

Third, the statement that Mr. Shapiro notified the White House about the information before the committee was allowed to review it is simply not true. As Mr. Shapiro testified at the August 1, 1996, hearing, he had offered to make it available to the majority, but they had rescheduled:

My intent was to notify roughly simultaneously both the committee and the White House, for whom this information had originally been gathered. Knowing that committee majority staff was due to examine the materials that same afternoon, I placed a call to the Justice Department, where I advised the Chief of Staff to the Deputy Attorney General of the information and of my intent to advise the White House Counsel's office. I then called the Counsel's office, and spoke with Deputy Counsel to the President, Kathleen Wallman. Because of a last minute rescheduling by the committee staff of which I had been unaware, the majority staff did not in fact see the information until the following day.

In no way did Mr. Shapiro withhold the information, as claimed by the majority.

Fourth, before the FBI took any action with this information, it asked the one law enforcement entity which might have an interest, the Independent Counsel. As Mr. Shapiro testified, the Independent Counsel had no problems with Congress reviewing the files, nor did they ask that any conditions be placed upon its release, which could have included release to the White House. They did not even want to review the file. To the extent Mr. Nussbaum would have been testifying to a Grand Jury, the issue would not have been who hired Craig Livingstone.

Finally, Chairman Clinger's Floor statement criticized two FBI agents for going to Agent Sculimbrene's home and telling him that the White House was unhappy with what he had written about Mr. Nussbaum's interview. Once again, the question is what type of investigation did the committee do to determine the veracity of this charge against the two agents before making these public charges. Mr. Shapiro testified that the agents in question denied the allegation:

At no time did the agents tell agent Sculimbrene that the White House was unhappy and concerned about this particular interview. No such thing occurred.

Therefore, it appears that this may be one more case in which Agent Sculimbrene's account of a conversation is disputed.

The concern of the FBI that in light of the denials, Agent Sculimbrene's report may have been inaccurate, was a real one. Just recently, FBI Agent Halbert Harlow was convicted of falsifying over 50 White House interviews.

When this committee began its hearings into the FBI files, we in the minority fully concurred. We too wanted to get to the bottom of how and why the files were requested, and what was done with them. However, as the committee's investigation increasingly demonstrated that the requests were in fact a bureaucratic error and not a sinister plot, the committee hearings kept shifting their focus.

## REVEALING CONFIDENTIAL FBI INFORMATION

The majority has repeatedly disclosed sensitive, internal FBI files, despite the majority's criticism of the White House for its handling of FBI records. As previously discussed, when Chairman Clinger went to the House Floor on July 25, 1996, he divulged certain contents in the FBI file of Craig Livingstone. The divulging of confidential derogatory information found in that file is exactly the concern that the committee had expressed concerning the White House request of FBI files of former administration employees. Ironically, the committee has uncovered no evidence that the White House ever disseminated the information contained in those FBI files. On the other hand, the chairman did.

The disclosure stands in stark contrast to his comments to Ranking Minority Member Collins in a letter dated July 15, 1996, in which he wrote: "I have been extremely reluctant to directly review FBI files. It is the abuse of such files by the Clinton White House which initiated this congressional investigation." He then stated that he "would determine what, if any, information may be shared with the Members of this Committee." Instead of consulting with any member of the committee, the speech was made on the House Floor before the C-Span public.

Even before the chairman went to the House Floor, the contents of Mr. Livingstone's files were in the press. An AP story of 4:39 p.m. on July 25, 1996, describes an FBI agent's notes alleging that he was told by Bernard Nussbaum that Mr. Livingstone had been recommended by the First Lady and that Mrs. Clinton knew his mother. Before rushing to the Floor to raise questions about the integrity of the First Lady, Mr. Nussbaum, and Mr. Livingstone, the committee might have done at least a minimal amount of investigation.

Minimum fairness to the individuals would have required full disclosure of the trustworthiness of Special Agent Sculimbrene. Among the documents requested by subpoena was a memo by SSA David Bowie, dated August 7, 1995, who recounted a discussion he had with Agent Sculimbrene concerning the prosecution of Billy Dale (Document FBI-00005437-00005442):

It became immediately apparent that SA SCULIMBRENE held extremely intense feelings about the indictment of subject BILLY DALE whom he described as a personal and professional friend. It became equally apparent that SA SCULIMBRENE blames the CLINTON WHITE HOUSE and the FBI for the predicament in which subject DALE finds himself. During the course of a sometimes heated conversation between the writer and SA SCULIMBRENE, it became equally apparent that SA SCULIMBRENE has allowed both his personal and political feelings to obscure his judgement relative to this entire matter.

\* \* \* \* \*

Specifically, SA SCULIMBRENE erroneously stated that he had provided a memo to the writer in the White House Travel Office matter allegedly containing the information relevant to the inquiry. . . . The writer never received a memo from SA SCULIMBRENE dealing with the above subject matter.

\* \* \* \* \*

In fact, the information provided by SA SCULIMBRENE during conversations with the writer merely implies that he has very strong political views involving the CLINTON Administration and a close personal relationship with the subject of this matter, BILLY R. DALE. . . .

The writer is very concerned about the overall temperament and demeanor of SCULIMBRENE reflected on 8/4/95. While the writer is not in a position to render Psychological judgements/conclusions about others, it is the opinion of this writer that SA SCULIMBRENE's conduct/behavior, on 8/4/95, is clearly outside the norm. The writer notes that SA SCULIMBRENE was involved, approximately a year ago, in a serious accident which almost cost him his life. It is noteworthy to point out that during the course of the 8/4/95, discussions with the writer, SCULIMBRENE commented, while pointing towards his head, that he could get away with anything because "I am handicapped".

\* \* \* \* \*

SSA BOWIE is very concerned that SA SCULIMBRENE has allowed his personal and political feelings toward the CLINTON White House to destroy his objectivity in dealing with this issue. It is equally perplexing to understand why any FBI Agent would allow his personal relationships with a subject of a criminal probe to become this involved as such behavior constitutes, as a minimum, the appearance of a conflict of interest. The writer is persuaded that SA SCULIMBRENE is contemplating either testimony before a Congressional Committee and/or plans to serve as a defense witness for subject BILLY DALE. Should he decide to do this, his credibility as a witness and as a FBI Agent will be destroyed in the aftermath. The situation detailed above is potentially embarrassing for the FBI and is potentially a disaster for SA SCULIMBRENE.

\* \* \* \* \*

It is highly suggested that WMFO management look at the possibility that SA SCULIMBRENE may be in need of EAP and/or some form of emotional support. The writer is persuaded that SCULIMBRENE's behavior is abnormal and indeed irrational. In addition, SA SCULIMBRENE should be made aware of the consequences should he decide to provide erroneous testimony in an effort to help his friend, and C-7 subject, BILLY R. DALE.

Instead of alerting House Members and the public that the FBI agent whose notes conflict with the testimony of Mr. Nussbaum and Mr. Livingstone was a close personal friend of Billy R. Dale, and whose credibility was challenged by another FBI agent, Chairman Clinger was silent, leading an average listener to assume that Mr. Sculimbrene was an ordinary FBI agent. Chairman Clinger might have disclosed that Mr. Sculimbrene was an associate of Mr. Gary Aldrich, whose credibility on White House matters has been, to put it mildly, called into question.<sup>2</sup> He also never stated that Agent Sculimbrene was quoted in the Wall Street Journal as stating that he knew of the purported relationship between Mr. Livingstone's mother and the First Lady from Mr. Livingstone and Mr. Kennedy (June 25, 1996), and that he had told Senate investigators that Mr. Kennedy was the source of his information.

The majority does not merely raise questions when making charges such as those made in Chairman Clinger's special order. If the sole intent was to bring this to the attention of the Independent Counsel, a private letter to Mr. Starr would have sufficed.

But this was not the only example of the majority's rushing to a partisan judgment without conducting even a minimal amount of investigation. On June 5, 1996, Chairman Clinger held a press conference detailing a request for Billy Ray Dale's FBI background file that bore Mr. Nussbaum's typed name. The chairman alleged that "At the very least, there is a strong implication President Clinton's counsel acted unethically in requesting confidential background checks of a former employee." According to an article distributed by the Associated Press, "U.S. Rep. William Clinger, R-Pa., suggested the written request might be a false statement that could be prosecuted as a felony." Subsequent investigation quickly established that Mr. Nussbaum, like his predecessors, never reviewed such requests.

As Mr. Nussbaum testified at the committee's June 26, 1996, hearing:

So, on the basis of a printed form, Mr. Chairman, you told the country, Mr. Chairman, that, at best, I was unethical as White House Counsel; at worst, I was a felon. . . . But you had no member of your staff call me, to ask me a simple question—did I ever request Billy Dale's FBI files six months after he was fired? Was I really trying to dig up dirt on Billy Dale when he was being investigated by the Justice Department? Those notions are absurd on their face. They are false. *But no one called to ask.* (Emphasis added).

Mr. Nussbaum then testified under oath that he had no knowledge that Mr. Dale's or any other former White House employee's

<sup>2</sup>It is ironic that in light of the majority's repeated claims of stonewalling by the administration, Mr. Aldrich refused to answer under oath more than 30 questions asked by minority counsel regarding statements he made in his book. Rather than assisting in this committee's efforts to obtain relevant information regarding the credibility of a witness, majority staff also obstructed the minority's efforts to have these questions answered by Mr. Aldrich.

In a letter dated August 2, 1996, Ranking Minority Member Collins subsequently requested Chairman Clinger to instruct Mr. Aldrich to respond to these 36 questions. To date, he has not responded.

FBI files had been requested, and that he certainly did not order copies of FBI files.

The chairman responded by saying that the "documents speak for themselves," and dismissed Mr. Nussbaum's demand for an apology by suggesting that he was attempting to "demonize" him. We believe this is a wholly inadequate response. The chairman very publicly—and wrongly—accused Mr. Nussbaum of possible criminal behavior, without conducting even a minimal amount of investigation. Whether those accusations were innocent or intentional, the record clearly demonstrates that they were false.

When we in the minority requested, in a letter dated June 28, 1996, that the chairman take the fair and decent course by admitting that he overreached and apologizing to Mr. Nussbaum, he once again refused. Instead, he replied:

. . . (A)s you will see, I never made reference to Mr. Nussbaum as a "felon," as he has alleged. In fact when I was specifically asked, "How much trouble is Mr. Nussbaum in?" I stated, "Well, I think it's premature to say whether, you know, whether he's in any trouble."

However, the transcript of that press conference, provided by the chairman himself in his reply, confirms that the chairman did make those statements about Mr. Nussbaum to the press:

At the very least, there is a strong implication President Clinton's counsel acted unethically in requesting confidential background checks of a former employee. At the very worst, the request may have violated the Privacy Act . . .

The chairman has yet to admit his error or to apologize to Mr. Nussbaum. Nor has he apologized to Presidential Advisor George Stephanopoulos for partisan leaks suggesting that Mr. Stephanopoulos was somehow responsible for Mr. Livingstone's position as Director of the Personnel Security Office without releasing other information in the committee's possession demonstrating that that was not the case.

#### WHO HIRED CRAIG LIVINGSTONE?

The majority is obsessed with determining who hired Craig Livingstone, as if that startling mystery was the key to unraveling their entire conspiracy theory. However, the records provided to the committee, if the majority would take the time to read them, reveal exactly how Mr. Livingstone was hired. The answer is much less exciting than the majority would have us believe.

The resume of David Craig Livingstone lists his current job as "Presidential Inaugural Committee, Director of Security" from November 1992 to present. Prior to that he lists his occupation as "President-Elect Clinton and Vice-President-Elect Gore, Lead and Site Lead Advance" in November 1992. Prior to that his job is listed as "Senior Consultant to Counter-Event Operations, Clinton/Gore '92" from October, 1991 to November 1992.

At the top of the resume is a handwritten notation stating "Sponsored by Eli Segal." Mr. Segal, who was a campaign manager in the Clinton Campaign is also the first reference in Mr. Living-

stone's resume, and is listed as "Chief Financial Officer, Clinton-Gore Presidential Transition Team."

On February 8, 1993, Mr. Livingstone signs a "Declaration of Appointee", which is a form used in determining fitness for employment.

The job of Director of the Office of Personnel Security is supervised by the Office of White House Counsel. In a memorandum from David Watkins, Assistant to the President for Management, to Bernard Nussbaum, Assistant to the President and Counsel, and Vincent Foster, Deputy Assistant to the President and Deputy Counsel, dated February 16, 1993, Watkins lays out the budget and full-time employees, which are to be proposed for the Counsel's Office budget.

It appears from the memo that Watkins had authorized 28 slots at \$1,100,000. The Counsel's Office had responded with a budget of 25 slots at \$1,100,000 along with a proposal to shift the three employees of the Security Office, other than its head, to the Personnel account. Watkins responds that if the slots are shifted, the Office of White House Counsel must reduce its budget by \$85,000.

On February 17, 1993, Craig Livingstone sends a memo to William Kennedy, Associate Counsel to the President, describing the functions of the Security Office.

On February 18, 1993, Kennedy sends a memo to Vincent Foster attaching Livingstone's memo. He writes, "The result of all of these functions is that the Office moves much paper. I need to discuss this subject with you when you have time."

On February 23, 1993 Kennedy sends a memo to Nussbaum describing the major functions of the White House Security Office, apparently based upon Livingstone's memo.

On February 24, 1993, Nussbaum and Foster (now also joined by William Kennedy, Associate Counsel to the President) respond to the Watkins memo taking issue with their allocation. They note that they propose to spend just \$91,000 on the three assistants (compared with \$121,000 under the Bush administration) and just \$45,000 on the head of the office (compared with \$67,000 for the incumbent), apparently implying that they should not have their budget reduced by \$85,000 in light of their savings.

On March 1, 1993, David Watkins sent a memo to Bernard Nussbaum stating, "I understand from your budget that you believe the position currently held by Jane Dannenhauer, Assistant to the Counsel to the President for Security, should be part of your budget and should be compensated at a rate of \$42,000 per year. Please let me know when you have identified the new staffer to fill Ms. Dannenhauer's position. At the moment, her salary of \$70,255 is counting against your budget. But this amount will be reduced when you replace Ms. Dannenhauer." Watkins also consents to giving the Counsel the full \$1,100,000 for 25 slots.

On March 9, 1993, in a memo to David Watkins from Bernard Nussbaum and Vincent Foster, they state that "Craig Livingstone was hired in February as Assistant Counsel to the President for Security with a salary of \$45,000, not \$42,000 as originally budgeted."

On March 10, 1993, William Kennedy sends a memo to David Watkins. It states "This is a request that the start date of the em-