

2444 BY MR. BENZINE:

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Q. So this is the NIH website for gain-of-function research involving potential pandemic pathogens, and this version was last updated July 12, 2021. There has since been a new version, and under the header "Gain-of-Function Research" is that definition that I just read to you.

2450 It does have the qualifier, not all research described as
2451 gain-of-function entails the same level of risk, and I guess one of

the kind of semantics here is that what a layperson thinks of as

gain-of-function, I think falls under this definition: Any research

that attributes a new attribute to a biological agent, whether it's

taking avian influenza virus that can't infect humans or making it

able to infect humans or taking a bat Coronavirus that can't infect

mice and making it infect mice, either of which would qualify as

qain-of-function under that definition.

2459 Do you agree?

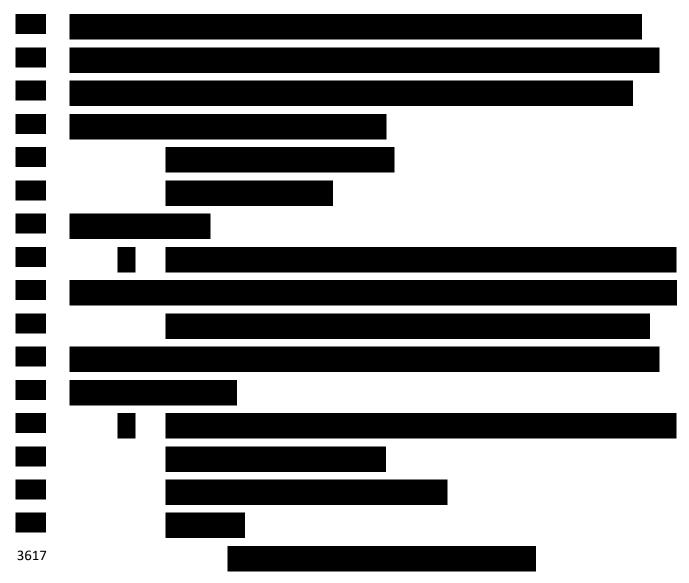
A. I do, and I think that this is making the same points that

I've been making earlier. There's gain-of-function which is common in

virology and that's not the same as the gain-of-function research of

concern.





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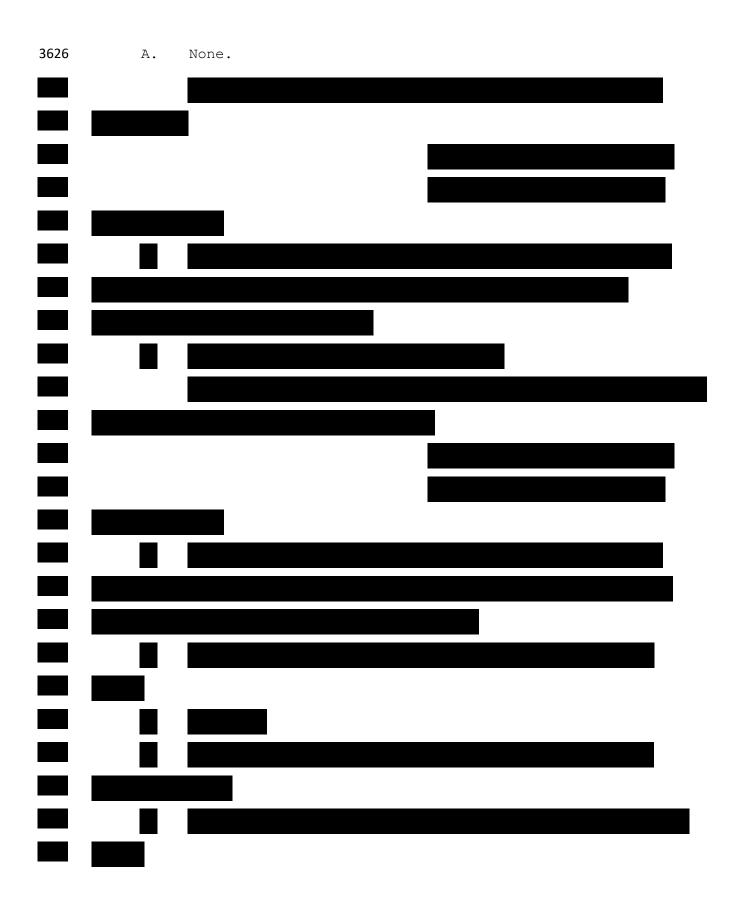
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3619 Q. I want to first start by, as you know, NIH Office of
3620 Extramural Affairs started compliance efforts with regard to EcoHealth
3621 in April of 2020.

Every letter sent by them was sent by Mike Lauer, who heads that office. When he testified in front of us, he said that he would not sign and send a letter that he disagreed with. Do you have any reason to doubt that assertion?



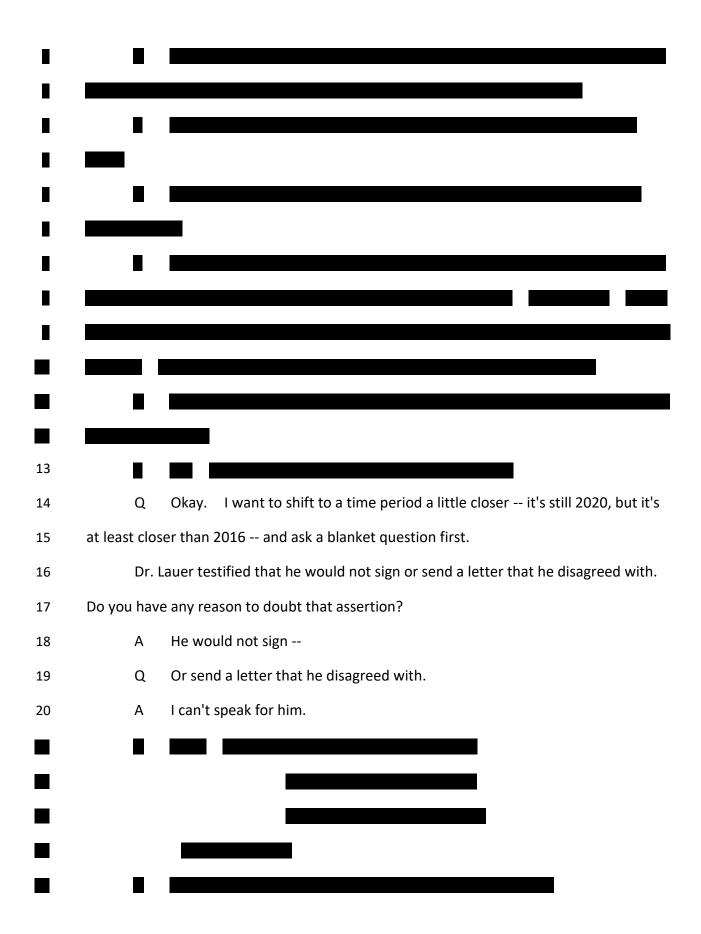
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3573	Q	Moving into 2020. Before we start with
3574	individual let	ters, we asked Dr. Lauer and he testified
3575	that he would	not sign or send a letter that he disagreed
3576	with. Do you	have any reason to doubt that assertion?
3577	А	No.
3578	Q	Do you agree with every enforcement action
3579	the NIH took a	gainst EcoHealth?
3580	A	Yes.
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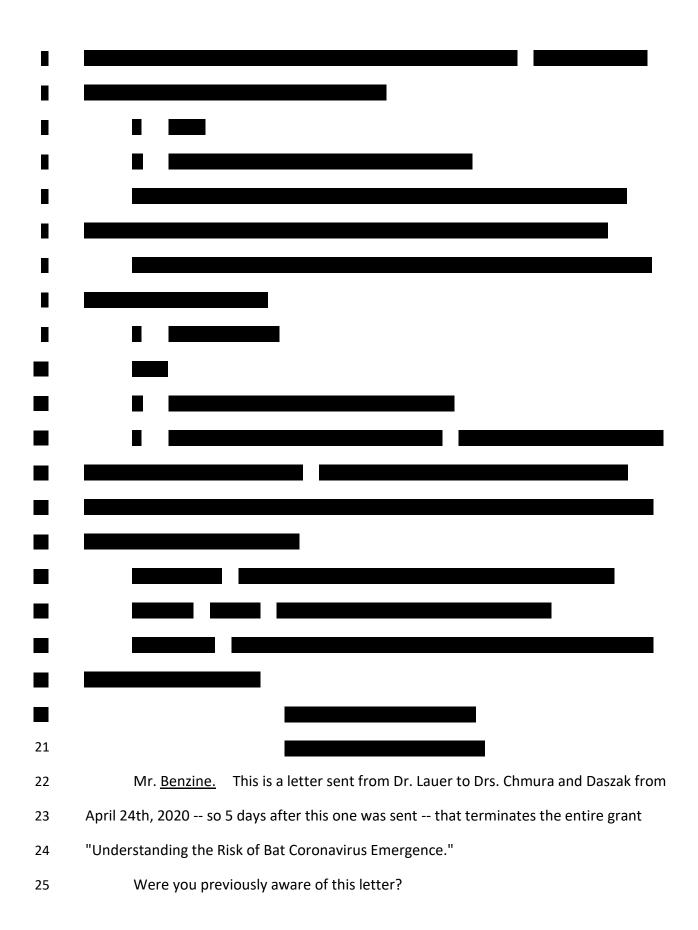
	Q	When you talk about this issue, this broader issue of gain-of-function and
	Wuhan Inst	citute of Virology, publicly for example, the high-profile exchange with
	Senator Ra	nd Paul
	Α	Right.
)	Q	and if you say that NIH, quote, "has not ever and does not now fund
-	gain-of-fun	ction research in the Wuhan Institute of Virology," is this layman's definition
<u>.</u>	the definiti	on that you are talking about in those occasions?
}	Α	No.
ı	Q	Great. What would you be talking about in those situations?
5	А	What I was referring to when Senator Paul asked me and I repeated multiple
5	times that v	we were not doing gain-of-function research, no I said that the NIH
7	sub-award	to the Wuhan Institute was not to do gain-of-function research. I was
3	referring sp	pecifically to the operative definition of "gain-of-function" at the time, which is
)	the P3CO fr	ramework.
)	And	the P3CO framework is a policy and a framework that came out of a policy
L	guidance fr	om 3 years of discussions led by OSTP, the National Academies of Sciences,
<u>)</u>	and multipl	e scientific working groups that came out with a very precise definition.
,	And	the precise definition was: any experiment that is reasonably anticipated to
ļ.	result in the	e enhancement of a and by "enhancement," it is meant an increase in the

transmissibility and/or the pathogenesis of a PPP. And what a PPP is is a potential

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pandemic pathogen. So if you enhance it, it's referred to as "ePPP." 1 2 So then you ask the question, what is a PPP? And by the regulatory definition, it 3 is the following: It is a pathogen that is likely to be highly transmissible and spread 4 widely in a population and a pathogen that likely will cause a high degree of morbidity 5 and mortality in humans. 6 So, when I was asked the question, did the grant that was a sub-award to Wuhan 7 fund experiments that were enhanced PPP, that is what I was referring to when I said we 8 do not fund gain-of-function -- gain-of-function according to the strict definition, which I 9 refer to as the operative definition of "gain-of-function." 10 So, when someone asks me, as a scientist, are you doing gain-of-function, is that 11 gain-of-function, I always apply it to the operative definition of "gain-of-function." 12 That is very helpful. Thank you for drawing that distinction. 13 And at the time of that exchange, it was the P3CO framework. There was also a time, I think from 2014 to 2017, when the gain-of-function moratorium was the operative 14 policy. 15 16 A Right. So a similar analysis, I assume, would've been the case for that --17 Q A Right. 18 19 Q -- period of time. 20 Yes.





1	Dr. <u>Fauci.</u> Let me read it. Hold on.
2	I was aware that the grant was terminated. I'm not I don't recall this particular
3	letter that I saw at the time. I think I was shown I don't think I was shown this, but I
4	don't recall seeing this letter at the time it was sent.
5	Mr. <u>Benzine.</u> You testified in June of 2020 before the House Committee on
6	Energy and Commerce. You were asked about this grant and the cancellation and said,
7	"Why was it canceled? It was canceled because the NIH was told to cancel it. I don't
8	know the reason, but we were told to cancel it."
9	Do you have any recollection of who told you to cancel it?
LO	Mr. Cooke. Yeah. So as I think we covered with Will during their hour, we're
11	not going to be able to get into the details of those deliberations.
L2	BY MR. BENZINE:
L3	Q All right. I'll relay to you what Dr. Tabak told us was the chain of events,
L 4	and you can just tell me if that's accurate to the best of your recollection.
L5	Dr. Tabak testified that Chief of Staff Mark Meadows called the Office of General
L6	Counsel at HHS, who then called Dr. Tabak, who then called Dr. Lauer, who was instructed
L 7	to cancel the grant. Is that consistent with your memory?
L8	A Yes.

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14	Mr. <u>Benzine.</u> I want to introduce the year 5 progress report as majority exhibit
15	18.
16	[Fauci majority exhibit No. 18
17	was marked for identification.]
18	Mr. <u>Benzine.</u> And in the nature of time, it's a long report, so I'd ask you not to
19	read the whole report, but I'm going to draw your attention to a discrete paragraph. It's
20	on page 15 under aim 3.1.
21	Mr. Schertler. Are you sure you don't want him to read the whole report?
22	Mr. <u>Benzine.</u> I'm pretty sure I don't want you to read the whole report.
23	BY MR. BENZINE:
24	Q And I believe, and Dr. Tabak has confirmed that in his letter he is referring to
25	the experiment outlined in this paragraph.

1	And	i'm going to you have it in front of you, but i'm going to read it in kind of
2	layman's te	erms so it's comprehendible.
3	But	, in essence, it says that mice were infected with four strains of SARS-related
4	coronaviru	ses with different spike proteins, including full-length recombinant virus of
5	SARS-relate	ed WIV 1 and 3 chimeric viruses, with the backbone of WIV 1 and the spike
6	proteins fr	om three other bat coronaviruses. So that's what we were just discussing.
7	All	four of the viruses caused lethal infection in human ACE2 transgenic mice, but
8	the mortal	ity rate varied among the four groups. Fourteen days post-infection, five out
9	of the seve	n mice infected with just the WIV 1 backbone remained alive, while only two
10	out of eight mice infected with the SHC014 chimera survived.	
11	And	the paragraph ends with, "These results suggest that the pathogenicity of
12	SHC014 is higher than other tested bat SARS-related coronaviruses in transgenic mice	
13	that expres	ss human ACE2."
14	1'11 ફ	give you a minute to read the full version in the progress report. I know I kind
15	of summarized it.	
16	Α	[Reviewing.] Yeah.
17	Q	So to me, it sounds like seven mice infected with the full-length WIV 1; five
18	survived.	Eight mice infected with a chimera of WIV 1 and SHC014 and two survived.
19	Is that you	r understanding as well?
20	А	That's what it says, yeah.
21	Q	This to me sounds like the experiment that EcoHealth conducted by creating
22	a chimera	increased the pathogenicity of the underlying virus. Is that fair?
23	А	The underlying virus is WIV.
24	Q	Correct.
25	А	And the spike that they put on indicated that the virus was more pathogenic

1	than the WIV.
2	Q Correct. Is that right? So by replacing the WIV 1 spike with the SHC
3	spike
4	A Yes, yes. But, again, you got to put it into context because, again, these
5	viruses, when you if you are you hearkening back to the definition of whether
6	Q I'm getting there.
7	A Yeah, but then let's go there, okay?
8	The fact is that what was built into the scope of the conditions was that if you do
9	get an increase in viral load or pathogenesis, you've got to report it or reevaluate it, but it
LO	still doesn't change the underlying premise that this is not a PPP.
11	That's the point. That's the conclusion that's the confusion people get. By
12	the operative definition of gain-of-function of concern, even with this, this is merely an
L3	added going the extra mile that if something like this happens you stop and you look at it
L4	and discuss whether or not to go forward, et cetera.
L5	And, to my understanding, that even if you do that, this still doesn't change that
L6	you're not dealing with a virus that's very likely to lead to widespread transmission, et
L7	cetera, et cetera.
18	So it doesn't change the definition or the operative guideline for this experiment,
L9	but it tells you, you should report this, because that was part of the fail-safe.
20	Q And I don't disagree with you that it's not an ePPP
21	A Yeah, right.
22	Q and it doesn't fall under the P3CO framework.
23	What I think we're trying to understand is this was submitted, I mean, well, late,
24	but the work was conducted during 2018 for the fiscal year 2018 to 2019 and the year 5

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progress report.

1	At that time, this definition of gain-of-function was still live on the website of
2	enhancing a biological agent. And I guess what I'm trying to understand, and the
3	minority talked about it too, is you said what your intent was with Senator Paul, that
4	when you said NIH does not now and has not ever funded gain-of-function research in
5	Wuhan was that you meant to say or you intended ePPP research.
6	A I said that before and I'll repeat it again. When I talk about
7	gain-of-function, I talk about a gain-of-function of concern I am talking about the
8	operative definition of gain-of-function of concern, which for me is the P3CO that we've
9	discussed multiple times.
10	Q And I agree, again, agree that this experiment did not meet the P3 definition.
11	Would you agree that it meets that broad definition of gain-of-function that was on NIH's
12	website when this research was conducted?
13	A Again, I don't use the terminology "gain-of-function" because it can be very
14	confusing, which was the reason why we went through 3 years of discussion to avoid the
15	kind of confusion that we're going to get into now if we start going back and forth about
16	this.
17	That was the whole reason for 3 years of deliberation to establish a regulatory
18	guideline based on a guiding policy that led to a framework.
19	So, regardless of how you slice it, when I spoke to when I responded to
20	Doctor to Senator Paul, I was referring to the gain-of-function research of concern as
21	defined by the P3CO framework.
22	Q My last question. That hearing was May 11th, 2021. When you testified,
23	like again, I apologize, but if I was a general C-SPAN watcher or watching the news
24	afterwards it obviously became a big deal, and I went and I googled NIH gain-of-function

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research, this is what would come up.

- Do you think you could have -- like, you knew that you meant ePPP.
- 2 A Yes.
- 3 Q Do you think you could have been more specific in your answer?
- 4 A Well --
- 5 Mr. Schertler. I don't think he can really opine as to what CNN news watchers,
- 6 C-SPAN, whatever --
- 7 Mr. <u>Benzine.</u> No, I'm asking him -- I'm asking him -- he knew -- he knew the
- 8 rules, he knew the definition.
- 9 Dr. Fauci. I think -- I think in terms of 3PCO, and that's embedded in my mind, he
- didn't appreciate what gain-of-function according to the regulatory guidelines are. I was
- speaking in that term. So he was thinking of a different thing.
- When I spoke to him, I'll stand by my statement that when I said we do not do
- gain-of-function I was referring to gain-of-function of concern according to the 3PCO
- 14 guideline, done, full stop.
- 15 Mr. Wenstrup. Can I?
- 16 Mr. Benzine. Yes, sir.
- 17 Mr. Wenstrup. Do you think that would have helped, if you explained that that
- 18 day?
- Dr. Fauci. I'm not so sure, to be honest with you, sir, that -- Rand Paul has a thing
- about me.
- 21 Mr. Wenstrup. I'm not talking about Rand Paul, but for me --
- 22 Dr. Fauci. Yeah.
- 23 Mr. <u>Wenstrup.</u> -- listening and watching.
- 24 Dr. Fauci. Yeah.
- 25 Mr. Schertler. And I think he can only talk about his interchange with Rand Paul.

- 1 Dr. Fauci. Rand Paul.
- 2 Mr. <u>Wenstrup.</u> He can have a retrospective opinion.
- 3 Mr. <u>Schertler.</u> Well, I don't know that we need a retrospective opinion of his
- 4 answer. I think he's trying to answer your question --
- 5 Mr. <u>Wenstrup.</u> Well, he's saying it now.
- 6 Mr. <u>Schertler.</u> -- as straightforwardly as he can.
- 7 Mr. Wenstrup. The thing is he's saying it now. Why didn't he say it that day?
- 8 That's all. That's fine.
- 9 Mr. <u>Schertler.</u> So maybe Rand Paul could have asked better questions. And
- maybe if Rand Paul had asked clearer, better questions, he would have gotten a more
- specific answer.
- So it can go both ways. Wouldn't you agree, Chairman? I mean, wouldn't you
- 13 agree with that?
- 14 Mr. Wenstrup. What's your answer?
- Dr. Fauci. No, I agree with that. I mean --
- 16 Mr. Wenstrup. So it was his questions that kept you from being more specific?
- 17 Dr. Fauci. No, when he asked me --
- 18 Mr. Schertler. I didn't say it was his question. I said he could have asked better
- 19 questions. You're going back now and you're saying, could somebody have said it
- 20 better? Could somebody have asked it better? I don't think it's a fair question.
- 21 Mr. Osterhues. But this was the definition on the website.
- 22 Mr. <u>Schertler</u>. That is not the definition that was referred to.
- 23 Mr. Osterhues. That is on the NIH website.
- 24 Mr. <u>Schertler.</u> Then if Rand Paul had said, this is the definition on your website,
- we'd have gone with the definition on your website.

1	Mr. Wenstrup. Sir, we're going to have a conversation here for a second about
2	what the average American perceives. You may not be out talking you may not be out
3	talking to the average American every day. I have to.
4	So all I'm saying is, because as he says this today it's an explanation for why he
5	said it. So all I'm saying is, in retrospect, do you think it would have been perceived
6	better I think it would have been let me just say it as a statement then.
7	I think it would have been perceived better by the American people if he
8	explained that at the time.
9	Now, regardless of the situation, I'm just giving you that opinion of the average
10	American, because all they heard was that, and what's on the website is not that. So
11	that's the point I'm trying to make.
12	Mr. Schertler. Chairman, I appreciate that. And I appreciate your point. And
13	appreciate, you know, dealing and communicating with the average American. I don't
14	mean I don't mean to
15	Mr. Wenstrup. I'm not doubting your intent and what you thought it meant.
16	I'm just giving you the perception of the average American, and then you go to the
17	website and it says something different from what you were thinking.
18	Mr. Schertler. Okay. So we've got the chairman's statement.
19	BY MR. BENZINE:
20	Q The last thing I'll say is we interviewed Dr. Tabak on Friday it's been a long
21	weekend and we asked him a similar question. "What's described in the EcoHealth
22	year 5 progress report would fit the definition the broad definition of gain-of-function
23	research?" And he answered, "The generic, broad description of what gain-of-function
24	is, yes."
25	Would you agree with Dr. Tabak?

1	A You know, again, we're going in circles, because it's going to get the same	
2	confusion that the chairman was just talking about.	
3	Q I'm	
4	A Because then, if I say yes, then, "Ah, yes, he says it was gain-of-function."	
5	It is not gain-of-function of concern that is associated with the regulatory	
6	operative definition of gain-of-function.	
7	Q No. And I'm entirely willing to stipulate that and stipulate that it didn't	
8	need to go through the P3CO and it didn't meet the definition of ePPP.	
9	And I'll end on this, and if it's the same answer it's the same answer. But we've	e
10	asked Dr. Auchincloss this question. We've asked Dr. Tabak this question. Both have	5
11	said that it meets the definition, the broad definition of gain-of-function research.	
12	I'm not trying to catch you in a trap. I'm not trying to catch you	
13	A But the thing is I have been living a life over the last few years of getting	
14	total distortion of things that I've said and done, and you know that. So if you want m	e
15	to	
16	Mr. Schertler. So, look, I think you've asked and answered the question. But	if
17	you'd like to answer it again, you can answer it again.	
18	Mr. Benzine. You don't need to answer again. I'll take that what you meant i	İS
19	what	
20	Dr. <u>Fauci.</u> Right.	
21	Mr. <u>Benzine.</u> And I agree that that is what you meant. I'm not trying to go	
22	against that. I'm just when people read things in black and white and words are said	d,
23	it's hard to distinguish sometimes.	
24	Dr. <u>Fauci.</u> Yes.	
25	Mr. <u>Benzine.</u> Our hour is up, and we can go off the record. Our day is up too	