the record, if I may.

8 The Chairman. Without objection.

9 Senator Biden. I will conclude by saying, A, that your
10 investigation, in my humble opinion, better not take too
11 long. B, it better be the most thorough investigation you
12 have done because even more, in my view, than the Ruby Ridge
13 investigations and the Waco investigations, this goes to the
14 heart and soul of whether or not people think that there is
15 any reason to trust law enforcement.

16 Not everybody is going to feel this way, but 10 percent
17 of this country is black, 40 percent of it is minority of
18 some persuasion, and I will tell you what, I am not sure I
19 would feel real happy--if it turns out to be true that they
20 had a sign saying, you know, "Catholic checkpoint," I
21 wouldn't be real happy about dealing with you all or any of
22 your people.

23 Mr. Noble, as a black American, you are sitting there
24 heading up an agency and an outfit. I can't imagine the
25 dual feelings you must have, knowing your background. So I

1 hope, also, you won't be too technical when it is over. You
2 are going to come and tell us, I know, because you are good
3 lawyers--if you find out the facts and assume some of them
4 turn out to be as bad alleged, you are going to tell us all
5 about what authority you have and don't have about taking
6 care of these folks.

7 In brief look at the law, it is questionable in some
8 circumstances, if it was on their own time and it was in
9 their circumstance, et cetera, what action you could take.
10 But I think we should make it clear that anybody who
11 attended these things, if they turn out to be as bad as it
12 appeared, at a minimum, they should be shunned; they should
13 be disgraced out of their badge.

14 I have worked, like you all have, with too many cops
15 the last 25 years. I will make an analogy. For the
16 overwhelming number of decent cops, local and Federal, in
17 this country, this is a little bit like how we feel when we
18 read in the paper one of our colleagues abused his power,
19 one of our colleagues was unethical. The public doesn't
20 make a distinction. They say it is a Senator, it is a
21 Congressman. This besmirches the reputation, if it turns
22 out to be true; of everybody who has a badge, and I think
23 you owe it to them to make sure you understand, by whatever
24 means you can, legal and societal, you make these folks pay.

25 Thank you very much.

1 [The prepared statement of Senator Biden follows:]

2 / COMMITTEE INSERT

1 The Chairman. Thank you, Senator Biden.

2 If any others have opening statements, we are going to
3 put them in the record at this point, if you desire.

4 [The prepared statement of Senator Leahy follows:]

1

[The prepared statement of Senator Feingold follows:]

1 The Chairman. We will call on you first, Mr. Noble.
2 Then we will move to Ms. Gorelick, our Deputy Attorney
3 General, and go from there.

1 STATEMENTS OF A PANEL CONSISTING OF HON. RONALD K.
2 NOBLE, UNDER SECRETARY FOR ENFORCEMENT, UNITED
3 STATES DEPARTMENT OF THE TREASURY, WASHINGTON,
4 D.C.; HON. JAMIE S. GORELICK, DEPUTY ATTORNEY
5 GENERAL, UNITED STATES DEPARTMENT OF JUSTICE,
6 WASHINGTON, D.C.; VALERIE LAU, INSPECTOR GENERAL,
7 UNITED STATES DEPARTMENT OF THE TREASURY,
8 WASHINGTON, D.C.; HON. LOUIS J. FREEH, DIRECTOR,
9 FEDERAL BUREAU OF INVESTIGATION, WASHINGTON, D.C.;
10 HON. JOHN W. MAGAW, DIRECTOR, BUREAU OF ALCOHOL,
11 TOBACCO AND FIREARMS, WASHINGTON, D.C.; AND HON.
12 THOMAS A. CONSTANTINE, ADMINISTRATOR, DRUG
13 ENFORCEMENT ADMINISTRATION, WASHINGTON, D.C.

14 Mr. Noble. Mr. Chairman, Senator Biden, members of the
15 Judiciary Committee, I appear before the committee today to
16 discuss the most disturbing of issues, racism. The specific
17 matter giving rise to the issue, as you already have stated,
18 is the report of racist activity at an event attending by
19 Treasury law enforcement officers known as the Good Ol' Boys
20 Roundup.

21 My purpose is twofold; first, to restate our policy
22 that racism, anti-Semitism and sexism will not be tolerated
23 at the Department of the Treasury, and especially won't be
24 tolerated by law enforcement officers; second, to describe
25 the measures that Treasury will take to investigate this

1 particular matter and to better ensure that it does not take
2 place again, or, if so, it is dealt with appropriately.

3 As you know, there is a pending investigation by the
4 Treasury Department's Office of Inspector General into this
5 matter. To my left, Inspector General Valerie Lau is
6 conducting the factual inquiry into the Roundup. She has
7 directed that all Office of Enforcement and Treasury
8 enforcement bureaus refrain from discussing any matters that
9 might jeopardize her investigation.

10 We believe we have reached an accommodation with the
11 Chair and with members of this committee so that we can get
12 as many facts out today as possible, qualifying them as
13 preliminary facts. ATF Director John Magaw, seated to my
14 right, has been authorized by the inspector general to
15 discuss the results of his preliminary fact-finding, and I
16 am able to discuss today the steps taken by Treasury to get
17 to the bottom of this matter, as well as a process for
18 reviewing relevant issues raised by this event and other
19 racially questionable matters to which you referred, Senator
20 Biden.

21 We at Treasury share the committee's outrage, and I
22 believe this country's outrage. As Secretary Rubin has
23 stated time and time again, and well before this incident
24 was brought to light, there is no place at Treasury for
25 discrimination or racism of any kind. This principle has

1 been and will continue to be our guide at Treasury
2 Enforcement as we address issues of race, including those
3 raised by this ugly gathering.

4 To take any other attitude would call into question the
5 moral and legal authority upon which law enforcement rests.
6 Just as in the words of Martin Luther King, Jr., quote
7 "injustice anywhere is a threat to justice everywhere,"
8 racist sentiment anywhere within law enforcement is a threat
9 to right-minded, legitimate law enforcement everywhere. If
10 left unchecked, the racism, anti-Semitism or sexism of even
11 a few officers would cast doubt on the essential functions
12 performed and missions carried out by the entire law
13 enforcement community, Federal, State and local.

14 Imagine, if you will, the following hypothetical
15 scenarios that concern us at Treasury, in particular: a
16 Secret Service protective detail for an African or Israeli
17 head of state being mistrusted because of racist or anti-
18 Semitic sentiments ascribed to a few agents; every Customs
19 check at the border becoming suspect because a few
20 inspectors have previously singled out people based upon the
21 color of their skin or ethnic origin; or any other Drug
22 Enforcement Administration or local law enforcement
23 authorities being doubted every time they made a drug bust
24 because other officials from the same groups have previously
25 made "bad busts" that originated from racial bias rather

1 than objectively determined probable cause.

2 Such skepticism would provide confirmation to cynics in
3 our society who believe erroneously that law enforcement is
4 not there to work for all Americans, thereby making them
5 even less willing to put their trust in the public servants
6 sworn to protect them. An even more extreme, but entirely
7 possible result would be a continuation of the current
8 dangerous trend among certain individuals who go beyond
9 skepticism and again erroneously view law enforcement as the
10 enemy. We must not set foot on that slippery slope.

11 For these reasons, the manner in which Treasury reviews
12 the Good Ol' Boys Roundup is of vital importance to us all.
13 It must begin, of course, with a review of what has happened
14 thus far. As noted, the inspector general has directed us
15 not to discuss any matters relating to or affecting the
16 pending investigation beyond that to which we agreed with
17 the Chair of this committee.

18 As Under Secretary for Enforcement, I was prepared to
19 recruit investigators and legal staff for the specific
20 purpose of investigating the facts and analyzing policy. I
21 have done important reviews before and I have done painful
22 reviews before, but I have done them thoroughly and
23 exhaustively. But in light of concerns over independence
24 that the inspector general has expressed, she decided to
25 generate the factual report on her own. Her task, and I

1 have told her this already, is quite difficult. I believe
2 that a joint investigation would have been appropriate, but
3 I respect and understand her decision and her concern for
4 her independence.

5 Turning to the role of main Treasury, Secretary Rubin
6 and the Office of the Under Secretary for Enforcement
7 responded immediately upon learning about this event. On
8 July 11, 1995, ATF Director John Magaw advised us that upon
9 learning of it 4 weeks before, he initiated an internal
10 investigation immediately. In response to questioning
11 before Senator Moseley-Braun at a hearing of the Senate
12 Banking Committee, Secretary Rubin stated that the
13 Department would, quote, "take all actions within our
14 purview to deal with" those from Treasury who attended the
15 Good Ol' Boys Roundup. This sentiment was repeated and made
16 more explicit in a public written statement from the
17 Secretary issued shortly thereafter.

18 In a speech last week to the National Association of
19 Blacks in Criminal Justice, I pledged that there would be a
20 full investigation of the matter and that appropriate
21 actions would be taken within Treasury Enforcement. I
22 repeated this pledge most recently at a briefing that I gave
23 on the issue to members of this committee and of the
24 Congressional Black Caucus.

— 25 I can tell you personally that as an African American

1 in charge of several law enforcement components, just the
2 thought that one or some of my employees or agents are
3 closet racists, anti-Semites, or sexists, or not even
4 closet, out in the open among their friends, unsettles me
5 deeply. I don't want to think about each hand I shake or
6 each face I look at and wonder whether this is one of the
7 racists, one of the few. I can imagine citizens who are
8 arrested, stopped, investigated, interviewed, thinking about
9 the same thing. So I share the chairman's view and Senator
10 Biden's view that these people have no place, no right to
11 carry a badge, in my view, or to carry a gun or to enforce
12 any of our laws.

13 I am proud of Director Magaw for moving expeditiously
14 to investigate the incident when he first learned of it. He
15 released a statement immediately upon publication of
16 newspaper reports stating that he abhorred what the Roundup
17 represented and would do everything in his power to
18 discipline those found to be in violation of the law or
19 departmental rules. You look at me as an African American
20 and you can expect me to be outraged, and some people might
21 dismiss my outrage because I am an African American, but
22 Director Magaw's outrage compared equally with mine.

23 No matter how strongly we signal our disgust, two facts
24 remain clear. First, given the reportedly few ATF agents
25 present in a gathering of several hundred law enforcement

1 officers, there was a possibility that agents from other
2 bureaus within and outside of Treasury also participated in
3 the Roundup.

4 We didn't have our head in the sand. We thought and
5 learned that ATF agents might be involved. We immediately
6 asked our other bureau heads--Secret Service, the U.S.
7 Customs Service, the Federal Law Enforcement Training
8 Center, the IRS--to inquire of their employees to find out
9 whether or not any others were there. We found out that all
10 of our Treasury bureaus had at least one person at one of
11 these roundups.

12 Second--Senator Biden, you said this--actions speak
13 louder than words. We are going to be measured by two
14 things when all is said and done. One is the factual
15 investigation and report we generate; and, two, what is it
16 that we will do with those facts and what is it we will do
17 to address whatever voids or weaknesses or holes there might
18 be in existing rules, regulations, and policies.

19 As I stated earlier, as Under Secretary I will be
20 responsible for determining what laws, policies, and
21 regulations may have been implicated by the disclosed facts.
22 I also will be responsible for drafting recommendations as
23 to any changes that should be made to such laws, policies,
24 and regulations.

25 To further ensure that this review is independent and

1 impartial, Secretary Rubin announced that the oversight
2 function assigned to the inspector general and me would be
3 extended to an independent Citizens Review Panel composed of
4 prominent citizens with unquestioned expertise and integrity
5 on matters relating to race, the law, and law enforcement.
6 The members of the Citizens Review Panel will separately
7 examine the completed inspector general investigation and
8 report, and will provide oversight for the Office of
9 Enforcement's work in reviewing and formulating appropriate
10 laws, policies, and regulations, and they will be
11 accountable to this committee, as well as to the American
12 public.

13 The members of the Citizens Review Panel are Julius L.
14 Chambers, Chancellor of North Carolina Central University
15 and former Executive Director of the NAACP Legal Defense and
16 Educational Fund; Norman Dorsen, Stokes Professor of Law at
17 the New York University School of Law, former President of
18 the American Civil Liberties Union, and former President of
19 the Society of American Law Teachers; Helene Kaplan, partner
20 at the law firm of Skadden, Arps, Slate, Meagher and Flom,
21 and former Chair of the Board of Trustees of the Carnegie
22 Foundation and Barnard College; Rex E. Lee, President of
23 Brigham Young University and Solicitor General of the United
24 States under President Reagan; Patrick B. Murphy, Director
25 of the Police Policy Board of the United States Conference

1 of Mayors, former Commissioner of the New York City Police
2 Department, and former President of the Police Foundation;
3 and Fred Thomas, Director of Public Safety for Prince
4 George's County, Maryland, and recently retired Chief of the
5 Metropolitan Police Department of Washington, D.C.

6 The role played by the members of the Citizens Review
7 Panel is of vital importance to us all. We believe that the
8 surest way to promote confidence in an investigation of
9 members of our bureaus is by having the process and
10 recommendations reviewed by those who have no institutional
11 stake in the matter and who can dispassionately offer advice
12 on the methods employed, the conclusions reached, and the
13 recommendations issued. Such is the approach that the
14 Treasury Department has adopted in previous reviews of its
15 policies and actions.

16 Secretary Rubin has stated that this investigation is
17 expected to be complete within 120 days. Moreover, Treasury
18 will continue to move quickly on the IG investigators'
19 factual development. Information developed through the
20 investigation concerning the actions of specific individuals
21 will be forwarded to the relevant agencies for appropriate
22 action. Disciplinary action will be meted out to those for
23 whom it is warranted.

24 In this regard, we will explore all aspects of the law.
25 Moreover, as noted earlier, we would seek appropriate

1 changes of present rules, regulations, and laws to meet this
2 serious problem in the future. We must not, however, run
3 afoul of civil liberties, such as freedom of association and
4 speech, protected by the United States Constitution. These
5 are complex issues that must be addressed and resolved with
6 great care.

7 Mr. Chairman, I would like to make one last point
8 before closing. Contrary to some earlier reports, the facts
9 as presented reported do not implicate a large number of
10 agents of any of the Treasury enforcement bureaus. But as
11 everyone has already said, one agent is one too many. IN
12 this regard, some of the accounts of ATF's involvement may
13 have been particularly exaggerated. Still, one person in
14 attendance at an expressly discriminatory and racist even is
15 one too many, and the inspector general's investigation will
16 determine the actual number of Treasury law enforcement
17 agents in attendance.

18 I assure you that as Under Secretary for Enforcement, I
19 will make it clear that there is no place within the
20 Department of the Treasury for law enforcement officers who
21 engage in racist, anti-Semitic, or sexist behavior. A
22 racist law enforcement officer cannot effectively enforce
23 the laws of our society, while ensuring the essential civil
24 rights of its citizens. Such a person therefore should have
25 no place in law enforcement anywhere. The Treasury

1 Department's review constitutes this department's pledge to
2 do everything in its power to examine this ugly gathering
3 and to ensure that appropriate action is taken and
4 enforceable rules, regulations, and policies are formulated.

5 Thank you, Mr. Chairman and members of the committee.

6 [The prepared statement of Mr. Noble follows:]

1 The Chairman. Thank you, Mr. Noble. I want you to
2 know I have appreciated your statement and I am proud to
3 have you as Under Secretary for Enforcement at the U.S.
4 Department of the Treasury. I am sorry I didn't introduce
5 you as that before, but it shows that you are willing to do
6 what has to be done here.

7 Mr. Noble. Thank you, Senator.

8 The Chairman. Let's turn to our Deputy Attorney
9 General, Ms. Gorelick, and we will be very happy to take
10 your testimony as well.

1 STATEMENT OF MS. GORELICK

2 Ms. Gorelick. Thank you, Chairman Hatch, Senator
3 Biden, distinguished members of the committee. Thank you
4 for the opportunity to testify today. I am accompanied this
5 morning by Louis Freeh, the Director of the Federal Bureau
6 of Investigation, and Tom Constantine, the Administrator of
7 the Drug Enforcement Administration. We are pleased to
8 appear before you today to discuss how the Department of
9 Justice is responding to the disturbing allegations relating
10 to the so-called Good Ol' Boys Roundup.

11 The Department of Justice is extremely proud of the
12 work that our law enforcement divisions do to investigate,
13 to prosecute and incarcerate criminals; to combat illegal
14 immigration; to control illegal drugs; to enforce our
15 Nation's civil rights; and generally to protect the safety
16 and security of our citizens.

17 Like our sister law enforcement agencies in the
18 Department of the Treasury, our employees are dedicated,
19 they are professional, and they have a strong record of law
20 enforcement accomplishment. But no record of distinction
21 could excuse unacceptable activities such as those described
22 in reports of the Good Ol' Boys Roundup.

23 President Clinton made clear the position of the entire
24 administration when he said that, "If anybody who works in
25 Federal law enforcement thinks that that kind of behavior is

1 acceptable, they ought to think about working someplace
2 else." I will tell you law enforcement must stand for the
3 rule of law. Law enforcement must stand for respect for
4 each other, and the humanity and character of law
5 enforcement matters.

6 We are aware of allegations that Department of Justice
7 employees may have attended the good ol' boy events this
8 year or in years past, and we take these allegations very
9 seriously. As with my friend, Rob Noble, I am personally
10 appalled by the allegations. I came to Washington to reform
11 Government, I came to Washington to advance civil rights,
12 and we will get to the bottom of this.

13 On July 13, 1995, within a day of hearing of
14 allegations of possible Department employee involvement, I
15 asked the inspector general, Mike Bromwich, to conduct a
16 complete investigation. In particular, we have asked the
17 inspector general to determine whether Department of Justice
18 personnel participated in the event and to assess that
19 participation in light of the policies of the Department.

20 I have directed every relevant component to cooperate
21 with the IG's inquiry. Director Freeh, Administrator
22 Constantine, and the heads of the other components have
23 assigned their internal investigative staffs to work at the
24 direction of our inspector general. We do not yet know what
25 happened. We commenced this investigation barely a week ago

1 and we do not know what, if any, improper conduct Department
2 of Justice employees may have participated in or witnessed.
3 What we have is a series of allegations.

4 The Attorney General and I have the highest degree of
5 confidence in our inspector general and in his office, and I
6 can make a commitment to you that he will get to the truth
7 about the Good Ol' Boys Roundup and any involvement by our
8 personnel. Our IG is an experienced prosecutor and
9 investigator, and as required by statute, he was appointed
10 without regard to political affiliation and solely on the
11 basis of integrity and demonstrated ability. As the
12 inspector general of the Department of Justice, he is
13 granted authority and he is assured the independence
14 necessary to protect the integrity of his investigation.

15 So that we may properly investigate, we will
16 necessarily be limited in the facts that we can discuss
17 today, lest we undermine his investigation. But please know
18 that he has access to all Department employees, all records.
19 He reports only to the Attorney General and to myself, and
20 he is answerable to Congress.

21 Let me assure you as well that we have stringent
22 standards in place that govern the conduct of our employees.
23 It is a violation of our code of conduct to engage in,
24 quote, "immoral, or notoriously disgraceful conduct, or
25 other conduct prejudicial to the Government." Our law

1 enforcement agencies have their own specific rules that
2 provide yet another layer of responsibility. The Marshals
3 Service, for example, requires that all employees, quote,
4 "refrain from any activity which would adversely affect the
5 reputation of the Department of Justice, and demonstrate the
6 highest standards of personal moral conduct expected of law
7 enforcement officers and other Government employees."

8 We must assure that the public continues to have
9 confidence in law enforcement's ability to treat all
10 citizens fairly and equitably. Even if just a few Federal
11 law enforcement officials engage in racist activities of the
12 kind that has been alleged here, they tarnish the reputation
13 of all of us. This is unacceptable. For this reason, each
14 of our law enforcement components requires agents to adhere
15 to the highest code of personal and moral conduct. We will
16 also review our policies to assure that they assure the
17 American people of the character of law enforcement.

18 As today's hearings demonstrate, this administration
19 shares with you a national and common concern that racist
20 behavior is unacceptable and racial discrimination is
21 intolerable. We are committed at every level of the
22 Department of Justice to ending discrimination in the
23 workplace, and we hope that you will work with us both as we
24 begin to sort out the allegations here and as our Nation
25 continues to address the longstanding issues of

1 discrimination.

2 Let us remember that Federal law enforcement agents do
3 great work and they deserve our support. Let us not rush to
4 judgment based on press reports. Our law enforcement agents
5 risk their lives and make great sacrifices to protect our
6 safety every single day. We owe them a thorough, fair, and
7 objective investigation into these allegations. I can
8 promise you and I can promise the American people that you
9 will know the truth as our investigation unfolds.

10 Thank you very much.

11 [The prepared statement of Ms. Gorelick follows:]

1 The Chairman. Well, thank you, Ms. Gorelick. I agree
2 with you on your statement and we appreciate the work you
3 are doing there at Justice.

4 Let's turn now to Ms. Valerie Lau, who is the Inspector
5 General of the U.S. Department of the Treasury. If we could
6 live within the time limits, I would appreciate it because
7 we have 4 votes at 11:00. I would at least like to get all
8 the statements done. It means that we will have a delay
9 that I have to apologize to you for, but there is nothing we
10 can do about it.

11 Ms. Lau?

1 STATEMENT OF MS. LAU

2 Ms. Lau. Thank you, Mr. Chairman. Good morning, Mr.
3 Chairman and distinguished members of the committee. I am
4 Valerie Lau, Inspector General of the U.S. Department of the
5 Treasury. I am pleased to be here today to discuss the
6 event known as the Good Ol' Boys Roundup. This morning, I
7 will focus my testimony on the Office of Inspector General's
8 specific role in the investigation into the Roundup.

9 Treasury Secretary Robert Rubin announced on Monday,
10 July 17, that the Office of Inspector General and the Office
11 of the Under Secretary for Enforcement would be jointly
12 conducting a comprehensive and independent investigation of
13 an annual event called the Good Ol' Boys Roundup held in
14 Ocoee, Tennessee.

15 If I might, I would like to submit for the record a
16 copy of my memorandum to the Secretary describing our
17 respective roles.

18 The Chairman. Without objection, we will put it in the
19 record.

20 [The memorandum referred to follows:]

1 Ms. Lau. Our office has determined that we will be
2 solely responsible for fact-gathering in relation to the
3 nature and scope of participation and involvement by
4 Department of the Treasury law enforcement personnel in this
5 event.

6 Under Secretary Noble has demonstrated his full support
7 of this investigation. As Under Secretary, he has directed
8 each of the Treasury law enforcement bureaus to turn over
9 all evidence, including memoranda of interviews gathered to
10 date, directly to our office. This evidence will be
11 evaluated by our office and used as a foundation for the
12 investigation.

13 At this point, we have received all of the information
14 from each of the bureaus, some of it received late yesterday
15 afternoon. We are in the process of evaluating this
16 information to determine what steps need to be taken in our
17 investigation. We have also served an inspector general
18 subpoena for mailing lists and attendee rosters. We are
19 currently retrieving that information recovered from the
20 computer disks and will evaluate the contents for their use
21 in our evaluation.

22 Our investigation is still in its preliminary stages.
23 Field work and a complete analysis of the information still
24 need to be accomplished. For this reason, we have asked our
25 witnesses to limit their testimony to preliminary findings

1 in order to avoid jeopardizing the investigation. However,
2 once our investigation is complete, we will issue a report
3 summarizing the results of our fact-finding investigation
4 and will make that report available to the committee.

5 Thank you.

6 [The prepared statement of Ms. Lau follows:]

1 The Chairman. Thank you, Ms. Lau. We appreciate
2 having you here.

3 Mr. Freeh, Director of the Federal Bureau of
4 Investigation, we will take your statement at this time.

1 STATEMENT OF MR. FREEH

2 Mr. Freeh. Thank you, Mr. Chairman, Senator Biden, and
3 distinguished members of the committee. Nobody is more
4 outraged about the reported allegations at issue here than
5 the decent men and women who perform law enforcement
6 functions. We, as the responsible officials for those
7 agencies, echo and restate the absolute disgust that we have
8 at such reports, particularly egregious because this event,
9 as it occurred, occurred during Police Week, which was a
10 time, as you know, Mr. Chairman, when you and other members
11 of this committee and everyone at this table were honoring
12 13,000 slain police officers. So it comes at a particularly
13 sensitive and egregious time, if those activities are
14 correct.

15 We have taken extraordinary efforts to cooperate and
16 assist and provide to our inspector general, the Department
17 of Justice inspector general, the information as it exists.
18 What I did--when I read about this for the first time in the
19 newspaper last week, I ordered our Inspection Division to
20 work over the weekend. In addition to sending out a
21 teletype to all of our 56 offices, our foreign legates, and
22 our headquarters divisions, we did something that we had not
23 done not only in my tenure, but in recent memory. We
24 queried each and every employee of the Federal Bureau of
25 Investigation to determine who had knowledge or who had

1 participated in this event.

2 The facts to date as we have accumulated them identify
3 a total of 7 special agents and 3 support employees, 1
4 active and 2 retired, who participated in one or more of
5 these events. One agent attended from 1991 through 1995.
6 All of the other agents and employees attended only one
7 session, 2 of them only on 1 day. We have reported that
8 information to the inspector general and a continuing and
9 vigorous investigation is ongoing.

10 The racist activities reported in the media to be a
11 part of this event, if true, are completely inconsistent,
12 obviously, with all fundamental principles of decency and
13 justice. In my view, it is not a close question. Anyone
14 who attended this event with knowledge of any racist
15 overtones, or who returned to that event with that
16 knowledge, has no place in law enforcement and should not be
17 in law enforcement.

18 We will not tolerate participation and support of any
19 FBI personnel in any activity that is racist or otherwise
20 illegal or improper. We are the agency with the principal
21 enforcement responsibilities for the civil rights laws, and
22 this is a particularly egregious allegation, if it proves
23 true, as to any of our employees.

24 We have sent memoranda to our employees. There are
25 clear and explicit standards of conduct not just in a 1989

1 executive order, but in an Attorney General order, and in
2 our manual at several difference instances. This type of
3 conduct is absolutely prohibited by our standards of
4 conduct.

5 Although I don't know a lot about the facts, I do know
6 a little bit about the law here, and let me just talk about
7 that for a moment. Even if you assume that the activities
8 reported here are protected speech or matters of public
9 interest, and I clearly think that they are not, that
10 activity would not, in my view, be protected by the First
11 Amendment. It would not be protected by the First Amendment
12 because the Government and all of its law enforcement
13 agencies as public law enforcement agencies have a
14 countervailing and, in my view, if you read the Supreme
15 Court cases, which I recently did, an overriding public
16 interest which requires, for the efficient operation of law
17 enforcement activities, that it have the support, the
18 confidence, the reliance of the citizens whom we are sworn
19 to protect.

20 But I don't even think you get to the area of protected
21 speech or matters of public interest. I think the activity
22 here reported, if verified, is statements of public
23 interest. So you don't even reach the Supreme Court's
24 Pickering test which requires the balancing of First
25 Amendment rights against public interest.

1 There is a case, just one of many in a line of Supreme
2 Court cases; this is an Eleventh Circuit case, a 1995 case,
3 Lorenz v. James, coming out of the Middle District of
4 Florida and the Eleventh Circuit, where a group of
5 corrections officers on their own time at a picnic decided
6 to wear T-shirts which depicted a swastika and the words
7 "white power." They did so on the celebration day of Martin
8 Luther King.

9 They were subsequently disciplined by their agencies.
10 They brought First Amendment challenges, and the court
11 clearly said that in line with the Pickering and Connick
12 tests, this activity did not even reach the area of
13 protected speech. It was clearly conduct which was a
14 private, personal interest statement and was not subject to
15 the protections of the First Amendment.

16 So I think as we gather the facts, which has to be
17 done, there really is no safe haven here with respect to the
18 First Amendment if the reported activities are accurate, and
19 the investigation will determine that.

20 I have tried, certainly, not only in my statements as
21 Director but my actions to make a clear, consistent, and
22 unwavering message to the employees of the FBI, as well as
23 the American people, that we are absolutely committed to
24 diversity; that we find repugnant any instances of racism,
25 whether they be institutional.

1 We have as an agency a long history to overcome, a long
2 history of not having diversity, of not being tolerant
3 particularly within our own ranks. As the Director, I have
4 appointed 7 African American SACs, 3 Hispanic Americans in
5 the ASAC department, which is the level right below the SAC.
6 I have appointed numerous African American, Hispanic, and
7 female special agents-in-charge and in the assistant
8 director ranks. Everything I have done, I have tried to
9 communicate, particularly within the FBI and in the FBI
10 culture, that this kind of activity will not be tolerated
11 and that it is not only compromising to our mission, but
12 undermines the confidence that the American people should
13 have in our work.

14 We are now in the process of hiring 2,000 special
15 agents. We are beginning to train them at Quantico, where
16 and you this committee have been very supportive. Twenty
17 percent of those new agents are minorities. We are very
18 pleased that among high school seniors, being an FBI agent
19 is one of the top ten career choices. We have too much to
20 lose by tolerating this kind of behavior, even if it is one
21 FBI agent participating for one day with knowledge of the
22 activities.

23 So we are committed to rooting this out. We will work
24 ferociously to determine the facts and, as I said, given my
25 brief analysis of the law, I don't think we are prohibited

1 at all in taking very swift and certain action and I am
2 certainly committed to doing that.

3 [The prepared statement of Mr. Freeh follows:]

1 The Chairman. Well, thank you so much, Judge Freeh.

2 We appreciate having your testimony here today.

3 We will now turn to the Honorable John W. Magaw,

4 Director of the Bureau of Alcohol, Tobacco and Firearms.

5 Mr. Magaw?

1 STATEMENT OF MR. MAGAW

2 Mr. Magaw. Mr. Chairman and distinguished members of
3 the committee, I appreciate the opportunity to discuss the
4 appalling allegations surrounding an annual event named Good
5 Ol' Boys Roundup, held for 16 consecutive years near Ocoee,
6 Tennessee.

7 Last month, ATF was alerted to an Internet message from
8 a Gadsen Militia person that mentioned the Roundup. At that
9 time, my Office of Inspection began the process of finding
10 out about the facts concerning this event. On July 11,
11 1995, that inquiry was expanded into a full investigation.
12 On July 17th of 1995, the investigation was turned over to
13 the inspector general of Treasury. All information
14 collected in our preliminary investigation has been turned
15 over to the Treasury IG.

16 What we have found so far in what remains an ongoing
17 investigation is that ATF agents were instrumental in
18 organizing the Roundup since its inception in 1980.
19 Approximately a dozen or so of our current and retired
20 employees have attended almost every year. The total
21 attendance at the Roundup for the past 3 years has been
22 between 300 and 350 people, primarily consisting of law
23 enforcement officers from Federal, State, and local sectors,
24 as well as their civilian guests. In 1980 when the first
25 one was held, there were approximately 57 participants.

1 Apparently, knowledge of the Roundup has been
2 widespread within ATF. The racial and discriminatory
3 allegations being made are most serious and, if true, will
4 be dealt with, and should have been dealt with years ago.
5 Law enforcement must be held to the highest standard and I
6 intend to have that standard in ATF.

7 Since coming to ATF as Director, I have met with almost
8 every employee in this agency. I have traveled all
9 throughout the country. I have held town hall meetings,
10 been to every field division, every district office, and
11 many of our outlying rural areas. Through our peer
12 diversity program, representatives of every component in
13 this agency have openly brought forward their concerns to me
14 and to my executive staff. Yet, not once, not one time in
15 any of these forums was this issue of the Roundup brought to
16 my attention.

17 I have made it abundantly clear to all ATF employees
18 that I have a zero tolerance for any discrimination, any
19 unfairness to each other anywhere in this organization,
20 whether it be discrimination, harassment, reprisal,
21 recrimination. Also, no one can turn a blind eye when they
22 see those violations. I have charged them with the
23 responsibility of stepping up and doing something about it;
24 discontinue it right then, making sure that everybody there
25 knows of your concern about it, and then report it to us so

1 we can investigate it.

2 It is my requirement to see that all things brought
3 forward are investigated. I fully trust the independent
4 investigation now being conducted by the Treasury inspector
5 general in the Roundup, and I know that it will reveal the
6 truth.

7 One of the troubling fall-outs of negative publicity
8 that has surrounded this event is the overshadowing of
9 outstanding accomplishment of ATF employees. In fiscal year
10 1994, ATF recommended nearly 10,000 criminal defendants for
11 prosecution, and of those 10,000, 47 percent were convicted
12 felons, the dangerous felons on the street. Forty-nine
13 percent were involved in drug trafficking and 25 percent had
14 prior violent histories.

15 The outstanding men and women of ATF risk their lives
16 every day as they capably carry out their duties on behalf
17 of the American public in a very violent atmosphere. The
18 American public also gets in return \$35 for every one that
19 they give us from the alcohol, tobacco and firearms taxes
20 ATF collects--\$13 billion.

21 As for our EEO accomplishments that I pay special
22 attention to, when I came here I moved the EEO
23 responsibilities for this department to my office. That
24 way, there is no way that I cannot and should not know what
25 is going on in these areas. The fiscal year 1994 minority

1 and female representation in our special agent force was 26
2 percent. In 1982, it was 6 percent. In our inspector
3 force, the representation of minorities and females in
4 fiscal year 1994 was 52.7 percent, compared to 30 percent in
5 1982. The overall workforce in ATF, the overall workforce
6 of almost 4,000 people, is 49.1 percent minority. As an
7 organization, we are committed to responding to any acts of
8 discrimination, harassment, or recrimination as immediately
9 and as professionally as we respond to violations of the
10 laws and regulations that ATF enforces.

11 In the beginning, Senator Hatch and Senator Biden said
12 the truth must be known here. Appropriation action must be
13 taken. This cannot be allowed to exist anywhere in our
14 Government, let alone law enforcement. They went on to say
15 that this was a big deal. It is a big deal to me. They
16 went on to say that this is real, real important. No
17 question, it is real, real important to me. It is the heart
18 and the soul of the trust of the citizens that we serve.

19 In my 35 years in law enforcement, I can tell you
20 unequivocally I have never been involved in any
21 discriminatory activity at all, nor will I ever be. I can
22 tell you, also, that all of Treasury is in support of the
23 inspector general. As an agent on the street would say, we
24 are on this case, and it is important to us and we will get
25 to the bottom of it and I will take what action is

1 appropriate.

2 Thank you.

3 [The prepared statement of Mr. Magaw follows:]

1 The Chairman. Thank you, Mr. Magaw.

2 We will now turn to the Honorable Mr. Constantine, who
3 is the Administrator of the Drug Enforcement Administration.

4 We are happy to have you here as well.

1 STATEMENT OF MR. CONSTANTINE

2 Mr. Constantine. Senator, I have a longer statement
3 which I will obviously leave behind and give to you.

4 The Chairman. We will put your full statement in the
5 record.

6 Mr. Constantine. There are people, I think, more
7 eloquent and articulate than I who have already discussed
8 the impact and the gravity of the situation. Let me tell
9 you something. I don't think everybody knows just how much
10 this hurts for people who have dedicated their lives to this
11 career. This violates every principle that professional law
12 enforcement people believe in. These are things that I not
13 only have worked on, like John, for 35 years; these are
14 things that I have risked my own life for and I have seen
15 friends of mine give their lives for, the protection of
16 their fellow citizens.

17 This is an opinion of my own that we are really at a
18 very critical stage in this country. People are desperately
19 looking for leadership to do something about violence and
20 drugs in our society, and if we have law enforcement
21 officers who betray that confidence, or Federal agents, that
22 will set us back an immeasurable period of time.

23 What happens is that if people believe that law
24 enforcement officials use race or sex or any other type of a
25 criteria to use that tremendous power to take somebody's

1 life or to detain somebody, you have lost your credibility,
2 and once you lose your credibility, you have lost your
3 effectiveness.

4 DEA, as I have come to it, is a diverse workforce of
5 people from all different backgrounds, and a lot of that
6 occurred before I got here, and credit to people who put it
7 together. I think the people in this country deserve the
8 best that they can get in law enforcement. I think that is
9 the job of people like myself to ensure that that happens.

10 We have instituted a number of changes within DEA in
11 the 15 months when I met with you at confirmation trying to
12 face these issues head-on, but one thing is obvious. When
13 everything will be said and done on the Roundup, I think it
14 is absolutely apparent that something radically wrong went
15 on down there, and that will be in the memory of the
16 American people forever, regardless of which individual is
17 responsible or which individual ran it or which individual
18 knew it was happening. It is indelibly printed in the minds
19 of people in America right now that somewhere in the law
20 enforcement system there are people who are racially
21 motivated in their principles.

22 As soon as I heard about it, it didn't take much longer
23 that I was contacted by the Deputy Attorney General, who
24 instructed our Office of Professional Responsibility to
25 conduct an immediate preliminary inquiry to work with the

1 inspector general. We have looked at it, like everybody
2 else. It looks presently like there was a total of 10 DEA
3 employees in and out of that event over the 16 years.

4 We have a report preliminarily that 2 DEA agents, 1
5 retired, 1 presently in service, visited the compound to
6 interview a police officer. They had not paid attendance
7 and were not part of the actual camp-out, but going in, they
8 saw that sign and reported it, and on the way out it had
9 been taken down. We have another employee who claims, and
10 we can't corroborate it, that they think they saw a similar
11 sign in 1992. We do know, in 1993, individuals had a sign,
12 a behavioral conduct situation, which seems to me to be long
13 past before the problem started.

14 We will, like all of us, work with the inspector
15 general and the deputy to try to get to the bottom of this
16 thing. It then becomes the responsibility of administrators
17 of law enforcement agencies to restore the trust that the
18 public wants, and I think you do that with good selection
19 systems for people coming into law enforcement, good
20 training, a very stringent adherence to ethics and
21 integrity, and a strong OPR section and a strong discipline
22 program.

23 Now, I, as you know, have been accused in a weekly news
24 magazine of being too rigid on integrity and ethics. I did
25 not take that as an insult. I did not take that as a

1 derogatory comment. It is something I believe in greatly,
2 and I think for people like myself and those individuals who
3 sit here at the table, it is our role in 1995 to do
4 everything humanly possible to make sure that law
5 enforcement has the trust of our citizens. Without it, we
6 are in deep trouble, and more than that, our agents are in
7 great danger because there are all sorts of forces loose in
8 this land presently, in my opinion, who are targeting law
9 enforcement officials, sometimes fairly, sometimes unfairly.
10 The end result very likely will be the death of agents or
11 police officers if the system does not believe in them and
12 they do not have credibility.

13 So, obviously, there will be more questions that go
14 later, and my statements are much longer, and I would be
15 willing to respond to them. But I thank you for the
16 opportunity. I think this hearing is worthwhile because it
17 gives us a quick chance to be able to get information out of
18 the seriousness. Otherwise, these things linger on and on
19 far too long and people's opinions are unchallenged. If
20 unchallenged, the facts do not come out. We live, then, in
21 this state of ambiguous activity and it is not good for law
22 enforcement. So although I don't relish sitting here,
23 finding embarrassing actions on the part of law enforcement
24 officers, I think it is a public service that this hearing
25 is conducted.

1

Thank you.

2

[The prepared statement of Mr. Constantine follows:]

1 The Chairman. Well, thank you. We appreciate it, and
2 I appreciate each and every one of you. I think we are
3 privileged in this country to have solid people like you
4 heading these organizations, and our charge to you is to get
5 into it and find out what has really happened here. Then
6 let's expose it and let's do the necessary disciplining, and
7 let's let the American people know we are not going to
8 tolerate this kind of activity.

9 Now, we are going to have 4 votes in just a few
10 minutes, which means--I apologize to all of you--that we
11 will have to recess for that. The order of appearance,
12 which is what our committee has decided to do, is I will
13 question first, then Senator Biden, and then we will go to
14 Senator Thurmond, then Senator Leahy, then Senator Grassley,
15 then Senator Heflin. We will just go through those 6. So I
16 will probably question while others go to these votes for
17 the first while, and then when Senator Biden gets back, he
18 will immediately start into his questions; that is, if I
19 have enough time.

20 We welcome you all. We are happy to have you here. I
21 personally am pleased with your statements. I think you
22 have sent a message throughout this country that you are not
23 going to tolerate this crap, and I think it is about time.

24 Let me just take a second here. We have put up some of
25 these charts. The charts before you depict enlarged copies

1 of documents and photographs or videotapes in our possession
2 which are reportedly associated with the so-called Good Ol'
3 Boys Roundup.

4 These include the following: number one, a videotape,
5 much of which is fairly docile, but which also shows an
6 appalling checkpoint sign that was displayed for a period of
7 time at a Roundup gathering. You just confirmed that, Mr.
8 Constantine, that you are aware that did happen and you have
9 people who have told you that. I think, Mr. Magaw, you
10 probably are aware of that as well, and that this is true;
11 this happened.

12 Number two is a hunting license which was reported to
13 have been available at the 1995 Roundup. It is absolutely
14 reprehensible for any law enforcement official to be around
15 stuff like that. Number three, these are the invitations to
16 the 1993 and 1995 Roundups which were mailed to the good ol'
17 boys.

18 Now, are all of you familiar with these documents, or
19 at least--let me basically limit it to the three heads of
20 the various bureaus. You are familiar, Mr. Freeh? Are you
21 familiar with these documents?

22 Mr. Freeh. I have heard of them and I have seen
23 pictures on television, yes, sir.

24 The Chairman. But you hadn't seen these?

25 Mr. Freeh. No.

1 The Chairman. How about you, Mr. Constantine?

2 Mr. Constantine. I am familiar with the sign that you
3 are talking about from seeing it on television, and I am
4 familiar with the application for 1993 and 1995. I had not
5 seen the yellow Federal Nigger Hunting License that you have
6 up there. That is the first time I have seen that.

7 The Chairman. Let me start with you, Mr. Magaw. I
8 think that you jumped on this maybe more quickly than
9 anybody else because ATF was prominently mentioned in the
10 news reports. And keep in mind the committee is just
11 starting a preliminary investigation, so our information is
12 somewhat limited.

13 We are going to take those signs down now that we have
14 identified them.

15 We don't want to malign anybody or find any fault with
16 anybody if some of these things did not happen, but you are
17 confirming that some of them did. Now, can you tell us what
18 you know about this, how many ATF agents were involved
19 through the years, what you know about the racist activities
20 that went on and other reprehensible activities, to the
21 extent that you can tell us at this time? I understand that
22 you are limited to a degree by the investigation by Ms. Lau.

23 Mr. Magaw. From 1980 until about 1985, this was
24 primarily a camping, white water rafting, golf-playing,
25 volleyball, horseshoe kind of an activity. It involved

1 primarily officers from the local area, Tennessee and maybe
2 a few adjoining States, but it didn't spread out very far.
3 It also was more of a family affair, in that it had
4 youngsters there and they had participation events for them;
5 also, spouses, events for them. That is not to say that
6 blacks would have felt welcome here. Clearly, blacks would
7 not have felt welcome at this event from the very inception,
8 so it makes it wrong from the very inception. Don't
9 misunderstand what I am saying.

10 From 1985 until 1990 is where a lot of the things that
11 were very horrendous, in my opinion, took place, were
12 reported to take place, and we are still in the
13 investigation phase--in fact, the inspector general is--to
14 try to confirm some of the things that we have information
15 on.

16 In 1993, 1994, 1995, we have had each year 7 or 8
17 active agents and 3 or 4 or 5 retired--

18 The Chairman. Each year since 1985, 7 or 8?

19 Mr. Magaw. Well, actually, from 1985 until probably
20 around 1990, we may have had a few more of that. We are
21 unsure yet, but we have always had at least a dozen or 15
22 people there. There is not much question about that.

23 The Chairman. And these are agents, plus other
24 employees of ATF?

25 Mr. Magaw. They are primarily agents, sir; they are

1 primarily agents. There may be one another employee, but
2 generally speaking--I will give you an example. In 1993,
3 there were 7 active members. The other part of that
4 approximately a dozen were retired. In 1994, there were 8
5 and 5, and in 1995 about the same number, 7 and 4 or 5.

6 But we have always organized it. There have always
7 been 2 or 3 people in this organization, active until about
8 a year-and-a-half ago, that, had these applications not been
9 sent out, had the dues not been collected, had the area not
10 been reserved each year--had they not reached out, this
11 event would have discontinued. As the organizer of it has
12 said, it is--

13 The Chairman. When you say "we have always organized
14 it," you mean people from ATF using ATF offices?

15 Mr. Magaw. Thank you, sir, for helping me for that,
16 because ATF has never been supportive of this. It has been
17 an event that, as an organization, we have never been
18 supportive. It has been an event that has occurred every
19 year. It is an ad hoc kind of a meeting, but always has
20 been coordinated by personnel who are currently employed at
21 ATF until this last 2 years, and that same person is
22 coordinating it; he just now is retired.

23 I don't know if that answers--

24 The Chairman. How thorough are your checks on the
25 number of agents and who they are who attended?

1 Mr. Magaw. In 1993, 1994 and 1995, I think we are very
2 accurate. Probably, we are going to be fairly accurate
3 right now in the numbers and that that appeared and were
4 there in 1980, and we are turning the rest of those things
5 over to the inspector general now to see what we can confirm
6 in the intervening years. But I think, in my view, we are
7 going to find that it has always been at least a dozen or
8 more every year of ATF personnel, combination retired and
9 active. For the most part, you are going to find 7 or 8 or
10 9 that have been active and 3 or 4 or 5 that have been
11 retired.

12 The Chairman. How do you feel about that?

13 Mr. Magaw. Well, I am appalled by it. I am appalled
14 that we continued to promote it. That would have died 15
15 years ago had we not had personnel--when I say "we," I don't
16 mean ATF, but I--

17 The Chairman. You mean the people down in that area?

18 Mr. Magaw. --have to take responsibility for the
19 people in this organization. If they had not mailed out
20 these flyers, had not encouraged people to come--and then
21 what happened over the years and why it expanded so much is
22 that, obviously, law enforcement, because of drugs, because
23 of gangs, because of guns being moved across the country,
24 because of all of those kinds of movement, you would work
25 with people from another State and you would say, hey, next

1 year I will send you--when I get my form, I will xerox it
2 and send it to you and you come to this Roundup. That is
3 kind of how it grew, and it grew rapidly from the 57 people
4 that came in 1980. By the mid-1980's and late 1980's, it
5 was up near where the total it is now.

6 The Chairman. Let me just kind of summarize. What you
7 are saying is that you have done some investigation that you
8 feel is conclusive investigation that shows a number of ATF
9 agents having participated in these reprehensible times.
10 Through your investigation, you have become aware of some of
11 these signs, and certainly the invitations and some of the
12 racist activities.

13 Can you describe any other racist activities that you
14 are aware of other than what we have shown you here today?

15 Mr. Magaw. We are still in the process of confirming
16 some of those.

17 The Chairman. Anything you could right now?

18 Mr. Magaw. There were skits that were put on that were
19 derogatory. We are going to find that and other things of
20 that nature.

21 The Chairman. These are racist skits?

22 Mr. Magaw. That is correct.

23 The Chairman. And you are sure of that?

24 Mr. Magaw. I am sure of that. I want it confirmed by
25 the inspector general.

1 The Chairman. Okay. I don't mean to put you on the
2 spot with Mr. Noble or the inspector general, but I just
3 want to establish that these aren't just allegations; these
4 things have happened.

5 Mr. Noble. Perhaps Director Magaw could give--

6 The Chairman. If I could just announce we are going to
7 have one round of 7-minute questions, and I will use my time
8 up now and then try and get over to the vote in time. Then
9 as soon as Senator Biden gets back, he will start in. We
10 will be recessed until Senator Biden gets back here, and
11 then if, Joe, you will go to Senator Thurmond. I might get
12 stuck over there for a few minutes.

13 Mr. Noble?

14 Mr. Noble. Perhaps Director Magaw could give you some
15 detail about one of the skits that was performed that ATF
16 uncovered at its preliminary investigation that is quite
17 reprehensible and offensive. But if we want the truth to
18 get out, we should get it out.

19 The Chairman. Why don't you do that, Mr. Magaw, the
20 one you know about? Thank you, Mr. Noble.

21 Mr. Magaw. The one that I know about that has been
22 confirmed, you know, in interviews with other persons is
23 that in one case a group--there were skits that they put on,
24 and in this one skit a person dressed as a Klansman--

25 The Chairman. A Ku Klux Klansman?

1 Mr. Magaw. That is correct; another person with a
2 blackened face, and the Ku Klux Klansman committed sodomy on
3 that particular individual. It was obviously an enactment.
4 It didn't actually occur, but it was an enactment. It was
5 stopped immediately by one of the people that was in charge
6 of the unit, and they were degraded for it, criticized for
7 it, and said it can't happen around here, but the fact is it
8 happened.

9 Senator Biden. Excuse me. When you say it was
10 stopped, do you mean in mid-performance somebody stood up
11 and stopped it?

12 Mr. Magaw. No, they did not stop it in mid-
13 performance, Senator, and that is another problem. They let
14 it go through, let it finish. It was about a 5-minute
15 segment and when it was finished, that is when it was made
16 known that it was not acceptable and they wanted no more
17 skits of this kind, and if there were any of this type to
18 come on in future that evening in the schedule, they were
19 not to take place.

20 Senator Biden. I apologize, Senator, but it is very
21 important how it was made known.

22 The Chairman. That is fine.

23 Senator Biden. I mean, did an agent walk up on the
24 stage and say, by the way, you just saw this skit and no
25 more of this stuff, I want to tell you now? I mean, how was

1 it made known? What do you mean?

2 Mr. Magaw. It was done just like you said, except
3 there primarily isn't a stage. It is in a back-woods area.
4 They are all seated around on the ground, and the trees and
5 everything, and there is an area up here that is a flat area
6 that they perform on. And they did walk up in front and--

7 Senator Biden. Thank you, Mr. Chairman. I am sorry to
8 interrupt.

9 The Chairman. No, no, that is fine.

10 Well, Mr. Rightmeyer was a former agent of ATF, the
11 organizer of the event. Is that right?

12 Mr. Magaw. That is correct.

13 The Chairman. I might add Mr. Rightmeyer--we wanted
14 him to come up and testify, and at first I think there was
15 some indication he might be willing to, but we could never
16 get back. He would never answer the phone from that point
17 on. We would have loved to have had his testimony here
18 today.

19 Let me just go to you, Mr. Freeh, next. Could you give
20 us whatever facts you are sure of at this particular point,
21 or is it too preliminary in your case?

22 Mr. Freeh. Mr. Chairman, we interviewed over the
23 weekend the 7 FBI agents, including a support employee, a
24 female support employee, and we queried them extensively on
25 the phone. They have written memorandums which I have

1 forwarded to the inspector general. Each and every one of
2 those employees has stated that they did not participate in
3 any conduct which they would describe or suggest to be
4 racial or discriminatory, or any parody or anything like
5 that. They also reported that they did not observe any such
6 activity, including the selling of the T-shirts that have
7 been reported.

8 That is their statements as we have taken them. They
9 have put them in writing. We have forwarded them to the
10 inspector general. I am sure they will be interviewed
11 again. They did not--

12 The Chairman. But you are sure those 7 agents actually
13 participated?

14 Mr. Freeh. They went to the event. Six of them went
15 on one occasion, 2 of those 6 on one day, on one Saturday.

16 The Chairman. Do you know which events they went to
17 which years?

18 Mr. Freeh. Yes. I can give you the breakdown. One
19 went in 1982, 1 went in 1986, 1 went in 1988, 4 went in
20 1991, 1 went every year between 1992 and 1995, a total of 7
21 agents and 1 support employees and 2 former support
22 employees. We have interviewed them all and they don't
23 admit to participating in any improper conduct or viewing
24 any improper conduct, and that is querying every one of our
25 24,000 employees, but a couple of hundred whom we are still

1 trying to reach.

2 Ms. Gorelick. Senator Hatch, if I might, we came to
3 this fairly late because there was no indication to us of
4 any involvement of Department of Justice employees until the
5 end of last week. So we have only been about this for a
6 week and our fact-finding is in a very, very preliminary
7 stage.

8 The Chairman. I am personally not finding any fault
9 with that because I think that you are going to be thorough
10 and you are going to get to the bottom of this with your
11 inspectors general. I have confidence in Ms. Lau and your
12 inspector general, so I am not trying to find fault there.

13 Ms. Gorelick. I am simply trying to, in addition to
14 telling you why we don't have more information, protect the
15 integrity of our inspector general's investigation and to
16 say that though our law enforcement components jumped right
17 on this and have done a very able job in the last week,
18 those findings and whatever we say here today have to be
19 given the caveat that it is preliminary and tentative, and
20 we have reached no conclusion.

21 The Chairman. I understand.

22 Let me just say that as we understand it, our
23 investigation has shown, and some of our chats with you, as
24 many as 15 African Americans may have attended the Roundup
25 over its 15-year history--15 attendees to an event which in

1 recent years averaged approximately 340 attendees a year.
2 It also appears that most of the African American attendees
3 were brought as guests, but our information is none were
4 ever invited except as guests. There were no invitations
5 ever sent to an African American, to my knowledge, and I
6 think those facts need to be heard.

7 My time is running out, and Senator Specter is
8 pressured and wants to use his time up because he has
9 already voted on this vote, and then he can make the next
10 vote.

11 I have a lot of other questions, so I will submit them
12 in writing, but let me finish with you, Mr. Constantine. I
13 have appreciated your candor here today. It has meant a lot
14 to me. How many DEA agents have been involved in this?

15 Mr. Constantine. A total of 10 starting in 1984. They
16 averaged from usually about 2 DEA agents each year. The
17 high was 4, I believe, in 1993, and then there was a total
18 of 7 in 1994, which would have been special agents and some
19 intelligence analysts who are support personnel. But the
20 average was somewhere between 2 or 3 per year.

21 The Chairman. And how many in these recent years,
22 which seem to be the worst years?

23 Mr. Constantine. In those years that have been
24 highlighted, about 2 DEA agents had attended.

25 The Chairman. I have basically run out of time, but

1 you raised the issue about you have been criticized for your
2 strong stand on ethics and decency in the agency at the DEA.
3 How does the discipline system at DEA compare to, say, the
4 discipline system that you utilized when you were in the
5 private sector in law enforcement?

6 Mr. Constantine. Well, the Federal system of
7 investigating complaints against personnel, and then the
8 eventual discipline and the various appeals process, takes a
9 lot of authority away from chief executives of law
10 enforcement agencies. I have a belief that people in law
11 enforcement--

12 The Chairman. What do you mean by that?

13 Mr. Constantine. Well, eventually, there is existing
14 in the Federal Government an administrative institution
15 known as the Merit Systems Protection Board, which is an
16 appeal process from the discipline exacted by whoever the
17 head of a component is. In looking at that and looking at
18 some of the decisions, that is at variance with all of the
19 principles of running a law enforcement agency because
20 anybody employed here should be held to a much higher
21 standard than any other employee in Government, and I think
22 they tend to treat all of the employees the same.

23 We have situations presently where very, very serious
24 violations, I think, have occurred and when the employee is
25 sanctioned very severely by the agency--in this case, DEA

1 that I am aware of--we find very frustrating decisions
2 whereby people indicate--one of, I guess, the classic
3 decisions that is very difficult for us to deal with which
4 is still out there is a decision by this board that
5 indicates that employees under investigation who lie to the
6 investigators and don't tell the truth should not be
7 sanctioned for not telling the truth to the investigating
8 officers.

9 The Chairman. They put them right back into--

10 Mr. Constantine. We wind up with the employee right
11 back in our employ and then we are very frustrated. We
12 don't think that employee should be in law enforcement any
13 longer.

14 The Chairman. Well, I have to run to my vote and I
15 want to give Senator Specter time, but I would like each of
16 you to answer that question because if the Merit Systems
17 Protection Board, as you have defined it, is making you
18 rehire people that just aren't fit to be law enforcement
19 officers, that is just another aspect of this hearing I
20 would like to know more about because we have got to get
21 people who act like this out of agencies. We have got to
22 have confidence in our law enforcement people.

23 Well, I will turn to Senator Specter. Then, Arlen, if
24 you will recess until Senator Biden gets back, we will
25 probably have 3 more votes after this one and hopefully

1 Senator Biden will get back and use his 7 minutes.

2 Thank you. I appreciate it.

3 [The questions of Senator Hatch follow:]

4 / COMMITTEE INSERT

1 Senator Specter. Thank you, Mr. Chairman.

2 The first question which I would like to explore, and I
3 would like to take it up with you, Mr. Magaw, is what the
4 sequence was and why all of this wasn't detected at an
5 earlier stage.

6 The issue came into focus as a result of a deposition
7 which was taken of an ATF agent, Mr. Dondi Albritton, as
8 part of a lawsuit where 15 African American agents alleged
9 that supervisors had done little to address complaints of
10 racial slurs, harassment, and discrimination. The
11 deposition of Mr. Dondi [sic] was taken back on January 24th
12 of this year.

13 In Mr. Dondi's [sic] deposition, he points out that
14 this Roundup of the Good Ol' Boys was held every year which
15 the ATF knew about. As he said, he had heard white agents
16 say that they were going to attend the Good Ol' Boys Roundup
17 and it wasn't anything, as he put it, that was kept under
18 the table. It was known throughout ATF that this occurs
19 every year. And then he makes a statement as to what
20 happened to him when, as an African American, he had gotten
21 an invitation which, as he put it, was on the Government
22 letterhead. It came on Mr. Rightmeyer's stationery, home
23 number and office number on the stationery, and it was a
24 Government letterhead.

25 He gave it to Mr. Albritton and he kept it, and then he

1 said this, quote, "You know, the comment that Rightmeyer
2 made to me on that first day about me being born trash, live
3 trash and die trash--I thought that was a direct comment
4 because I was black. I mean, Rightmeyer didn't know me from
5 the man in the moon and just walked up to me and said that,
6 so that was a racial comment that came from Rightmeyer,"
7 close quote.

8 Now, in the context of the allegations brought in the
9 lawsuit and in the context of, at least as Mr. Albritton put
10 it, this matter being very well-known, can you comment on
11 why that matter didn't come to your attention as Director of
12 ATF, or why it didn't come to the attention of somebody
13 closer to the scene to report it up the chain of command?

14 Mr. Magaw. Well, clearly, our legal counsel, during
15 taking these depositions and working with this suit that has
16 brought on by the black agents, had that information in
17 their voluminous file. They took that as a situation with
18 Mr. Rightmeyer and the things that he said as showing that
19 these were obviously terrible comments, unacceptable
20 comments to make. That is what the legal counsel was
21 focusing on as part of the trial.

22 When you look at what he said about the Good Ol' Boys,
23 he was saying that he had heard about it, and I said in my
24 statement a lot of people had heard about it in the
25 organization. I have talked to Mr. Dondi [sic] a number of

1 times. I have met with him personally and sat down and
2 said, tell me about the black issues. We meet 2 and 3 times
3 a year, and never once has he brought it to my attention.
4 So, that is no excuse. When the legal counsel had it, I
5 believe they should have brought it forward, and I am
6 dealing with that.

7 On the other hand, Larry Stewart, who is a black ASAC
8 in Atlanta, Georgia, as I looked back through our black
9 lawsuit, brought it forward a year ago today. Now, Dondi's
10 is about 6 months old. Larry Stewart's is about a year ago.

11 Senator Specter. Well, whom did Mr. Stewart bring it
12 to? Whose attention did Mr. Stewart call it to?

13 Mr. Magaw. Well, in this same black suit, almost the
14 same as Dondi, in his deposition.

15 Senator Specter. Well, how do you account for the fact
16 that your lawyers, when hearing these kinds of very harsh
17 comments--trash, die trash--and know about this Good Ol'
18 Boys affair, don't pass that word up the chain of command
19 when it is a recurring matter?

20 Mr. Magaw. There were two separate--Senator, there is
21 no question that it should have been brought forward, but as
22 I talked to them about it, I can understand. It was two
23 separate issues. They are talking about statements that are
24 being made and then they are talking about this Good Ol'
25 Boys--so it should have been brought forward and we should

1 have brought it forward in this documentation, but I think
2 the lawyers were so concerned with collecting all of the
3 negative things that have happened to our blacks throughout
4 the time they have been in this organization, as well as
5 they have in many others, and as they have in women and
6 Hispanics and things that we have to correct, that it was
7 part of the black suit and it was general confirmation that
8 that went on, but not the confirmation that all of these
9 other kinds of things went on.

10 Yes, Good Ol' Boys--nobody can misinterpret that, in my
11 view, that that is not black welcome--blacks are not welcome
12 there. But in terms of all these other accusations, they
13 didn't come forward. In my opening statement, I said as I
14 look back through this, ATF should have been advised of this
15 and should have handled this a long time ago.

16 Back in what they used to call the director's notes,
17 information that was passed out throughout the bureau like
18 every month--right in there, after the one that occurred in
19 1980, it says Good Ol' Boys and it says 57 people were
20 there, and law enforcement, and please sign up for next year
21 and do it through the Knoxville resident agency, as if you
22 could use the office to do that with.

23 Senator Specter. When did you first hear about this
24 Good Ol' Boys Roundup?

25 Mr. Magaw. I first heard about the Roundup personally-

1 -I personally heard it for the first time when I saw it in
2 the newspaper. That is when I first heard about it. It
3 came to ATF's attention about a month before. It came in
4 and went to our Inspection Office. The inspectors looked at
5 the information, started querying senior people in the
6 bureau about it. Then we were going to have our special
7 agent-in-charge conference the week of the 10th of July. He
8 decided at that point that he would meet with the SACs
9 during that meeting for which he had a period of time to
10 meet with them and he was going to ask them about this and
11 find more facts and start the investigation. He had not
12 told me about it yet because he didn't have enough
13 information.

14 The article came out on the very same day that our
15 meetings were going on. From that point forward, we have
16 moved expeditiously until, just the other day, turning the
17 case over to the inspector general. But the reason I have
18 said in my statements that we knew about it a month ago is
19 it is my responsibility to know it. If my staff knows about
20 it and my inspector knows about it, it is my responsibility
21 to know it. So I wasn't backing away from any
22 responsibility, but when you asked me specifically when did
23 I find out, it was when I saw the article in the paper.

24 Senator Specter. Well, your lawyers knew about it, at
25 least back on January 24th with Mr. Albritton's deposition.

1 As you say now, they knew about it a year ago with Mr.
2 Stewart's deposition, about the Good Ol' Boys Roundup. Have
3 you questioned those lawyers to ask why they didn't make
4 some report about it?

5 Mr. Magaw. Yes, I have.

6 Senator Specter. And what is the result of that?

7 Mr. Magaw. They basically said that it was part of the
8 lawsuit. They looked at it as part of the lawsuit and they
9 simply overlooked the seriousness of the event, because they
10 have been around a long time. Although they are Treasury
11 lawyers, they are assigned to ATF and they knew that this
12 event took place, but they didn't realize that it was anti-
13 black as it is stated now in the kinds of things that were
14 going on. Neither did these two gentlemen tell them it was
15 that. They simply said, we assume it is because no blacks
16 are invited, and so there can be no excuse for not moving it
17 forward.

18 Senator Specter. Mr. Albritton did more than that, Mr.
19 Magaw. Mr. Albritton testified very specifically as to what
20 Mr. Rightmeyer had to say to him, that there were very
21 virulent racial slurs calling him trash.

22 Mr. Magaw. Two separate issues, two separate issues.
23 He is talking about two different times. When Mr.
24 Rightmeyer saw him for the first time and said these things
25 to him, that was not tied at all to the Roundup other than

1 that either then or later he realized that Mr. Rightmeyer,
2 you know, organized this and kept it going over the years.
3 But these are two separate issues. That was not said to him
4 in relationship to the Roundup. It was not tied to the
5 Roundup in any way.

6 Senator Specter. Mr. Magaw, are you trying to make a
7 determination as to when other ranking officials in ATF
8 found out about this Good Ol' Boys Roundup?

9 Mr. Magaw. I am. I think that is very important. I
10 have talked, and we have questioned every one of my
11 executive staff members in terms of their involvement, when
12 they knew it, what they knew about it, and we are in the
13 process now of talking to the next echelon in headquarters
14 and our field supervisors. So we are in the process of
15 doing that, but it will actually be the inspector general
16 who will do it. If she asks us to do any parts of it, we
17 will be helpful, but that process has already been started.
18 One of the first things I wanted to know about is my
19 executive staff. Have you ever been there and what did you
20 know about it?

21 Senator Specter. Ms. Lau, is there any light that you
22 can shed on this, consistent with your ongoing
23 investigation?

24 Ms. Lau. On the aspect of--

25 Senator Specter. On the specific aspect about when did

1 ranking members of the ATF know about it. The issue is what
2 does it take to sensitize an agency like ATF about the
3 improper, inappropriate conduct at the good ol' boys network
4 before it appears in the public press and becomes a matter
5 in the public view which requires a Judiciary oversight
6 hearing.

7 Ms. Lau. At this point in our investigation, I don't
8 have enough information about that to be helpful. I am
9 sorry.

10 Senator Specter. Mr. Freeh, when did this matter come
11 to your attention?

12 Mr. Freeh. When I read about it in the newspaper last
13 week, sir.

14 Senator Specter. Have you made an effort to determine
15 at what level in the FBI the good ol' boys network was known
16 to ranking officials?

17 Mr. Freeh. I thought I would defer that effort to the
18 inspector general who is conducting our investigation. What
19 we did is we surveyed 24,000 people to see who participated,
20 past and present. We have provided that information and
21 they are actually conducting the inquiry at this point, but
22 it is certainly something I want to know about myself.

23 Senator Specter. Mr. Magaw, what impact does this good
24 ol' boys event have on the pendency of the litigation? Does
25 that spur you to take a closer look at that and find out

1 what is happening within your organization?

2 Mr. Magaw. Well, I have taken a close look at what is
3 happening in this organization since I came board because,
4 remember, it is almost 50 percent minority and I want to
5 make sure that there is fairness across the board in terms
6 of training, in terms of assignments so that they can
7 compete for promotion, all of those kinds of things this
8 African American and black lawsuit has brought forward. So
9 I am looking at all of those things, but I want to make sure
10 that I look at it with fairness across the board to
11 everybody because I have been in law enforcement, as I said,
12 35 years, so I was around when almost the first Federal
13 agents came into the force and I have seen some of the
14 things that they have gone through, some of the things that
15 the Hispanics have gone through, some intentional, some
16 unintentional.

17 So I have got a workforce that I want to solve the
18 black suit. I want to get it corrected, and as I am going
19 along I am making sure everything I do is fair for every
20 employee, but I don't want a settlement out here with the
21 black group that would be unfair to the whites and the
22 Hispanics and the females that have undergone some of the
23 same problems. I want to correct it. I think we are
24 developing a good system now, and it didn't get this way
25 overnight and I can't quite correct it overnight, but

1 nobody, I think, when they look at what I have done in terms
2 of promotions, in terms of--you know, I promoted the first
3 assistant director in this organization who is black, an
4 assistant director that is a woman. I appointed a SAC out
5 in Houston and I appointed an ASAC in Atlanta.

6 So things have occurred in the past that have not been
7 fair for any of these groups and I want to correct it for
8 all of them, but I don't want to correct it for one out of
9 balance with the others. So, that is where I am coming
10 from, sir.

11 Senator Specter. Well, I don't quite understand that.
12 Isn't it necessary to take appropriate action within the
13 confines of the litigation which you have without trying to
14 rectify it as to women and Hispanics? It sounds like you
15 have an enormous number of problems. Are there lawsuits by
16 groups other than the African Americans?

17 Mr. Magaw. There are not lawsuits by the other groups,
18 none at all, and that is one of my concerns. You know, I
19 don't want to create a situation where the other groups feel
20 that there was an unfair settlement or one that they didn't
21 get here. They have had some of the same treatment.

22 You go to any law enforcement--women, Hispanics,
23 blacks, the American Indian have all had problems in coming
24 into law enforcement because 30 years ago you didn't see
25 anything but a white law enforcement officer, and so they

1 have had a tough time cracking that. It is much better now.
2 It is on its way to being corrected, but they have all been
3 through a lot and I have seen them go through it. So if I
4 resolve this issue and now get four others--I am just trying
5 to be fair with everyone and making sure what I am doing
6 corrects the wrongs that have occurred in the past.

7 Senator Specter. Well, are you making an effort to
8 address the problems before this litigation ends? Take the
9 litigation itself. When do you expect that to terminate?

10 Mr. Magaw. Well, what we are doing now is we are in
11 mediation trying to mediate that issue. You know, when it
12 gets in the legal system, I have no way of interpreting
13 that. But what I did, Senator--

14 Senator Specter. Well, let me give you a little help
15 with it. When it is in the legal system, you can take an
16 independent look as the Director of ATF and make a
17 determination as to whether you think the complaints are
18 justified and you can correct them. You don't have to wait
19 for the judge to make a decision. Are you taking an active
20 look at the complaints to make your own evaluation as to
21 whether it might be corrected administratively?

22 Mr. Magaw. I am.

23 Senator Specter. And what is happening with that?

24 Mr. Magaw. What is happening, in my view, Senator, is
25 that the group is asking for too much and if I give them

1 that and they go back to their field offices with \$80,000 or
2 \$90,000 or \$100,000 in their pockets that the females and
3 the Hispanics and the others don't have, I have a huge
4 problem on my hands.

5 Senator Specter. And you are saying that the problems
6 exist as to females and Hispanics and Indians and other
7 minorities in ATF?

8 Mr. Magaw. Any law enforcement chief of police, county
9 sheriff, State policeman--I won't speak for Tom Constantine,
10 but I have been in State organizations before--have all had
11 problems because women and minorities have come into law
12 enforcement over the last 30 years, and we didn't realize
13 that by putting them in undercover that we weren't giving
14 them the proper training. When it came time to compete for
15 promotion, they didn't get the experience.

16 Senator Specter. Director Freeh, do you concur with
17 what Mr. Magaw has said? Is the problem that bad with all
18 those groups--African Americans, women, Hispanics, Indians?

19 Mr. Freeh. Within the FBI, no, sir. You are asking me
20 whether we have those problems?

21 Senator Specter. Well, I am asking you if you concur
22 with the bleak assessment which Director Magaw just made.

23 Mr. Freeh. Speaking only for the FBI--that is where my
24 knowledge is, certainly--we have problems. We had a very
25 difficult and very important lawsuit by African American

1 agents now settled, settled to everyone's satisfaction. We
2 are implementing that settlement. We had an older suit by
3 Hispanic American agents, again, settled to everybody's
4 satisfaction.

5 We are speaking, prior to the onset of any litigation,
6 with a group of female special agents who have a list of
7 requests and issues which in many events are very important
8 issues which I want to resolve. We are trying to resolve
9 that before we get to an EEO complaint or a lawsuit. So we
10 have had a history of these problems, too. I think we have
11 met them head-on. I think we have solved most of them, and
12 I think part of the solution and part of the success has
13 been our willingness to make settlements. Both of those
14 cases were implemented in large part by settlement.

15 Senator Specter. Mr. Constantine, do you agree with
16 Director Magaw, who has outlined a rather bleak picture for
17 minorities in law enforcement?

18 Mr. Constantine. What I think John has said is he is
19 going back over the history. There was something
20 fundamentally wrong that we all saw in the mid-1960's. When
21 I came into police work in 1960, it was an all-white-male
22 occupation. It became obvious to, I think, everybody in it
23 who was the least bit enlightened that you can't have law
24 enforcement agencies becoming occupying armies that don't
25 represent the whole society.

1 As a result, it was incumbent upon us who were in those
2 positions at that period of time to accelerate and expedite
3 all of the recruiting and hiring and training that we could
4 do to address a century-old problem in 10 years. When you
5 do that, you obviously run into situations that are very
6 difficult in management because a lot of the promotions in
7 law enforcement are seniority-based. You have a lack of
8 seniority for the people who most recently come into the
9 organization and they feel disaffected in the promotion
10 process. The end result is every agency at different times
11 in the way they run their operation has to work through
12 these.

13 In DEA, the problems preceded my coming there and
14 people were able to solve it through two court decisions
15 which eventually became consent decrees. It is now my job
16 to follow that up and to make sure that those consent
17 decrees work and that we have an agency that is
18 representative of all of its employees.

19 If I was listening correctly to Director Magaw, he was
20 trying to explain how these things work through, and there
21 have been conflicted situations. I think people like John
22 or other people that I have met in this business try to
23 solve those problems and try to be able to work them out.

24 Mr. Magaw. We are working very closely in mediation
25 with them. We are working with the Justice Department. I

1 really expect to get it settled, Senator.

2 Senator Specter. Mr. Magaw, one final question and
3 then I have to go to vote myself. It has been called to my
4 attention that there was a newspaper account which purported
5 that no disciplinary action was taken against Mr. Rightmeyer
6 for his racist statements made to Mr. Albritton.

7 You say that Mr. Rightmeyer has been dealt with. Was
8 there any disciplinary action taken as to Mr. Rightmeyer?

9 Mr. Magaw. Specifically concerning those allegations--
10 not allegations, but what he is saying there in terms of
11 derogatory statements, legal counsel tells me that he had
12 been retired a year by the time that deposition had been
13 taken. So the agency, to our knowledge, did not know about
14 it. I have been here 21 months, so from the--

15 Senator Specter. Well, is there something that can be
16 done by way of disciplinary action even after retirement?

17 Mr. Magaw. I don't believe so. I looked into that,
18 into the retirement, and once you have a Federal retirement,
19 you can't even, for huge fraud felonies and personal--even
20 the felonies for which you get prison time, you can't
21 interrupt their retirement funds. That is what I have found
22 preliminarily.

23 Senator Specter. Well, I would suggest you take
24 another look at that.

25 Senator Hatch has returned, so I will yield to the