

SHADOW

— FIVE PRESIDENTS AND —
THE LEGACY OF WATERGATE



BOB WOODWARD

reason to continue to have access to the White House complex. This explanation sounded innocuous to Sherburne. But why would he have pulled Billy Dale's file after Dale was fired?

"I've figured it out," Livingstone reported later by phone. "I've figured it out. Let me come over and show you this list I've got." He soon came barreling in, sweaty but enthusiastic that he had an explanation.

"Look, here it is," Livingstone said, pointing to Billy Dale's name on a multi-paged list. "There's his name. This is the Update Project."

Sherburne glanced at some of the other names on the first page. James Addison Baker. Was that the former secretary of state in the Bush administration? Anthony Blankley. The same Tony Blankley press secretary to House Speaker Newt Gingrich? Why would these former officials, prominent Republicans, need regular access to the Clinton White House? "Wait a minute," she said, "did you get all of these?"

"Yes."

"You mean this administration asked the FBI for all these files?"

"Yes."

"You mean we have them?" It looked like there were several hundred on the list.

"Yes." Livingstone said they were archived up in records management on the top floor of the Old Executive Office Building.

Sherburne went upstairs to find Ickes. This screwup was so bad, it had to be a mistake, she thought. Who would ever be so stupid? She explained the situation to Ickes, who started laughing at the absurdity. After Sherburne's report, Ickes marched her down to chief of staff Panetta's office, grabbing Stephanopoulos on the way. Sherburne had not been on top of the situation. She didn't know what they had sent to Clinger, who was now clobbering them with Billy Dale. From Panetta's office, Sherburne called one of the lawyers, Sally Paxton, to ask her to go up to the old records management office and get the boxes, to make sure that in fact they did exist, that the White House had hundreds of FBI files on Republicans.

Paxton soon reported that they did. The files were detailed bureaucratic summaries for all the FBI information that might be relevant. They included derogatory allegations that might come only from one source, a neighbor or co-worker, at times unnamed, raw and unverified allegations.

Who had made these requests to the FBI? Quinn wanted to

know. Bernie Nussbaum's name appeared on the request for Billy Dale's file at a time when Nussbaum had been counsel, the lawyers in his office explained. There was a form sent to the FBI liaison. Quinn had never heard or seen the form. "You mean that requests to the FBI go out in my name as counsel that I never see?"

Yes.

"That ends today," Quinn said.

Quinn also suggested that Sherburne call the FBI general counsel, Howard Shapiro, and send the files back. Sherburne reached Shapiro.

"I'll send someone over tomorrow," Shapiro said.

"No, no, now," Sherburne said. "I really don't want these here, now that I know they exist." Next, Sherburne called Paxton, who reported the files were in five or six boxes.

"Don't touch it," she said, "don't open them." The FBI was on the way. "We're going to wait until these guys get here." The records management people were nonpolitical civil servants, she noted. "Make sure those records management people never leave the room when you're in it."

The FBI agents came, put on rubber gloves and did an inventory of the records. The records personnel signed affidavits, and the boxes were carried back to the FBI.

The next morning, Panetta, Ickes, Stephanopoulos and Sherburne went to inform the president.

"What?" Clinton said. He disparaged the terrible ineptitude of the first year and a half of his administration.

Panetta, who had come in as chief of staff after those first 18 months, joined in the criticism.

Clinton blew up. Here were the travel office firings, like old ghosts, jumping out of the closet again. What was the explanation? Sherburne said she didn't have one.

Clinton interrogated her. Why didn't they know what happened?

The only way to stop his anger was to be blunt. "If I had an answer, Mr. President," she said, "I'd give it to you, but I can't make it up."

They discussed what the president's public response might be. Because of the uproar, he was going to have to say something. Stephanopoulos had already sought to frame it as a bureaucratic blunder. The president was scornful of that approach.

Sherburne still thought it was too fantastic for anyone to believe it had been done intentionally.

No, no, Clinton said. This file-gathering was going to be a mess, another big mess.

Mark Fabiani was worried that they didn't have it nailed down, not even close. He refused to make a statement in his name. But the pressure to say something was intense, and so Sherburne issued the statement in her name later that day, June 5. "We believe Mr. Dale's records may have mistakenly been sought," she said.

Sherburne informed Hillary about the discovery of the FBI files.

"You know," the first lady said, "before this is over I'm going to be responsible for this too."

"Oh, come on! You're not anywhere near this."

"Just wait," Hillary said, "they'll find a way."

At one White House meeting, the president asked, "Why aren't we investigating this?" He again wanted to know what had happened. But a White House self-investigation was no longer possible, as the travel office fiasco had proven.

Attorney General Reno immediately announced that her deputy, Jamie Gorelick, would coordinate a review of how Billy Dale's FBI file was sent to the White House so long after his dismissal. Gorelick had been a white-collar criminal defense attorney for 18 years at the firm of Jack Miller, private attorney for Richard Nixon. Prior to becoming deputy attorney general in 1994, Gorelick had served for a year as general counsel at the Defense Department.

At the Pentagon she had found that the principle of civilian control was ingrained in even the most crusty and hidebound generals and admirals. One of her jobs as deputy in the Justice Department was liaison with the FBI. Unlike the military, the FBI viewed itself as an independent power, the neutral investigative arbiter. It had badly in the Watergate investigation when Nixon and his White House had manipulated and attempted to control the bureau, he FBI bristled at direction from the Justice Department or the White House. FBI Director Louis Freeh regularly proclaimed that he had institutional interests and had to protect the FBI scrupulously from the slightest appearance of political taint. Freeh assigned his general counsel, Howard Shapiro, to investigate, and a team set out to try to figure out what happened.

Freeh presented his findings on Friday, June 14. Gorelick read the report, and it showed, conclusively in her opinion, that there was no political motive.

Gorelick was surprised to hear Freeh was issuing an accompa-

nying statement on the inquiry. She hadn't known the FBI director was going to comment publicly. She read the statement. "Unfortunately, the FBI and I were victimized," Freeh said. "I promise the American people that it will not happen again on my watch."

The Republicans were already having a field day with the issue. Now the FBI was proclaiming it had been "victimized." The White House was stunned, and Mike McCurry said publicly he did not understand the FBI statement.

Gorelick, who has a bad temper, was furious when she reached Freeh. She pointed out that his statement about being "victimized" was inconsistent with his own report. "This is not right!" she yelled at the director.

Freeh said he did not know about the statement himself. Someone in the bureau press office had drafted and released it.

"Fix it!" Gorelick shouted.

Within hours, Freeh issued a clarification. "The FBI and I fell victim to my lack of vigilance," he said, taking responsibility.

Because Starr had jurisdiction in the travel office investigation since the Watkins memo had been found six months before, he had his deputies do a preliminary study of the Billy Dale FBI file issue. Starr decided he didn't want to go further and issued a statement that someone else should be assigned. He had enough work.

Reno and Gorelick concluded that the solution was a quick, credible and thorough investigation that would be made public. But everyone was hopelessly compromised. The FBI couldn't investigate itself. The White House was at the center, and the Justice Department also would have zero credibility investigating its own bureau or the White House.

"This is impossible," Reno told Gorelick. Experts in the criminal division noted that many of the witnesses in the FBI files were already being interrogated by Starr in his probe of the travel office. They didn't want two prosecutors stumbling over the same witnesses.

At 7 a.m., Gorelick called John Bates in Starr's office. It would be impossible for anyone else, she said. Reno needed Starr to take full jurisdiction to investigate the entire FBI files question.

Starr found it hard to say no to the attorney general.

On June 20, Reno made application to the three-judge panel, requesting that the FBI files be assigned to Starr. The next day the three-judge panel agreed and issued the order.

Once again, the third time that year, Starr was obliged to change his structure and increase his staff.