

ADDITIONAL VIEWS OF HON. WILLIAM F. CLINGER, JR.,
HON. BENJAMIN A. GILMAN, HON. CONSTANCE A.
MORELLA, HON. JOHN L. MICA, AND HON. DICK CHRYS-
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Nothing in the hearing record or the entire course of our inquiry into this matter has established any improper contacts, dealings, or relationship whatsoever, between FBI Director Louis Freeh and former White House Security Director Craig Livingstone.

Neither, is there any evidence of anything in the record of our inquiry (particularly as relates to the subject matter of the inappropriate disclosure by FBI General Counsel Howard Shapiro to the White House), which indicates any intent whatsoever by Director Freeh to protect the President or Mrs. Clinton in this matter.

FBI General Counsel Shapiro's lack of judgement in an ill advised disclosure to the White House, should not be viewed as reflecting adversely on the professionalism or independence of Director Louis Freeh, nor the many dedicated men and women of the FBI, who proudly serve our Nation so well, each and every day.

In addition, we recommend that in the future, all supervisory, operational, and line positions, including that of general counsel at the FBI, shall be filled solely by FBI agent personnel.

HON. WILLIAM F. CLINGER, JR.
HON. BENJAMIN A. GILMAN.
HON. CONSTANCE A. MORELLA.
HON. JOHN L. MICA.
HON. DICK CHRYSLER.

MINORITY VIEWS OF HON. CARDISS COLLINS, HON. HENRY A. WAXMAN, HON. TOM LANTOS, HON. ROBERT E. WISE, JR., HON. MAJOR R. OWENS, HON. EDOLPHUS TOWNS, HON. JOHN M. SPRATT, JR., HON. LOUISE MCINTOSH SLAUGHTER, HON. PAUL E. KANJORSKI, HON. GARY A. CONDIT, HON. COLLIN C. PETERSON, HON. KAREN L. THURMAN, HON. CAROLYN B. MALONEY, HON. THOMAS M. BARRETT, HON. BARBARA-ROSE COLLINS, HON. ELEANOR HOLMES NORTON, HON. JAMES P. MORAN, HON. GENE GREEN, HON. CARRIE P. MEEK, HON. CHAKA FATTAH, HON. BILL K. BREWSTER, HON. TIM HOLDEN, AND HON. ELIJAH E. CUMMINGS

We agree that the requests by White House staff for files on former employees were wrong, and we have supported the committee's efforts to investigate the reasons for and circumstances surrounding the obtaining of these records from the FBI. The issue for this committee is whether the files were requested for political purposes with the intent of getting damaging information on these former employees, or instead were requested as the result of errors.

After taking sworn depositions from dozens of present and former White House employees, the committee has uncovered no evidence that the individual who requested the files had been ordered to purposely obtain them by higher-ups in the Clinton administration. Nor has it uncovered any evidence that anyone higher than Craig Livingstone was aware that the files had been improperly requested. Even more importantly, the committee has no evidence that the files were improperly disclosed to anyone outside the White House Personnel Security Office.

If the majority had issued an honest report by pointing out the deficiencies of the Office of Personnel Security while acknowledging the lack of evidence that it was anything more than a bureaucratic mistake, we would have supported it. But when the majority makes such reckless findings as that this somehow "leads to the possibility that the Clinton Administration was attempting to prepare a political 'hit list,'" without even a shred of evidence or testimony supporting that charge, we can only conclude that honesty is not in the majority's vocabulary. This report is yet another blow to this committee's long tradition of oversight which is honest, fair, non-partisan, and credible.

In addition, the majority's claim that the FBI files would not have been revealed without the committee's threat of contempt is disingenuous and inaccurate. The White House never exerted a claim of privilege over the Dale FBI file, and the majority report's allegation of White House stonewalling is no more credible here than it was in the Travel Office report.

Further, the majority's shameless attack on FBI General Counsel Howard Shapiro, a career, non-partisan law enforcement professional with unimpeachable credentials, for actions which were clearly appropriate, is outrageous and an embarrassment to the committee. If the majority believes that Mr. Shapiro should resign for disclosing what it claims was "confidential law enforcement information," then Chairman Clinger should also resign for disclosing that very information in a public statement on the House Floor. It is transparently obvious that the majority is angry at Mr. Shapiro only because his efforts to act in a fair and non-partisan manner thwarted its attempt to score points in the press.

For these reasons, we strongly dissent.

We in the minority have addressed the problems identified in the FBI's report, "The Dissemination of FBI File Information to the White House" in order to guarantee that this sort of potential invasion of privacy could not happen again. We support the bill introduced by Ranking Minority Member Cardiss Collins, H.R. 3785, the Background Security Records Act of 1996, to ensure that FBI records containing sensitive background security information provided to the White House are properly protected for privacy and security.

The bill would amend both the Privacy Act and the Presidential Records Act to enact procedural safeguards so that individuals could be certain their confidential background files would not be disseminated without their permission. If the majority were truly interested in conducting responsible oversight and addressing these types of problems, they would support these types of meaningful legislative reforms. Instead, they are intent on turning this serious issue into partisan politics. The Republicans have also refused to hold even a single hearing on the bill.

WHAT THE COMMITTEE HEARINGS REVEALED

The committee's hearings revealed a number of relevant facts about the FBI files. We learned that it was standard practice for each administration to engage in what is now known as the Update Project—that is, the recreation of personnel security files for hold-over employees from the previous administration. This was required, because each administration removes all of its files when it leaves office. The procedure for requesting files was to use a preprinted Xeroxed form with the name of the White House Counsel typed at the top, but requiring no signature. These forms date back 30 years to the Johnson administration. This procedure was, as the FBI found, ripe for abuse, and it now appears that these forms were inadvertently used to obtain the FBI files on former employees. The White House has taken unprecedented steps to change these procedures and bring accountability to the process, but the files were already requested.

Witnesses interviewed by the committee could only speculate on the reasons for what happened. A common theme expressed by Bush administration White House Counsel C. Boyden Gray and Nancy Gemmell, a longtime-aide in the Personnel Security Office, was that the use of detailees and interns with insufficient background in security or name recognition was a key problem.¹ We agree. Security work is extremely sensitive, but there appears to have been an extremely lax attitude in the treatment of FBI files.

One important witness was Lisa Wetzl, who was the first to discover that Anthony Marceca had requested "too many files", meaning those no longer employed by the White House. Ms. Wetzl notified her supervisor, Craig Livingstone, of that fact, and proceeded to determine which of the files involved employees no longer working in the White House. Although the files should have been returned to the FBI, they were boxed and apparently indexed and placed in the White House archives, where there is no evidence they were seen again, with the apparent exception of files for active employees mistakenly placed there.

Ms. Wetzl's testimony is extremely relevant, because she has stated that when she worked on the Update Project after Mr. Marceca, she requested a Secret Service list of employees holding active passes. In her view, the list was out-of-date, and required cross-checking with offices. She also recalls seeing an out-of-date Secret Service list, which she believes was requested by Ms. Gemmell, and used by Ms. Gemmell to prepare requests to the FBI, and that the list may have had the names of Marlin Fitzwater and James Baker.

On June 20, 1996, Secret Service witnesses testified before the Senate Judiciary Committee that they did not believe the list was generated by them, but the actual evidence suggests a less clear picture. For example, during the committee's depositions of Secret Service witnesses, it was noted that in one case, the White House requested the previous report on a person named Agin—"A" "G" "I" "N". It now appears that there was no such person. The correct individual was named Hagin—"H" "A" "G" "I" "N". It just so happens that a Secret Service list from 1993 also listed the individual as Agin, with a space rather than an "H" at the beginning of the name.

The significance of this fact is that it suggests that the White House Office of Personnel Security was in fact working off of some Secret Service list, and not a list it generated. This was further confirmed by Ms. Wetzl, who recalled both Ms. Gemmell and Mr. Marceca working off a list with the distinctive green and white computer paper used by the Secret Service.

The Senate hearing also showed other problems with the Secret Service lists. For example, in what was described as a "computer glitch", names that were being deactivated from one Secret Service passholder list were not automatically being deactivated from another list. The committee also received a list from the White House dated March 31, 1993, which may have been generated by the Secret Service. That list is entitled "E-Pass Possible Admin Holdover

¹It should be noted that neither Ms. Gemmell nor Jane Dannenhauer, Mr. Livingstone's predecessor, had any background in security issues.

Passholders by Name", and includes among other names, George Bush, James Baker, and Marlin Fitzwater.

In addition, the committee received a list generated in February 1994 as part of an effort to develop a list of White House staff for such things as invitations to the White House Easter Egg Roll. That list has names such as Spencer Abraham and James Baker as working in the White House. The source of the names is listed as the Secret Service. A follow-up agenda from a July 7, 1994, meeting between White House personnel and Secret Service shows a complaint that former employees, such as James Baker, continued to show up on Secret Service lists.

The other interesting fact about the FBI files requests is that the requests were made for all other offices, such as GSA, before any requests were made for White House staff. If there were an underhanded effort to get the files on former White House employees, presumably those files would have been requested first and not last.

CHAIRMAN CLINGER'S DISCLOSURES

Ironically, the only public disclosure of an FBI background file to date has been Chairman Clinger's disclosure on the House Floor of the contents of the FBI file on Craig Livingstone, which he was permitted to review by the FBI. Contained within this file was the summary report by Special Agent Dennis Sculimbrene that White House Counsel Bernard Nussbaum told him that Craig Livingstone had the backing of the First Lady, who was a friend of Livingstone's mother.

This tidbit was the first item of news from our investigations and hearings on the FBI files that the chairman deemed important enough to take to the House Floor. The chairman's special order insinuated that Bernard Nussbaum, Craig Livingstone, William Kennedy and the First Lady must have lied, because they had denied this allegation.

Perhaps the chairman was just raising an issue for investigation; but that could have been done in a letter to the Independent Counsel. We can only conclude that the clear purpose of the Floor statement was to plant in the minds of the American people the unsubstantiated thought that the First Family and all of their lawyers were lying about this matter. Indeed, who after watching this special order wouldn't think they were lying and raise the question of why an FBI agent would write this note if it weren't true?

Yet, just like every other time that there has been a wild, unsubstantiated accusation hurled at the occupants of the White House, only half the facts were released. In this case, neither House Members on the Floor nor the public who was watching were given information on the credibility of the agent who had written the note.

The allegation that Mrs. Clinton was behind the hiring of Craig Livingstone and knew his mother was hardly news. Agent Gary Aldrich, a friend and colleague of Mr. Sculimbrene, had made the charge in the Wall Street Journal and in his widely discredited book, *Unlimited Access*. The allegation had also appeared in the Wall Street Journal on June 25, but in this case, Mr. Sculimbrene was reported to have attributed the remark not to Mr. Nussbaum, but to William Kennedy and Craig Livingstone.

Then on July 15, in what the chairman described in his letter to Ranking Minority Member Collins not as a deposition under Rule 19 of the committee rules, which requires 3 days written notice, but something called a "sworn interview," Mr. Sculimbrene told the majority staff that it was Mr. Livingstone who actually told him this fact. He also said he did not put the statement in Mr. Livingstone's background file.

Mr. Sculimbrene in fact has told numerous stories about how he came to know this so-called fact. We might have never known about the discrepancies in Mr. Sculimbrene's statements to the majority staff in his interview, if the minority had not insisted on getting the transcript, which the majority had initially refused to provide. In assessing Agent Sculimbrene's credibility, we must also look at an FBI memo in the committee's possession, in which Special Agent David Bowie stated that Mr. Sculimbrene's behavior was "abnormal and indeed irrational" in a conversation with him. Agent Sculimbrene, who is described in the memo as a close personal friend of fired Travel Office head Billy Dale, is recalled as "voicing very bitter political feelings against the Clinton White House." Agent Bowie expressed his concern that Sculimbrene, who appeared as a defense witness at the Dale trial, might "provide erroneous testimony."

We cannot help but wonder why, if this allegation was truly troublesome, the committee's investigators did not go to Craig Livingstone's mother, Gloria, to ask her directly whether she knew the First Lady. She has subsequently denied that she does. Perhaps a cursory review of her background could have revealed if there were any truth to the allegation. We suspect the reason was obvious—they knew she would deny it, and they knew that the more they investigated this matter, the more implausible the allegation would become.

We must also address the issues of whether the FBI should have told the White House about the existence of this summary in the file, the majority's finding that FBI General Counsel Howard Shapiro provided confidential FBI law enforcement information to the White House, and the majority's shameless demand that he resign.

First, it is obvious that the reason the majority was upset about the notification is simply that the White House had an opportunity to present its side of the story at the same time the chairman went to the Floor, as opposed to a day later. There is little doubt that the other side of the story would not have been released by the chairman and become available to the White House.

Second, the notion that the information was confidential law enforcement information which should not have been shared with the White House is absurd. The information, as is standard practice, was gathered at the specific request of the White House in order to determine whether Mr. Livingstone was suitable for employment. It was not part of some sort of criminal investigation. A summary of that information, including any derogatory information, had already been provided to the White House. The information which Mr. Shapiro communicated to the White House was not derogatory, nor was it confidential as far as the White House was concerned.