

# **Freeh goes to Capitol Hill again to explain FBI error in McVeigh case**

by Michelle Mittelstadt  
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WASHINGTON-The FBI should discipline the employees who ignored repeated requests to turn over every document related to the Oklahoma City bombing investigation, a senior Senate Democrat told FBI Director Louis Freeh on Thursday.

Expressing disbelief that 46 of the FBI's 56 field offices failed to turn over required documents to Timothy McVeigh's defense team-despite 16 directives to do so during a six-year period-Sen. Ernest Hollings said: "Some heads ought to roll."

"Boy, this would really tee me off if I was the director," the South Carolina Democrat said.

Facing a second day of congressional inquiry over the document debacle, which caused Attorney General John Ashcroft to postpone McVeigh's execution until June 11, Freeh again blamed the problem on human error.

"It was a grievous error and one that should not have occurred given the number of requests that were made," Freeh told the Senate appropriations subcommittee that funds his agency. "The only context in which to place it is the context of volume, in terms of the millions and millions of records that were part of the discovery agreement."

The FBI, which belatedly provided 3,135 pages to the McVeigh lawyers last week and followed that up with seven more documents, continued Thursday to review a third batch uncovered this week.

FBI officials refuse to discuss the scope of the latest find while they determine whether the documents should have been turned over to the defense under an unusually broad evidence-sharing agreement struck by prosecutors and the defense before the 1997 trials of McVeigh and co-conspirator Terry Nichols.

FBI Special Agent Danny Defenbaugh, who headed the Oklahoma City investigation and last week notified headquarters about the mishandled evidence, has been in Washington briefing officials and working with them to address the latest controversy to buffet the bureau.

McVeigh's lawyers, who are reviewing the documents and consulting with their client, have not announced whether they will head back into court to seek further

execution delays or appeals. Nichols' attorneys have turned to the Supreme Court, arguing that the failure to provide the documents merits a reconsideration of his conviction on charges of involuntary manslaughter and conspiracy.

Freeh reiterated Thursday that he does not believe the newly disclosed material casts any doubt on the guilt of the two men for the 1995 bombing that claimed 168 lives and injured more than 500.

The director, whose agency has been rattled by the February arrest of a senior agent on espionage charges and other recent embarrassments, has received little personal criticism over the bungled document production. Freeh, who is stepping down in June with two years left in his 10-year term, was warmly welcomed by senators Thursday, just as House overseers praised his work a day before.

"I think your tenure at the FBI will be marked down as one of the finer periods of leadership of that agency," Senate appropriations subcommittee Chairman Judd Gregg, R-N.H., told him.

Taking care to first voice his "affectionate admiration" for the FBI over a half-century of dealings, Hollings gently took issue with Freeh's characterization of the document mishandling as an error.

"It's my considered opinion, from experience, that this is not just an error," he said. "On the contrary, Mr. Director, this is a culture in the bureau."

Freeh agreed there is a "cultural defect," which he said he is attempting to correct with a series of changes in records collection procedures and management.

"I think there is a cultural problem here in not taking seriously the very clear and explicit commands that were given in a very important case," he acknowledged.

One of those corrective measures, hiring a records management expert, was dismissed by Hollings.

"Don't hire anybody. Fire some people," the senator said. "Until you do that, they'll play the game."

Freeh didn't respond to the suggestion and has not publicly raised that possibility. FBI officials said no decision would be made on possible discipline until an investigation by the Justice Department's inspector general is complete. That inquiry was ordered last week by the attorney general.

"A lot of that will depend on their review and what was found," FBI spokesman Paul Martin said.

Inspector General Glenn Fine has dispatched lawyers, investigators and auditors to conduct a "thorough review," which began last week, Martin said.

"We are going to look at all aspects of why the documents were produced belatedly," he said. "That could take us in a variety of directions."

Congress may want to order up its own investigation, Gregg said, suggesting it might be appropriate to send in an independent team of auditors as well.

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