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104th Congress, 2nd Session – – – – – – – – – – – House Report 104–849

INVESTIGATION OF THE WHITE HOUSE TRAVEL OFFICE FIRINGS AND RELATED MATTERS

FIFTEENTH REPORT

BY THE

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

together with

MINORITY AND ADDITIONAL VIEWS

SEPTEMBER 26, 1996.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES,
Washington, DC, September 26, 1996.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: By direction of the Committee on Government Reform and Oversight, I submit herewith the committee's fifteenth report to the 104th Congress.

WILLIAM F. CLINGER, Jr., *Chairman.*

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104TH CONGRESS, *2nd Session* | HOUSE OF REPRESENTATIVES | REPORT 104–849

INVESTIGATION OF THE WHITE HOUSE TRAVEL OFFICE FIRINGS AND RELATED MATTERS

SEPTEMBER 26, 1996.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CLINGER, from the Committee on Government Reform and Oversight, submitted the following

FIFTEENTH REPORT

together with

MINORITY AND ADDITIONAL VIEWS

On September 18, 1996, the Committee on Government Reform and Oversight approved and adopted a report entitled "Investigation of the White House Travel Office Firings and Related Matters." The chairman was directed to transmit a copy to the Speaker of the House.

INTRODUCTION

In order to establish a baseline for examining the facts compiled by the committee, it is useful to begin with the statements uttered by the President early on in his administration. It is also useful to measure the statements against his deeds. This will provide the public with a proper measure for determining the success of this President in resolving issues in his own backyard—in particular this issue known as "Travelgate." As President Clinton stated himself when this matter first come to light, "Look at the facts, evaluate the facts, and draw your own conclusions." [1]

"It will be a great story [firing the Travel Office employees]—Bill Clinton cleaning up the White House."

[1] Transcript of remarks by President Clinton, May 21, 1993.

—Harry Thomason, May 1993 in a conversation with White House aide Jennifer O'Connor.

"May 12, p.m.—Thomason comes back in DW's [office]—says he bumped into Hillary and she's ready to *fire* them *all that day.*

—David Watkins notes of May 31, 1993 discussing contacts on the Travel Office.

"Harry says his people can run things better; save money, etc. And besides we need those people out—we need our people in—We need the slots— . . . Is the real story to be told?"

—David Watkins notes of a conversation with the First Lady on May 14, 1993.

"If we do any kind of report & fail to address these q[uestion]s, press jumps on you wanting to know answers; while if you give answers that aren't fully honest (e.g., nothing re HRC) you risk hugely compounding the problem by getting caught in half-truths. You run risk of turning this into a 'coverup'."

—Todd Stern, co-author of the White House Management Review of the Travel Office firings.

"Defend management decision, thereby defend HRC role whatever it is, was in fact or might have been misperceived to be."

—Vincent Foster, July 1993.

"Bernie, are you hiding something?"

—Former Deputy Attorney General Philip Heymann in a conversation with Bernard Nussbaum following Nussbaum's refusal to allow law enforcement authorities to review Foster's documents, July 1993.

I. Summary Overview

Travelgate is a story about the failure of the Clinton White House to live up to the ethical standards expected of the highest office in the land. The wrongdoing of this administration lies not in the firings of the seven Travel Office employees. They served at the pleasure of the President. If the President chose to fire them to reward political cronies, that was his prerogative. And he must reap the consequences.

Rather, the wrongdoing occurred after the firings. It resulted from a desire to hide the truth about who actually fired them and why.

The committee spent 3½ years investigating not just who fired them and why, but the wrongdoing that followed. The resulting mosaic pieced together from the facts uncovered reveals the answers the White House refused to disclose. In the end, the actions of the Clinton administration following the firings may have a lasting and damaging impact on the Office of the Presidency.

The committee has found that the motive for the firings was political cronyism: the President sought to reward his friend, Harry Thomason, with the spoils of the White House travel business. A pretext for the firings was created, and the trigger was pulled.

When the public reacted to the firing with outrage, the roles of the President, First Lady and Thomason were minimized as the White House staff engaged in a colossal damage-control effort.

First, it had to portray the victims of the firings as the wrongdoers. This was achieved by White House officials unleashing the full powers of the Federal Government against the seven former

workers. The extraordinary might of the Federal Bureau of Investigation, the Internal Revenue Service and the Department of Justice—not to mention the prestige of the White House itself—all were brought to bear. These actions constitute a gross abuse of the rights of seven American citizens and their families.

Second, an enormous and elaborate cover-up operation, housed in the White House Counsel's Office, sought to prevent numerous investigations from discovering not only the roles of who fired the workers and why, but also their efforts to persecute the victims. In the process, the administration may have severely damaged the credibility and prestige of the White House: it obstructed and frustrated all investigations; it turned the Office of the White House Counsel into a political damage-control operation; it made frivolous claims of executive privilege; it abused its powers to smear innocent citizens; and most important, it failed to level with the American people.

As a result, it is the committee's view that the White House stands in contempt of its own constitutional responsibilities to faithfully uphold and execute the Constitution and laws of the Nation. Never before has a President and his staff done so much to cover up improper actions and hinder the public's right to learn the truth. The following chapters reveal the facts that tell this story.

A. THE WHITE HOUSE STONEWALLED ALL INVESTIGATIONS INTO THE WHITE HOUSE TRAVEL OFFICE FIRINGS AND RELATED MATTERS

Three and a half years ago, the friends of Webb Hubbell,[2] David Watkins,[3] Jim and Susan McDougal,[4] Mike Espy,[5] Harold Ickes,[6] Bruce Lindsey,[7] Bernard Nussbaum,[8] Susan Thomases,[9] Jim Guy

[2] The former Associate Attorney General for the Clinton administration convicted of tax evasion and mail fraud for stealing money from clients of the Rose Law Firm which included the Federal Government.

[3] The former White House administrator who resigned in May 1994 after using a Presidential helicopter to play golf. The cost of the flight was estimated at more than $13,000.

[4] The former business partners and good friends of Bill and Hillary Clinton. James McDougal was convicted in June 1996 on 18 counts of bank fraud and conspiracy. His ex-wife Susan McDougal was convicted in June 1996 on 4 counts of bank fraud and conspiracy.

[5] The former Clinton Agriculture Secretary who resigned December 31, 1994, due to potential conflicts of interest relating to his relationship with the poultry industry (specifically Tyson Foods). The appointment of an Independent Counsel in October 1994, spurred Espy's resignation.

[6] Currently the White House Deputy Chief of Staff. Ickes was the lawyer for LIUNA (Laborers' International Union of North America), a union investigated by the Justice Department for alleged mob activity.

[7] Deputy White House Counsel, close advisor to President Clinton and unindicted co-conspirator in Independent Counsel Starr's prosecution of Arkansas bankers, Hill and Branscum. Lindsey was alleged to have distributed funds from Arkansas Banks for Clinton gubernatorial campaign.

[8] The controversial first Clinton White House Counsel who presided over numerous administration debacles, including Travelgate, and resigned in March 1994 following the issuance of numerous Whitewater subpoenas to the White House.

[9] Close friend and advisor to Mrs. Clinton. Thomases was allegedly involved in advising Bernard Nussbaum that Mrs. Clinton was concerned about law enforcement officials having "unfettered access" to Foster's office following his death.

Tucker,[10] Craig Livingstone,[11] Bill Kennedy,[12] and Dick Morris[13] came to Washington vowing to provide the "most ethical" administration in the history of the Republic.[14] One of their first targets in allegedly "cleaning up" Washington was the small, tucked-away White House Travel Office, where then-Director Billy Dale had served for over 30 years through eight Presidents and had voted for the new President, William Jefferson Clinton. Before long, Bill Clinton, who campaigned on the mantra, "I feel your pain," caused a great deal of pain in the lives of seven career Government employees as well as countless others caught up in the events known as "Travelgate."

Because the White House has gone to great lengths to prevent this committee from investigating the Travelgate matter, the committee must ask: Why have so many on the Government payroll at the White House worked so hard for so long to keep the real story about the Travel Office firings and related events from the American people? Why, to use the words of a senior White House official, did the President "run the risk of turning this into a cover-up?"[15] Why did the President ultimately resort to the most frivolous claim of executive privilege rivaling even the Nixon administration in his determined efforts to delay this investigation and push it into the political season? Why did the White House hide the fact of President Clinton's knowledge of the firings before they occurred?

The Committee on Government Reform and Oversight has discovered endless cover-ups hidden within cover-ups. One of President Clinton's lawyers offered a prophetic rationale as to why the White House continues to keep matters under wraps. In typed notes over which President Clinton claimed executive privilege, a White House Counsel tellingly quoted William Safire:

> No politician is stupid enough to hide something when he has nothing to hide.[16]

The evasiveness with which President Clinton's lawyers have dealt with congressional investigators for more than 3 years presented the committee with the following dilemma: If there really is nothing there, why are the President's lawyers working so hard to hide something?

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[10] The former Governor of Arkansas who resigned after his conviction for obtaining illegal loans from David Hale. His prison term was suspended pending his good behavior while on probation.

[11] The ex-bar bouncer who was brought to the White House to direct the Office of Personnel Security after serving on the Clinton/Gore campaign as senior consultant on "counter events operations" including the "deployment" of "Chicken George." Livingstone reportedly hurled racial epithets at a senior aide to Representative Floyd Flake earlier this year and in 1993 threatened to "punch in" the face of a female neighbor. Mr. Livingstone resigned in the wake of the FBI files matter while appearing before this committee on June 26, 1996.

[12] Former associate counsel who was and is a partner in Mrs. Clinton's former law firm. Mr. Kennedy was Craig Livingstone's boss and distinguished himself by failing to obtain passes for White House officials in a timely fashion and neglecting to report his "nanny tax" problem when he joined the White House staff. Mr. Kennedy resigned in November 1994.

[13] Resigned from the Clinton/Gore '96 Campaign amidst reports that he had a year-long relationship with a Virginia call girl in his official office/suite at the Jefferson Hotel. Reported to have told $200-an-hour prostitute Sherry Rowlands that a paranoid Mrs. Clinton ordered the FBI files of Republicans for review by the Clinton White House. Mr. Morris claims he was only talking about "polling data" which indicated the American people thought Mrs. Clinton was behind the FBI files matter.

[14] Bill Clinton 1992 campaign statement.

[15] Handwritten notes of Deputy Staff Secretary Todd Stern, May 27, 1993, CGEPR 682–683.

[16] "Whitewater Potential Questions" prepared by White House Counsel's office, DF 781532.

We learned that the lives of seven innocent long-time career Government employees were shattered, their reputations smeared, to make way for the ambitions and arrogance of the President's friends and family. We learned that the FBI and IRS became involved in this matter because of Harry Thomason's false allegations that Travel Office Director Billy Dale received illegal "kickbacks" from a charter airline company. The White House knew very quickly that the alleged source of the kickback charges denied ever making them. But upon learning this fact, the White House did nothing to correct the public record it had created through misinformation.

In fact, long after President Clinton's White House staff knew the allegations were false, they continued in their efforts to make a case against the beleaguered and increasingly impoverished Billy Dale. The Department of Justice ("DOJ") case, *U.S.* v. *Billy Ray Dale,* was sorely lacking in evidence. It was compromised by missing records that had not been secured by the Clinton White House or the Justice Department.

It was obvious, even to Justice Department prosecutors, that they had no witnesses who could provide any derogatory information about Billy Dale. Finally, they were left only with the dubious claim that the notoriously frugal Mr. Dale lived a "lavish lifestyle." The prosecution revealed to the jury the "scandalous" evidence that Mrs. Dale went to a hairdresser and purchased large quantities of groceries for the Lake Anne vacation home the two-career Dales saved many years to build and enjoy. Predictably, Dale was acquitted in less than 2 hours by a jury of his peers.

Unfortunately, Mr. Dale's speedy acquittal did not put an end to his 3-year ordeal. The IRS pursued Dale, threatening income tax audits. The IRS also was busy in Smyrna, TN auditing the company that did business with Mr. Dale at the Travel Office, UltrAir.

Only recently was Mr. Dale given a clean bill of health by the Internal Revenue Service after 3 years of intense scrutiny. UltrAir had no tax liability and an owner of UltrAir received a $5,000 refund before the IRS gave up its search for any shred of evidence to justify its harassment of this small struggling business.

We learned that the individual responsible for "securing" the Travel Office on the day of the firings and maintaining the records was none other than the now famous ex-bouncer and political operative, Craig Livingstone, former Director of the White House Security Office.[17] Mr. Livingstone was the same individual seen by Secret Service Agent Bruce Abbott removing boxes of documents from the White House the morning after Vince Foster's death in July 1993.

The much-heralded White House Management Review (hereinafter "WHMR") proved to be nothing more than a whitewash overseen by then-Chief of Staff and childhood friend of Bill Clinton, Mack McLarty, the very person who had authorized the Travel Office firings. In the course of the committee investigation, evidence of a vast cover-up of President Clinton's knowledge and dealings with his close friend Harry Thomason as well as his staff's deliberate minimization of Hillary Clinton's role emerged and still continues to unfold.

[17] Committee deposition of Craig Livingstone, March 22, 1996 p. 115.

We learned that access does indeed have its privileges. For the seven fired White House Travel Office employees, this meant they had to be moved out of the picture to make way for President Clinton's Hollywood connection, Harry Thomason. The committee obtained evidence that President Clinton personally gave the nod for Harry Thomason to come to the White House to work on the "Image Project"—not Political Director Rahm Emanuel as has been represented by the White House. We learned that having powerful friends and the same lawyer as President Clinton can make for timid prosecutors.[18]

We learned that a long-hidden memo by a key figure in the Travel Office affair, David Watkins, disclosed that Hillary Clinton, based upon information provided by Harry Thomason, pressured senior White House aides for the firings.[19] Despite President Clinton's misleading press accounts that he knew little about the firings, we learned Bill Clinton actually was briefed on the firings 2 days *before* they occurred.[20] And then-Assistant to President Clinton for Management and Administration, David Watkins reluctantly became the designated fall guy for the firings in order to protect the higher-ups who had directed his actions.

We learned of the long-hidden notebook kept by Vincent Foster had been in the office of White House Counsel Bernard Nussbaum following Mr. Foster's death. The notebook chronicled Mr. Foster's anguish over Hillary Clinton's role in the firings, Harry Thomason's potential criminal liability, and whether the White House scandal containment strategy could be maintained to stop at the level of David Watkins.

We learned that Mrs. Clinton directed President Clinton's Chief of Staff, Mack McLarty *not* to tell President Clinton about the torn up "suicide" note found in Vincent Foster's briefcase on July 26th, 6 days after his death. Mrs. Clinton instructed the President's senior aides to wait until a "coherent position" was developed before informing the President.[21] The note was essentially an outline of a defense of the Travel Office firings. When it took more than a day to turn the note over to the proper law enforcement authorities, both the Attorney General and Deputy Attorney General were so concerned that the Deputy Attorney General immediately initiated an FBI investigation into the delay in turning over the note.[22] In the investigation of the delay, no one mentioned Mrs. Clinton's in-

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[18] President Clinton's personal defense lawyer, Robert Bennett, who handles the *Paula Jones* case, also represents "Friend of Bill" Harry Thomason in both criminal and civil matters. Deputy Chief of Staff Harold Ickes is another of the colorful clients responsible for monopolizing Bennett's legal dance card.

[19] Undated memorandum by David Watkins entitled "Response to Internal White House Travel Office Management Review," (otherwise known as the "Watkins soul-cleansing memo"), White House document production Bates Stamp No. CGE 012286–012294. (Hereinafter document numbers preceded by "CGE", "CGEPR", or "DF" indicate White House documents.)

[20] White House Management Review interview notes of Bruce Lindsey, June 9, 1993, CGEPR 331–334.

[21] White House debriefing of David Gergen's attorney Andy Krulwich, by Miriam Nemetz, July 13, 1995. The debriefing pertained to David Gergen's deposition before the Senate Whitewater Committee on July 12, 1995, DF 781220–781224.

[22] "Vincent Foster, Jr., Deputy White House Counsel to the President—Victim; 7/20/93," by Special Agent Scott M. Salter, 7/29/93–8/9/93. The report was made to the Deputy Attorney General who requested the FBI to enter the captioned investigation and to "focus FBI efforts on the turning over of a note found in the office of Vincent W. Foster."

volvement in reviewing the note or recommending a delay in turning it over.[23]

We learned of the existence of a letter long withheld from all investigators which David Watkins wrote to "Hillary." In that letter, Watkins lamented that the GAO revealed conversations that Watkins had with Mrs. Clinton. Mr. Watkins assured Mrs. Clinton that he knew who his "client" was and regretted revealing that Mrs. Clinton told him she wanted "those people out" and "our people in."[24]

After a long battle to obtain responsive subpoenaed documents, White House Counsel to the President Jack Quinn finally turned over documents one of which led us to discover that hundreds of FBI files of Reagan and Bush officials, including that of former Travel Office Director Billy Dale, were wrongfully requisitioned from the FBI in 1993 and 1994 by two political operatives, Craig Livingstone and his sidekick Anthony Marceca, who had specialized in opposition research for the Democratic Party.

We now know that the individual placed by President Clinton in charge of the FBI files was the very same individual whom the White House had put in charge of securing the Travel Office records on the day of the firings—the now infamous security officer, Craig Livingstone.

We learned that the White House Counsel's office withheld Billy Dale's FBI background file for months misrepresenting it to the committee as a personnel file, effectively keeping the lid on the Filegate scandal.[25]

The fact that Craig Livingstone held the fate of Billy Dale and his colleagues in his hands, however, came as no surprise to Mr. Dale. He and his family were subjected to inexcusable, unending indignities by the Clinton White House, hounded by the servile Justice Department and the IRS. Mr. Dale was denied the opportunity to defend himself by a Department of Justice prosecutor who opposed Dale's defense motion to present facts detailing the missing Travel Office records. We know that the prosecutor himself told IRS investigators that records were missing, most likely removed by Presidential cousin Catherine Cornelius, who had designs on running the Travel Office.[26] Why didn't the Justice Department's prosecutor feel he had the same disclosure responsibilities to Mr. Dale as to other Government investigative units? This question never was answered.

Fortunately, Mr. Dale was acquitted despite the actions of the White House and the Justice Department. His colleagues were totally exonerated of any wrongdoing. Nevertheless, to this day, President Clinton continues to malign Mr. Dale and continues to exhibit an unusually thin-skinned response to press inquiries about this matter. In January of this year, White House Press Secretary

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[23] *Id.*

[24] Letter to Hillary Rodham Clinton from David Watkins, May 3, 1994, CGE 39294.

[25] Letter from White House Counsel Jack Quinn to Chairman Clinger, June 10, 1996. *But see*, conflicting testimony by Special Counsel to the President, Jane Sherburne in her committee deposition of July 23, 1996, p. 32. (Although Quinn, in his letter suggests that the White House knew of its possession of the Billy Dale FBI background file-referring to it as a "personnel file," Sherburne, in sworn testimony, stated unequivocally that she did not know of the existence of the file in February of this year.)

[26] IRS Agent Bruce Brown's memorandum of his discussion with DOJ Prosecutor Stuart Goldberg, August 16, 1993.

Mike McCurry gave his assurances that President Clinton would sign a bill to reimburse Billy Dale's legal expenses.[27] However, the President recently, and angrily, reneged on that promise.[28]

Although the committee has been far more successful in uncovering new information to explain these events than has any previous investigation, the disappearance of relevant documents, the selective amnesia among dozens of relevant witnesses and the sustained obstruction orchestrated by President Clinton's stable of White House lawyers, have kept the full story from being told. This continues to be the standard operating procedure of the Clinton White House to this day.

B. THE FULL COOPERATION PLEDGED BY THE PRESIDENT WAS A HOLLOW PROMISE [29]

The President's promise to cooperate fully with investigations into the Travel Office and related matters never was honored. Requested records never were appropriately provided to the Justice Department or any other investigative body over the course of numerous inquiries—including criminal investigations and the investigation by this committee.

Five separate investigations examined various aspects of the Travel Office firings. What all five previous investigations had in common was the White House's success in denying production of relevant documents to each of them. Such sustained obstruction over so long a period of time only could persist if directed from the very "highest levels." The buck stops at the President.

While this committee has been far more successful in obtaining relevant records than any other previous investigation, its painstaking efforts have met with obstruction from President Clinton's staff at every turn. As a result, in some areas the committee's investigation is still inconclusive. Since the firings and especially since the 1994 elections, the White House Counsel's office hired a team of lawyers for a major damage control operation which we have concluded focused on withholding from the committee documents related to Harry Thomason, Mrs. Clinton and President Clinton.

In January 1995, Congressman Clinger became the chairman of the new House Committee on Government Reform and Oversight and announced that a thorough investigation into the growing Travel Office scandal would be undertaken. Three hearings had been held and subpoenas were issued when documents suddenly materialized inside the White House that previously had been sub-

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[27] White House press briefing, January 30, 1996. (Q: "Would the President . . . sign . . . such a measure, were it to pass?" McCurry: "Yes, he would sign it.")

[28] In an August 1, 1996, press conference, Clinton addressed questions regarding his prior commitment to sign a bill, which would reimburse Billy Dale for $500,000 in legal fees Dale incurred in his defense. Clinton angrily declared, "I never gave my word on that." Referring to White House aides who have been asked to give testimony to this and other investigations, he snapped, "There are a lot of people who were never charged with anything, much less offering to plead guilty to anything . . . Are we going to pay their legal expenses, too?"

[29] January, 12, 1996, press briefing. (President Clinton, in answer to questions about Republican assertions that the White House has not been cooperative with probes into the Travel Office and Whitewater affairs, stated: "We're in the cooperation business. That's what we want to do." In a July 13, 1993 letter to Jack Brooks, President Clinton stated, "The Attorney General is in the process of reviewing any matters relating to the Travel Office and you can be assured that the Attorney General will have the Administration's full cooperation in investigating those matters which the Department wishes to review."

poenaed by other bodies and requested by the committee. On March 9, 1996, the U.S. House of Representatives by voice vote adopted House Resolution 369 which authorized committee staff to take depositions pursuant to a subpoena in the White House Travel Office matter.

The committee has deposed 72 witnesses, informally interviewed 23 witnesses, obtained 58,734 documents from the White House and approximately 45,000 documents from the Justice Department, Treasury Department and other agencies.

The committee was determined to ensure that the Clinton administration did not succeed in its attempt to derail this Travel Office investigation, as it had with every preceding investigation. Unfortunately, the committee found that issuance of subpoenas was not sufficient to ensure the production of all relevant records. It became necessary for the committee to take the rare action, holding White House Counsel John M. Quinn in contempt of Congress on May 9, 1996 by the committee. It was only after scheduling a May 30, 1996, House floor vote on the Resolution that the White House turned over 1,000 pages over which it initially had asserted were "subject to" executive privilege.

However, the White House continued to withhold 2,000 pages of documents. President Clinton asserted a blanket claim of executive privilege, stalling for time throughout the summer of 1996. The White House Counsel's Office/Chief of Staff's Sherburne "team" finally provided the committee with access to the 2,000 pages of overly-redacted documents only when a second threat of a House floor vote on contempt of Congress was made. Only at that point did President Clinton finally relinquish the outstanding subpoenaed documents to the committee on August 15, 1996. A date calculated to attract the least attention from the media as it was the same evening that Senator Dole accepted the Republican nomination for President.

Had the committee failed to pursue its right to obtain this information, its investigation would have been severely undermined and we never would have learned the key facts surrounding the termination of the seven Travel Office employees. We likely never would have uncovered the Clinton White House's receipt of hundreds of FBI background files or evidence of the vast White House cover-up of Travelgate and Filegate.

C. PRESIDENT CLINTON'S STAFF ENGAGED IN AN UNPRECEDENTED MISUSE OF EXECUTIVE POWER AND EXECUTIVE PRIVILEGE

From the start, the White House Travel Office matter has reflected a disturbing pattern of misuse of executive power and resistance by the White House to any type of public accountability for highly questionable activities. Ironically, while President Clinton preaches individual responsibility, he assembled a team of taxpayer-funded White House attorneys to evade accountability and avoid responsibility for his actions and those of his staff and advisors. President Clinton created his own personal legal defense team, the likes of which the Office of the President has never before seen.

We have learned through documents most reluctantly produced to the committee that President Clinton's White House Counsel

routinely engaged in the practice of debriefing witnesses' attorneys after giving sworn testimony. The witnesses, mostly current and former White House staff, included those being deposed by this and other committees as well as those testifying before criminal grand juries. This practice is unprecedented for any White House undergoing an investigation, and may result in the waiver of the attorney-client privilege in matters currently being investigated by the Independent Counsel.

In addition, other documents contained in the 2,000 were provided to the committee only after a threat of a congressional criminal contempt vote. These detailed scripts were created by White House Counsel for use by minority members of the committee to thwart this investigation. Such meticulous executive branch scripting for congressional hearings is something even the Nixon White House did not dare to undertake. The information from these debriefings and scripts demonstrates that the White House was privy to information which was inconsistent with public statements made by Clinton officials and even President Clinton and Mrs. Clinton.

It became clear that President Clinton ultimately had resorted to a blanket claim of executive privilege over these and other documents which clearly were not covered by any logical reading of the law of the privilege, in a last-ditch effort to forestall the committee's review of relevant documents.

D. THE CONSEQUENCES OF THE WHITE HOUSE'S COVER-UP HAVE BEEN DRAMATIC TO THE TRAVEL OFFICE EMPLOYEES, THE FOSTER FAMILY, AND ADMINISTRATION OFFICIALS IN PERSONAL, AS WELL AS IN INSTITUTIONAL TERMS

Undeniably, the Travel Office fiasco and the resulting cover-up have had sad and even tragic consequences. They caused irreparable damage to the lives and reputations of seven innocent Travel Office employees, led to numerous thwarted and even obstructed investigations, and it seems clear contributed to the depression and death of one of the central figures in the firings, former Deputy Counsel to the President, Vincent Foster.

The White House's reasons for obscuring facts, covering up the initial events and covering up the cover-ups, often were petty or otherwise reflected the vanity of a new administration refusing to admit its mistakes in the matter, or acknowledge inappropriate interference in other areas. In some cases, it was an administration seeking favors for friends that, if implemented, at the very least, would have crossed ethical lines. It is clear that once the "official" story was made public, any movement toward the truth brought the threat of damaging legal and political ramifications that the Clinton White House could not afford to risk.

The extensive documentary record constructed over the past year has dismantled the White House cover story. The committee sought records of meetings, phone logs, Secret Service logs and White House residence records that were the only way to fill in the missing memories of countless witnesses. While the recollections of witnesses frequently have been implausibly flawed, the documentary record often tells a very different and far more complete story.

Finally, it is the President himself who ultimately must be held accountable for this persistent pattern of White House misinformation and misuse of executive power and executive privilege. Given the alarming turnover of key White House operatives over the past 3½ years, only the President himself could have sustained such a pattern of misbehavior. Why has President Clinton tried to keep the true story from being told? A recurring question arises whether the President is above the law—whether the First Lady is above the law.

The discrepancies, vagaries and omissions between the "official" White House account of these matters and the factual record now properly falls within the scope of the criminal investigation by Independent Counsel Kenneth Starr, now known as "Travelgate."

II. Committee Findings and Recommendations

Committee Findings

PLANS TO FIRE THE WHITE HOUSE TRAVEL OFFICE EMPLOYEES AND REPLACE THEM WITH CAMPAIGN PERSONNEL WERE IN PLACE FROM THE EARLIEST DAYS OF THE CLINTON ADMINISTRATION

- Efforts to dislodge the longstanding White House Travel Office employees began shortly after the 1992 election and continued throughout the Clinton transition. Presidential cousin Catherine Cornelius, who had worked on travel arrangements for the campaign, teamed up with Arkansas-based travel company World Wide Travel to advocate "out-sourcing" the travel operations at the White House.
- White House Administrator David Watkins met with Cornelius and World Wide representatives several times prior to January 20, 1993, and Cornelius submitted several memos during this timeframe. Meanwhile, World Wide Travel secured the Democratic National Committee business, an account it still holds today.
- Harry Thomason, whose air charter consulting company Thomason, Richland and Martens, Inc. (TRM) provided services to the Clinton/Gore campaign, spoke with Mrs. Clinton during the transition and pressed his view that the long-time career employees "should be replaced because they were disloyal."[30] Thomason also told President Clinton about allegations of wrongdoing in the Travel Office in March 1993.

HARRY THOMASON WHO HAD A FINANCIAL STAKE IN THE TRAVEL BUSINESS, INSTIGATED THE FIRING OF THE TRAVEL OFFICE EMPLOYEES. MR. THOMASON HAD PERSONAL AND FINANCIAL STAKES IN ENSURING THAT THE FORMER TRAVEL OFFICE EMPLOYEES WERE FIRED WHICH MADE IT CLEARLY INAPPROPRIATE FOR HIM TO HAVE ANY INVOLVEMENT IN THIS MATTER

- Harry Thomason was the first person to pass along rumors about the Travel Office employees to Mrs. Clinton and Presi-

[30] Notes of White House Associate Counsel Natalie Williams of conversation with Harry Thomason attorney, Amy Sabrin, undated (but most likely from January 1996 timeframe), DF 780464–465. The President exerted a claim of executive privilege over these notes on May 30, 1996 and they were not provided to the committee until August 15, 1996.

dent Clinton. (While Mrs. Clinton has suggested that Vincent Foster may have told her first about the rumors, Foster's own notes indicate that he did not know about the rumors until May 12, 1993, when Watkins and Harry Thomason first approached him. Mrs. Clinton only raised this issue with Foster the following day.) Neither Mrs. Clinton nor anyone in Mrs. Clinton's office could identify any alternative source of the rumors.[31]

• The suggestion by President and Mrs. Clinton that there were "rumors everywhere" and Harry Thomason's sworn testimony about "a buzz in the air" of wrongdoing in the Travel Office are not consistent with the more than 70 depositions conducted by the committee and dozens of informal interviews. Virtually no one—except those in direct contact with Harry Thomason—heard rumors. The White House Management Review authors confirmed that they discovered no other source of the rumors and their notes make clear that Thomason was the source of the rumors. Both the General Accounting Office review and the DOJ Office of Professional Responsibility ("OPR") review concluded that Harry Thomason passed on the rumors to Mrs. Clinton.

• Harry Thomason and Darnell Martens made efforts to investigate the Travel Office employees in the spring of 1993. Martens had Penny Sample of Air Advantage make calls to UltrAir, the company that had the Travel Office business, and Martens sought out a former UltrAir employee for information. Documents related to these efforts are missing. A March 5, 1993, memo indicated that Darnell Martens was to receive a package from Miami Air and would have a "complete summary with substantive information" for Thomason. These documents never were produced to the committee.

• Harry Thomason contacted David Watkins on April 16, 1993, and passed on rumors of wrongdoing about the Travel Office. According to Watkins' contemporaneous notes, Harry Thomason related the allegations of 5% kickbacks in this conversation.[32] Watkins then relayed this information to Catherine Cornelius and asked her to investigate the office.

PRESIDENT CLINTON APPROVED HARRY THOMASON'S "IMAGE PROJECT" AT THE WHITE HOUSE, GIVING THOMASON AN "OFFICIAL STATUS." THIS FACILITATED HARRY THOMASON'S EFFORTS TO OBTAIN LUCRATIVE GOVERNMENT CONTRACTS

• President Clinton, Mack McLarty, George Stephanopoulos, and Mandy Grunwald "all approved" the "White House Project"—Harry Thomason's image project at the White House.[33] Contrary to White House representations that Rahm Emanuel was responsible for bringing Harry Thomason to the White House, Mack McLarty, with President Clinton's ap-

[31] *See* depositions of First Lady's Chief of Staff Maggie Williams, July 29, 1996, and Press Secretary Lisa Caputo, May 14, 1996, and responses to interrogatories from the First Lady of March 21, 1996.

[32] David Watkins handwritten notes dated April 16, 1993, CGE 29184.

[33] Committee deposition of Todd Stern, May 29, 1996, pp. 38–39. [Note: all committee deposition citations reflect the page(s) of the original deposition transcripts.]

proval, authorized Thomason's work at the White House. Emanuel would not have had the authority to bring anyone into the White House in such a fashion. There was a McLarty memo, now missing, that was circulated to senior staff about Thomason's role.[34]

• Thomason's White House Project went beyond simple "image" issues and he was involved in meetings on how to obtain more money for staffing purposes throughout the White House. The possibility of using excess Presidential inaugural funds for extra staff also was being explored by the White House.[35]

HARRY THOMASON ABUSED HIS OFFICIAL STATUS AND WHITE HOUSE ACCESS AT A TIME WHEN HE HAD A FINANCIAL STAKE IN THE TRAVEL BUSINESS. HARRY THOMASON'S ACTIVITIES AT THE WHITE HOUSE MAKE HIM A SPECIAL GOVERNMENT EMPLOYEE TO WHICH THE CONFLICT OF INTEREST LAWS APPLY

• Darnell Martens, Harry Thomason's partner in his air charter consulting company, TRM, wrote a January 29, 1993 memo to Thomason outlining how they should pursue "Washington opportunities" in the early days of the Clinton administration. These opportunities included seeking White House travel business as well as a quarter-of-a-million dollar GSA contract to survey all non-military Government aircraft. Documents provided to this committee and only subsequently provided to the Justice Department, clearly establish that TRM was seeking both Travel Office business and the GSA contract.

• Darnell Martens, with the assistance of his partner Harry Thomason, contacted Billy Dale in February 1993 seeking the Travel Office business. Martens' post-May 19, 1993, explanations that he was seeking the business on behalf of others, contradicts his own documents of March 5, 1993, in which he advocates that "the Administration . . . disband the . . . system in favor of the functions being outsourced to TRM/Air Advantage." Furthermore, TRM would have stood to benefit from potential commissions as well as business goodwill even if only seeking the contracts for others.

• On or around February 16–17, 1993, Harry Thomason gave President Clinton a February 11, 1993, memo drafted by Martens soliciting the GSA contract to audit non-military aircraft. At this time, Thomason was working at the White House and staying as a guest in the White House residence.[36] At or around this same time, Harry Thomason first told President Clinton of rumors of wrongdoing in the Travel Office and in-

[34] Jennifer O'Connor's handwritten notes dated August 18, 1993, identify the memo, CGE 37586; committee deposition of Jennifer O'Connor, March 29, 1996, p. 45.

[35] The White House later inappropriately withheld from GAO investigators the page of the White House Project memo which discusses this issue on the grounds that it was a "political" issue.

[36] *See* committee deposition of John Podesta, June 5, 1996, p. 23. Podesta was then-Staff Secretary at the White House, testified that he did not see the February 11, 1993, memo go into President Clinton's office but he did see it coming out of his office. Harry Thomason stayed at the residence on February 16 and 17, 1993. Thomason recalls bowling with President Clinton on this occasion—and beating the President—and he is listed in White House residence records but he does not recall whether he passed on the February 11 memo (CGE 2223) on which the President wrote a February 17, 1993, note. Committee deposition of Harry Thomason, May 17, 1993, p. 122.

formed President Clinton he would speak with the appropriate office at the White House about this. President Clinton, fully aware of Thomason's business interests in this area, took no action to discourage Thomason's involvement.

• President Clinton reviewed the TRM proposal for the GSA contract and set in motion efforts to assist TRM in obtaining Government business by sending a note to Mack McLarty reading: "Mack/These guys are sharp/shd discuss/w/Panetta/Lader." On February 17, 1993, Staff Secretary John Podesta passed along this memo from the President to McLarty, David Watkins and Mark Gearan for "ACTION." [37]

• Mr. Thomason, who then was working on the White House "image" project for the purpose of obtaining good press stories for President Clinton, told David Watkins, Jennifer O'Connor and others that firing the Travel Office employees would be a "good press story." Thus, creating a good news story to bolster President Clinton's image was an objective of the Travel Office firings. This was all done in the course of Thomason's duties in the image project for which even White House Counsel Beth Nolan opined that he was a special Government employee.

• Mr. Thomason was involved in numerous meetings concerning the Travel Office. Thomason's advice on restaffing a new Travel Office was both offered to Mrs. Clinton and relayed to David Watkins and Catherine Cornelius. Ms. Cornelius was instructed to meet with Thomason about the Travel Office. Thomason tasked Darnell Martens about having Penny Sample come to Washington and the White House to work in the Travel Office. While an SGE for purposes of the imaging project, Thomason independently became an SGE for purposes of the Travel Office by virtue of his integral involvement in these matters.

THE WHITE HOUSE COMMUNICATIONS OFFICE, IN CONJUNCTION WITH THE WHITE HOUSE COUNSEL'S OFFICE, PUBLICLY ACCUSED THE TRAVEL OFFICE EMPLOYEES OF CRIMINAL CONDUCT AND MISUSED AND MANIPULATED THE FBI TO FURTHER THEIR POLITICAL AGENDA

• George Stephanopoulos and Dee Dee Myers relayed wrong information to the press about reasons for the firings and the involvement of the FBI. On May 21, 1993, the FBI again was misused and abused when Stephanopoulos and Myers summoned the FBI Communications Director to in effect come to the White House and take dictation for the FBI press release that the White House wished for, and insisted that the FBI release.

• After the Travel Office firings were announced and met with great controversy with the press, the White House immediately initiated a disinformation campaign. The White House tried to contain the responsibility for the firings at the level of David Watkins even though his actions undeniably were precipitated by pressures from above.

[37] February 17, 1993, buck slip from John Podesta to Mack McLarty, Mark Gearan and David Watkins marked for "ACTION" attached to a February 11, 1993, memo from Darnell Martens to Harry Thomason, CGE 02296.

• The White House announced the Travel Office firings and claimed they resulted from a Peat Marwick review that had yet to be completed. Peat Marwick representatives then were pressured by the communications office to brief the press and to rush to produce a review corroborating the White House allegations.

PRESIDENT CLINTON INAPPROPRIATELY ALLOWED HIS COUSIN CATHERINE CORNELIUS TO REMAIN IN A POSITION WHERE SHE HAD A CLEAR CONFLICT OF INTEREST. CORNELIUS PURSUED AN INVESTIGATION OF EMPLOYEES OF AN OFFICE IN WHICH SHE COVETED THE TOP JOB AND FOR WHICH SHE PLANNED A REORGANIZATION

• Once at the White House working for David Watkins, Catherine Cornelius continued her efforts to take over the Travel Office, among other things writing a January 26, 1993, memo and a February 15, 1993, memo co-authored with Clarissa Cerda, designating herself and Cerda as future co-directors of the office.

MRS. CLINTON, ACTING ON HARRY THOMASON'S BASELESS ALLEGATIONS OF WRONGDOING AGAINST THE TRAVEL OFFICE EMPLOYEES, ASSERTED PRESSURE ON SENIOR WHITE HOUSE STAFF TO FIRE THE TRAVEL OFFICE EMPLOYEES

• When Harry Thomason arrived at the White House during the week of May 10, 1993, he was anxious to learn what had transpired since he passed on rumors about the Travel Office to David Watkins. Watkins had not yet acted upon Thomason's allegations, so Thomason spoke with Mrs. Clinton about these matters. Mrs. Clinton in turn pressured Mack McLarty, Vince Foster and David Watkins to fire the employees. Thomason also met with Catherine Cornelius to exchange information. Thomason told Jennifer O'Connor about the kickback allegations and told her that the Travel Office employees had been "ripping us off for years."

• Harry Thomason had numerous contacts with President Clinton and Mrs. Clinton throughout the first half of May 1993, including: calls to the residence private line on May 5 and May 6; phone messages both to and from Mrs. Clinton throughout the week of May 10–14; meetings with President Clinton on the mornings of May 12 and May 13; and a lengthy dinner in the White House residence on the evening of May 13, 1993. Thomason provided incomplete testimony to the committee about the nature of these contacts and exhibited selective memory loss in recounting these meetings.

• Once Mrs. Clinton's wishes were relayed to Watkins on May 12, Watkins turned to Foster to determine a course of action. Foster tasked Associate Counsel Bill Kennedy to find a solution. Kennedy called the FBI and informed them that the "highest levels" of the White House were interested in this matter.

• On May 14, 1993, Mrs. Clinton, following a lengthy dinner with Harry Thomason the evening before, relayed to David Watkins that "Harry" had a "plan" for the Travel Office and that "we need to get those people out" and "our people in."

Harry Thomason continued to press for the firings throughout the day.

• On May 16, 1993, in a previously undisclosed meeting between Mrs. Clinton and Mack McLarty, Mrs. Clinton pressured McLarty to fire the Travel Office employees.

• On May 17, 1993, McLarty met with Watkins and told him the Travel Office was on Mrs. Clinton's radar screen. Watkins, responding to pressure from McLarty, Foster and Mrs. Clinton, decided to fire the employees because he thought there "would be hell to pay" if he did not accede to the First Family's wishes. McLarty approved the decision and the May 17 memo on the firing was "cc'd" to "Hillary Rodham Clinton" and faxed to President Clinton in California.

• Even though it was cited as the basis for the firings, the Peat Marwick review was not completed until May 21, 1993, 2 days following the firings.

BILL KENNEDY ABUSED THE FBI BY REPEATEDLY INVOKING THE "HIGHEST LEVELS" OF THE WHITE HOUSE IN MEETINGS WITH THE FBI

• Bill Kennedy sought to and in fact did abuse and compromise the FBI by invoking the "highest levels" of the White House in order to involve FBI headquarters officials rather than a field agent as would have been the normal procedure. Mr. Kennedy provided inaccurate and incomplete testimony to this committee and numerous other investigative bodies regarding his statements to the FBI.

• White House officials hoped to fire the employees on May 13 and drafted talking points on May 13, 1993, discussing the Travel Office firings and claiming an FBI investigation was underway. The FBI, however, could not move that quickly and did not believe it had sufficient predication to launch a criminal fraud audit.

• The alleged "predication" for the FBI investigation was the "kickback allegation" relayed to the FBI by Catherine Cornelius.[38] Cornelius obtained this information from Harry Thomason who subsequently had repeated it to numerous other White House staffers.

• FBI headquarters never should have been contacted directly on this matter. Such allegations normally would have been handled by a field agent or even the local police.

WHITE HOUSE OFFICIALS COVERED-UP THE REAL REASONS FOR THE FIRING OF THE WHITE HOUSE TRAVEL OFFICE EMPLOYEES. THE FIRINGS WERE NOT BASED ON THE PEAT MARWICK REVIEW, BUT RATHER WERE DECIDED BEFORE PEAT MARWICK EXAMINERS EVER SET FOOT IN THE WHITE HOUSE

• At the very latest, the decision to fire the Travel Office employees was made by May 12, 1993, a full day before the FBI was called to the White House and 2 days before the Peat Marwick review team came to the White House. On May 12, Harry Thomason told David Watkins that he had talked with

[38] OPR Report, tab B: May 13, 1993, FBI e-mail from Richard Wade to Thomas Kubic, subject: White House Travel Office, DOJ document #AZ 000603.

Mrs. Clinton and she was "ready to fire them all that day." On May 10, Thomason had circulated the memo by Martens outlining allegations of wrongdoing in the Travel Office. The decision to fire was made first; the White House rationale was sought later.

THE WHITE HOUSE MISREPRESENTED THE PEAT MARWICK REVIEW. IT WAS NEITHER AN AUDIT NOR INDEPENDENT AND WAS DIRECTED BY A WHITE HOUSE WHICH DID NOT WANT AN AUDIT TO BE CONDUCTED

- The Peat Marwick employee who was called in to conduct a supposed "audit" already had volunteered his services to the Vice President's National Performance Review in a May 10, 1993, meeting with Jennifer O'Connor. The Peat Marwick work, as explained in its own engagement letter and subsequent draft and formal reports was a review conducted in keeping with and limited by the White House's needs. It was neither "independent" nor an audit as represented by the White House.
- Contrary to representations made by both the White House and Peat Marwick, the Travel Office records were auditable according to Dan Russell, the Peat Marwick auditor who worked on the review.[39] An audit would have taken longer and the White House did not want to take the extra time. The White House dictated how the Peat Marwick review would be conducted and focused its attentions on particular issues including a "kickbacks."
- Peat Marwick found no basis for the "kickbacks" allegations in its review. The findings of the Peat Marwick review have been seriously misrepresented by the White House.
- On July 8, 1993—6 days after the Management Review was published—Vince Foster has notes indicating that Peat Marwick auditors contacted the White House. His notes state: [auditors] "strongly disagree[d] with [the] review conclusion" of the Management Review.[40]

THE FBI ALLOWED THE WHITE HOUSE TO CONTROL ITS INVESTIGATION

- Once the FBI was brought to the White House on May 13, 1993, despite its desire to be involved in the investigation, it ceded control of the investigation to the White House. The White House told the FBI that Peat Marwick auditors would be brought in first and that the FBI could not observe the audit despite its request to do so.
- From May 13, 1993, when the FBI first was contacted through May 19, 1993, the FBI exerted no control over the investigation. The White House ignored the FBI's request not to fire the employees on May 19, 1993, and the White House failed to honor its commitment to maintain control over the Travel Office records.

[39] Committee deposition of Daniel Russell, March 27, 1996, p. 59.
[40] CGE 000967.

THE FBI MISHANDLED THE TRAVEL OFFICE INVESTIGATION FROM THE BEGINNING, ALLOWING THE WHITE HOUSE TO CONTROL THE INVESTIGATION AND DID NOT ADEQUATELY SECURE TRAVEL OFFICE RECORDS IN A TIMELY FASHION

- There was no integrity in maintaining the Travel Office records in the White House due to a total abdication of responsibility by anyone in the White House Counsel's office, the Office of Administration, and the Staff Secretary's office. The Staff Secretary, John Podesta, was contacted by Records Management officials who were concerned about the loss of Travel Office records on the day after the firings. No one from Mr. Podesta's office responded.
- Craig Livingstone, the Director of Personnel Security, was the individual put in charge of securing the office and the records and files in the Travel Office on May 19, 1993. In light of what we now know about Craig Livingstone's gathering of hundreds of FBI files on former Republican administration officials, his background as an ex-bouncer and his grand ambitions at the White House, the integrity of the Travel Office records is all the more suspect.
- Vincent Foster, Bill Kennedy, David Watkins and others were aware that Catherine Cornelius was removing records from the Travel Office and taking them home over a month-long period. No immediate efforts were made to ensure that all records secreted out of the office by Cornelius were returned.
- The FBI failed to secure any records in the Travel Office until almost a month after the firings. David Bowie, the Washington Metropolitan Field Office supervisor in charge of the investigation, negligently failed to exert control over the records in a timely fashion and generally remained unaware of the ongoing controversy.
- Whether due to White House withholding of documents or by its own design, the Justice Department cavalierly responded to the potential for missing records. Furthermore, the Department was grossly negligent in failing to gain any control over Travel Office documents or prevent the destruction of documents which could ultimately have determined whether or not allegations made against former Travel Office Director Billy Dale were true.
- Despite the fact that lead Justice Department prosecutor Stuart Goldberg acknowledged to IRS officials that Travel Office records were missing, Justice Department officials vigorously opposed efforts by Billy Dale to seek White House documents pertaining to this subject.

THE WHITE HOUSE ENGAGED IN A CONSPIRACY OF SILENCE OF THE TRUE STORY BEHIND THE FIRINGS FROM THE VERY FIRST DAYS. IT DID SO FOR DAMAGE CONTROL PURPOSES

- President Clinton denied knowing anything about the Travel Office firings even though he had been briefed on the matter 2 days before the firings. This was known to at least Bruce Lindsey and Jeff Eller. Such statements by the President had to have sent a chilling message to all those individuals who

were aware of President Clinton's prior knowledge of the firings, in effect creating a conspiracy of silence. The fact that President Clinton was briefed prior to the firings was not disclosed publicly until this investigation.

PRESIDENT CLINTON ESTABLISHED A COVER-UP SITUATION WHEN HE INAPPROPRIATELY PLACED THE PERSON WHO HAD APPROVED THE FIRINGS—MACK MCLARTY—IN CHARGE OF THE MANAGEMENT REVIEW AND MCLARTY WITHHELD INFORMATION IN THE COURSE OF THE INVESTIGATION. IT IS INAPPROPRIATE FOR THE WHITE HOUSE TO INVESTIGATE ITSELF IN MATTERS OF CONFLICTS

• It was inappropriate for Mack McLarty, the individual who both pushed Watkins to fire the Travel Office employees and approved the firings pursuant to "pressure" from Mrs. Clinton, to oversee the subsequent White House Management Review announced on May 25, 1993, in the wake of a firestorm of media criticism and the embarrassing upbraiding of the White House by Attorney General Reno about the misuse of the FBI.

• McLarty represented that Podesta and Stern were chosen to conduct the review because neither had been involved in any of the relevant events. But Staff Secretary Podesta was aware of the efforts by Thomason to obtain Government business through his contacts with the President and also had been informed that the records in the Travel Office were not being appropriately secured. Further, two McLarty aides were provided to assist Podesta.

• The White House set up a sham investigation in which a key person involved in the firings was to be briefed on, oversee and steer the investigation of alleged wrongdoing for which he was in large part responsible.

• In the initial meetings with Podesta and Stern, McLarty did not disclose his full role in the firings, and he withheld the fact that the May 17 memo was cc'd to Mrs. Clinton and that he had a May 16 meeting with Mrs. Clinton. While Podesta and Stern learned of the May 17 memo in the course of their review, they never were informed by McLarty of the May 16 meeting in which McLarty was pressured by Mrs. Clinton to take action in the Travel Office matter. It should come as no surprise that Podesta and Stern were ineffective in investigating their own bosses.

THE INTERNAL WHITE HOUSE MANAGEMENT REVIEW WAS A CATALOG OF "MISTAKES AND DECEPTION"[41] WHICH OMITTED INCRIMINATING INFORMATION ABOUT THE PRESIDENT, MRS. CLINTON AND HARRY THOMASON. THE WHITE HOUSE CHOSE TO COVER-UP INCRIMINATING INFORMATION FOR POLITICAL EXPEDIENCY

• When the White House conducted the Management Review, the President was at an abysmally low 36 percent approval rating, his budget and health plans were on the ropes, and numerous debacles in the first 6 months had the White House reeling.

[41] "A Stealthy, Evasive Confession," the New York Times, July 11, 1993.

• The White House Management Review covered up President Clinton's prior knowledge of the Travel Office firings beginning at least 2 days *before* they occurred.

• The White House Management Review covered up the fact that it was President Clinton who approved of Harry Thomason's working at the White House. Thomason was designated on his pass as a "White House staffer," *not* as a volunteer. And Thomason was to report to President Clinton.

• The White House Management Review covered up President Clinton's efforts to assist Harry Thomason in obtaining Government contracts for TRM. Even though a specific section in the report discussed "appearances of impropriety" by Harry Thomason and Darnell Martens, it ignored this most blatant abuse of White House access which directly involved President Clinton.

• The White House Management Review minimized Mrs. Clinton's role in the Travel Office firings and omitted the testimony of witnesses indicating a larger role by Mrs. Clinton. It also failed to note that senior White House aides initially had withheld information about Mrs. Clinton's involvement in the firings.

• The White House Management Review omitted conversations Harry Thomason had with Mrs. Clinton about the Travel Office and failed to note that Thomason refused to cooperate with the review after an initial interview.

• The White House Management Review concealed the fact that the alleged source of Harry Thomason's rumor—the President of Miami Air—denied that Billy Dale or anyone in the Travel Office ever solicited kickbacks.[42] As a result, the IRS continued a 2½ year fruitless investigation in which UltrAir prevailed with a $5,000 refund from the agency.

• The White House Management Review largely ignored the fact that Peat Marwick, World Wide Travel and Penny Sample of Air Advantage were brought into the White House with no competitive bidding. White House ethics officials had reviewed these matters and expressed such concerns. The concerns were not contained in the final report.

• The White House Management Review, contrary to representations made to the press on July 2, 1993, by McLarty, Gearan and Podesta, attempted to conduct its own investigation of the seven employees. However, when they came up empty-handed, they abandoned these efforts and failed to disclose the exculpatory information they had discovered which would have been of benefit to the reputations of the Travel Office employees.

• In the aftermath of the Travel Office firings and in the course of the White House Management Review, Patsy Thomasson sought to intimidate and coerce false representations from Catherine Cornelius and Clarissa Cerda regarding whether or not David Watkins had read their February 15, 1993, memo on the takeover of the Travel Office. Chief of Staff McLarty inappropriately ignored this gross violation of standards of conduct by Ms. Thomasson when he was informed of

[42] WHMR interview of Ross Fischer of Miami Air, June 17, 1993. CGEPR 237–239.

it. Further, Thomasson even resorted to pulling Cornelius' and Cerda's mess privileges when they did not comply with her request that they misrepresent Watkins' knowledge.

THE WHITE HOUSE MANAGEMENT REVIEW REPRIMANDED PEOPLE WHO WERE ONLY FOLLOWING THE ORDERS OF THE REAL INSTIGATORS

• Despite Mr. Nussbaum's request to McLarty that both he and Foster be reprimanded if Kennedy were reprimanded, McLarty refused to issue those reprimands because they would have been too close to the "highest levels."

• It was apparently politically unthinkable for President Clinton to hold those actually responsible for the firings publicly accountable. This set in motion a cover-up that grew more convoluted with each subsequent investigation. With the intersection of the investigations into the death of Vincent Foster, the tangled Travelgate web became harder to re-weave to accommodate subsequent revelations.

• Rather than reprimanding the lower-level players (Bill Kennedy, David Watkins, Jeff Eller and Catherine Cornelius), the appropriate action would have been for the President to acknowledge his role in bringing Harry Thomason to the White House and providing him the opportunity to inappropriately seek Government business.

• The White House Management Review, the possibility of congressional hearings and the pending criminal investigation by Public Integrity were of great concern to Vincent Foster. But a concerted effort was launched by McLarty to downplay his concerns in investigations with GAO, OPR and the FBI.

THE WHITE HOUSE'S OBSTRUCTION OF THE REVIEW OF VINCE FOSTER'S DOCUMENTS WAS DUE IN PART TO CONCERNS ABOUT TRAVELGATE DOCUMENTS IN FOSTER'S CUSTODY

• Independent Counsel Fiske properly concluded that the Travel Office firings were a significant factor in Mr. Foster's depression in the weeks preceding his death. His colleagues, most notably Bernard Nussbaum, ignored the potential ramifications of the problems faced by Harry Thomason's actions and President Clinton and Mrs. Clinton's involvement in the Travel Office matter and dismissed Foster's attempts to have these matters handled by outside counsel as would have been appropriate.

• White House Counsel Bernard Nussbaum conducted a sham review of the documents in Foster's office following Foster's death. Mr. Nussbaum did not adequately or accurately describe to law enforcement officials relevant documents in Foster's office, including the Vince Foster Travel Office file. Despite Nussbaum's claims to the contrary, no one present in Foster's office during the July 22, 1993, search recalls seeing the Vince Foster Travel Office file or hearing of any document described as such by Nussbaum.

• Mr. Nussbaum withheld information concerning the existence of, and concealed the critical Vince Foster Travel Office notebook from GAO, Public Integrity and FBI investigators for almost a year following Foster's death and only informed the

White House of its existence after he disclosed it to a Grand Jury in May 1994.

• Following Vincent Foster's death, high-ranking White House officials quietly killed efforts by TRM to obtain the GSA contract, concealed all documents pertaining to these efforts from the ongoing General Accounting Office investigation, and long-delayed their production of documents to the Justice Department's Public Integrity unit investigating possible criminal conflicts of interest by Harry Thomason and Darnell Martens while they were at the White House.

MRS. CLINTON INSTRUCTED WHITE HOUSE STAFF ON THE HANDLING OF FOSTER DOCUMENTS AND THE FOSTER NOTE FOUND ON JULY 26, 1993, AND SENIOR WHITE HOUSE STAFF COVERED UP THIS INFORMATION AND KEPT IT FROM INVESTIGATORS

• Mrs. Clinton personally was involved in the discussions regarding the White House's handling of documents in Vince Foster's office following his death. Mrs. Clinton made known her views that investigators should be denied "unfettered access" to Foster's office prior to the search of the office on July 22, 1993.

• The White House withheld evidence subsequently discovered among the 2,000 pages over which President Clinton invoked executive privilege, that senior White House aide Bill Burton spoke with Mrs. Clinton on the evening of Foster's death (July 20, 1993).

• Mrs. Clinton directed that Mack McLarty and others *not inform* the President about the discovery of the Foster "suicide" note on July 26, 1993. This note essentially defended Foster's and the White House's actions in the Travel Office firings and Mrs. Clinton suggested that executive privilege research be done regarding the note.

• The White House's delay in turning over the Foster note was due to senior staffers' deference to Mrs. Clinton's wishes. Statements by Mack McLarty and David Gergen that the note was not immediately turned over because of the need to notify Mrs. Foster and the President are not consistent with the evidence. No one called Mrs. Foster the evening the note was discovered and President Clinton was not told about the note's existence until after Mrs. Clinton met with Bernard Nussbaum and Steve Neuwirth. Mr. Nussbaum and Mr. Neuwirth had been tasked with studying the executive privilege issue at 2:30 p.m. Susan Thomases and Bob Barnett also were in the residence that afternoon at approximately 3 p.m.

• The Foster note most likely was not a "suicide" note but rather a note in preparation for resigning or in the event that Foster was asked to resign or take the fall for the problems generated by the firings and related matters.[43]

[43] Foster's sister, Sheila Anthony told OPR investigators that in July 1993, Foster had told her he was considering resigning. Mrs. Foster told the Independent Counsel that the note was probably written on or about July 11, 1993: "On that day, she had encouraged him to write down everything that was disturbing him. . . . Later that day, Foster told his wife that he had written the opening argument for his defense." Report of the Independent Counsel, June 30, 1994, p. 14.

THE JUSTICE DEPARTMENT DEFERRED TO THE WHITE HOUSE DURING ITS INVESTIGATIONS OF THE WHITE HOUSE TRAVEL OFFICE AND HARRY THOMASON AND IGNORED THE OBSTRUCTIVE BEHAVIOR EXHIBITED BY THE COUNSEL'S OFFICE

- The Justice Department vigorously pursued criminal allegations from the White House about Billy Dale while minimally investigating allegations of conflicts by Presidential friend Harry Thomason. Prosecutor Stuart Goldberg told an FBI agent that DOJ intended to indict Dale before the 1994 elections.
- Prosecutor Goldberg also told an IRS agent that there were missing documents in this case and that Public Integrity believed they might be in Catherine Cornelius' possession. Yet when Dale raised the issue of missing documents as a defense at his own trial, the Justice Department opposed this request and the Judge ruled in the Government's favor.
- Even after the White House stonewalled the Justice Department on its requests for Harry Thomason documents and engaged in obstructive behavior that necessitated the issuance of a September 13, 1994, subpoena to the White House, the Justice Department showed little interest in further investigating. In fact the Department failed to obtain critical documents from Thomason himself until this committee threatened a subpoena to obtain them and did in fact obtain documents particularly relevant to a conflicts investigation.[44]
- In stark contrast to the stated intent of indicting Billy Dale before the 1994 elections,[45] the Justice Department declined prosecution of Harry Thomason and Darnell Martens citing, in part, concerns that it might be viewed as a "political prosecution."
- In startling contrast to its chronic stonewalling on all matters related to Harry Thomason or Vincent Foster, the White House not only cooperated fully with the investigation of Billy Dale but conducted its own investigation into wrongdoing and provided any incriminating information it could find to both the Public Integrity Section and the GAO.
- The FBI ignored the fact that the White House interviewed many witnesses (in the course of the White House Management Review) before the FBI interviewed them in the weeks following the Travel Office firings. In direct contrast to the Justice Department's strong opposition to this committee interviewing witnesses involved with the Travel Office matter, the Justice Department registered no protests against this and took no action to ensure that the FBI was allowed to interview witnesses before the White House did. David Bowie once again

[44] In particular, the January 29, 1993 (EZ 037684), and March 12, 1993 (CGE 00224), memos demonstrated a clear interest in obtaining the Travel Office business as well as numerous other "Washington opportunities."

[45] FBI e-mail from Gregory D. Meacham, to Tom Kubic, dated September 26, 1994, "Regarding your inquiry . . . I . . . was advised by SA Pam Bombardi, that DOJ Trial Attorney Stuart Goldberg had stated that he wanted to do the indictment before the elections, probably on October 4, 1994." Bates Stamp No. FBI–00000242.

was woefully negligent and entirely unaware of the fact that the White House was conducting a Management Review.[46]

• The Justice Department deferred to the White House by allowing the White House: to initially control the investigation of the Travel Office and call all the shots; to maintain custody and control over the Travel Office documents for almost a month after the firings; and to delay for almost a year the production of documents relevant to the DOJ investigation of Harry Thomason. At every turn, the Justice Department was overly accommodating of a controlling White House.

• In the course of the committee's investigation, the Justice Department put a former Clinton campaign staffer in charge of handling documents produced to the committee. Following Billy Dale's November 1995 acquittal, his 1994 plea negotiations were leaked to the press. This information inappropriately was used by the White House and President Clinton to malign Billy Dale long after President Clinton publicly wished Dale well and hoped Dale could put the matter behind him.

WHITE HOUSE OFFICIALS ENGAGED IN A PATTERN OF DELAY, DECEIT AND OBSTRUCTION OVER THE COURSE OF 3 YEARS OF INVESTIGATIONS INTO THE TRAVEL OFFICE AND MATTERS RELATED TO VINCENT FOSTER'S DEATH

• The GAO's investigation was delayed for months by document production delays. Ultimately GAO did not receive all documents relevant to its inquiry including: the Vince Foster Travel Office file, the White House Management Review interview notes, documents related to the TRM efforts to obtain GSA contracts and the Watkins "soul cleansing" memo. A GAO representative noted that the level of cooperation that it received from the White House was not conducive to properly conducting GAO's work.[47]

• The "Watkins memo" was responsive to numerous document requests and was inappropriately withheld by David Watkins, Matthew Moore and Patsy Thomasson. All three had hard copies and/or computer copies of the memo and were made aware of the various document requests and subpoenas to which it would have been responsive.

• In responding to a Public Integrity request for documents regarding Harry Thomason, Matthew Moore wrote an April 4, 1994 memo to Neil Eggleston stating: "I know of no documents in my possession, or ever in my possession, responsive to the request." This was false. The Watkins memo clearly was responsive to this request. At or around this time, Moore removed the Watkins memo from his computer and provided a disk copy to Watkins as he left the White House. However, Moore maintained his own copy of the disk which included several previous drafts of the memo.

• The White House withheld documents from the Justice Department's Office of Professional Responsibility including the Vince Foster Travel Office file, the White House Management

[46] Committee interview of David Bowie.

[47] Testimony of Nancy Kingsbury before the House Committee on Government Reform and Oversight, October 24, 1995.

Review interview notes and the Watkins "soul cleansing memo." OPR Counsel Michael Shaheen found the White House's lack of cooperation "unprecedented" in his 20 year Government career.

• White House stonewalling forced the Public Integrity Section at the Justice Department to acknowledge it had no confidence that the White House had faithfully produced all documents "relating to the Thomason allegations." While Section Chief Lee Radek noted that the "integrity of our review is entirely dependent upon securing all relevant documents," he did not obtain all relevant documents: notably the complete Vince Foster Travel Office notebook and the Watkins "soul cleansing" memo, as well as more than 120 items over which the White House claimed executive privilege. The Justice Department quietly acceded to this inappropriate invocation of privilege. One of the key items that it did not receive was a White House Counsel's Office memo demonstrating that the Counsel's office did believe there was a case to be made that Harry Thomason was a special Government employee.[48]

• Bernard Nussbaum obstructed the FBI investigation into the discovery of the Foster note as well as numerous other investigations, including congressional investigations, by failing to timely inform anyone in law enforcement, the White House, or Congress about the Vince Foster Travel Office notebook that he had secreted in Nussbaum's office by July 22, 1993.

• An FBI investigation was ordered on July 28, 1993 by Philip Heymann, the day after the note was turned over to the Park Police after the 30-hour delay in informing law enforcement authorities. Heymann instructed David Margolis to be "very aggressive" in the investigation.

• Nussbaum failed to inform those tasked with overseeing document production to both the Justice Department and the GAO that he was secreting a relevant document in his office. Nevertheless, once he informed Neil Eggleston in May 1994, Eggleston also failed to turn over the documents to the Public Integrity Section in a timely and responsive manner.

• Neil Eggleston and Cliff Sloan, at Nussbaum's direction, delayed the production of documents relating to the criminal investigation of Harry Thomason and Darnell Martens to the Public Integrity section and ultimately denied all such documents to GAO.

DAVID WATKINS' "SOUL CLEANSING" MEMO ACCOUNT OF THE TRAVEL OFFICE IS SUBSTANTIALLY CORROBORATED BY NUMEROUS RECORDS AND WITNESS TESTIMONY

• Watkins' contemporaneous account of Travel Office events told by Watkins in his "soul cleansing" memo is corroborated by the records of meetings, phone calls, contacts and documents that demonstrate the involvement and pressures to act from Mrs. Clinton, Mack McLarty and Harry Thomason.

• The President's invocation of executive privilege over discussions about the Watkins memo held between and among White

[48] Memo by Beth Nolan, Associate White House Counsel handling ethics issues, CGE 43349.

House Counsel, Maggie Williams, Ann Lewis, and Mrs. Clinton is an extraordinary misuse of the privilege in light of the ongoing criminal investigation of these matters.

• The Watkins memo and the documentary evidence contradict sworn testimony by Mrs. Clinton that the claims in her April 1994 GAO responses that she had "no role" in the firings of the Travel Office employees were accurate.

PRESIDENT CLINTON HAS ENGAGED IN AN UNPRECEDENTED MISUSE OF THE EXECUTIVE POWER, ABUSE OF EXECUTIVE PRIVILEGE AND OBSTRUCTION OF NUMEROUS INVESTIGATIONS INTO THE TRAVEL OFFICE

• The White House Counsel's office coordinated and controlled to the greatest extent possible, all investigations into this matter. It engaged in pre-interviews, debriefings and regular efforts to coordinate with outside attorneys for the individuals involved in investigations. This conduct is unsuitable for the White House Counsel's office and is unprecedented.

• Attorneys of numerous current and former White House officials and others may have waived their clients' attorney-client privilege by debriefing White House attorneys about their clients' depositions and in some cases providing information to the White House that was withheld from Congress.

• The White House Counsel's office hired a team of lawyers to mount a massive damage control operation which focused on minimizing public awareness of the roles of President Clinton and Mrs. Clinton in the firings and their contacts with Harry Thomason. This team reported directly to Deputy Chiefs of Staff Harold Ickes and Evelyn Liebermann, among the closest of confidantes with the First Family, instead of the White House Counsel.

• White House efforts to obstruct all investigations of this matter were part of a larger pattern exhibited by the Counsel's office which continues to this day to shadow the investigations of this and other congressional committees as well as the Independent Counsel. A task list prepared by Special Counsel Jane Sherburne demonstrates that the White House even tracked convicted felon and former Associate Attorney General Webster Hubbell's cooperation with the Independent Counsel.

• The pattern of behavior of the White House Counsel's office, including unprecedented misuse of executive privilege, was designed deliberately to obstruct all investigations and thereby avoid full disclosure of the facts surrounding the Travel Office firings and matters related to Vincent Foster.

• The collective memory loss of dozens of employees is unconvincing and disturbing. Throughout the course of the committee's depositions, the phrases "I don't recall," "I don't know" and "I can't remember" were uttered thousands of times and regarding the most basic and memorable information.

• Those closest to the President and First Lady appear to suffer the most significant memory losses about key events involving the First Family. The White House Counsel's office and those who conducted the Management Review—and were most intimately familiar with the factual record in this case—also

are affected with seeming memory disorders. And while many of the key events in this investigation occurred 3 years ago, memory losses of key individuals were consistently poor whether the events occurred years or weeks ago.

• Covering up the true story behind the Travel Office matter led to the White House's obstruction of numerous investigations. This obstruction was conducted, overseen and encouraged by those at the "highest levels" of the White House, compounded by the death of Vincent Foster which then caused a further cover-up on top of the Travelgate cover-up.

COMMITTEE RECOMMENDATIONS

1. The "Special Government Employee" (SGE) provisions of the U.S. Code should be reformed to prevent its requirements to be ignored. Clear standards should be identified under which agencies, including the Executive Office of the President, should analyze the activities of volunteers to determine if they meet the definition of SGE. Agencies should be required to perform this analysis for each volunteer and maintain appropriate records. Congress should conduct rigorous oversight of the activities of advisors and volunteers throughout Government.

2. The Executive Office of the President should establish financial and internal review controls consistent with the requirements of the Chief Financial Officers Act and the Inspectors General Act. These requirements should include the development of annual, audited financial statements of all business activities and the establishment of an internal review system. Such systems could be crafted to protect the constitutionally protected responsibilities of the President. Some of these provisions are included in H.R. 3452, while other provisions require further study by Congress.

3. The Presidential Records Act and the Federal Records Act should be amended to provide for jurisdiction of Federal courts to ensure that Government records are not unlawfully destroyed, but are managed and preserved as required by law. A recent court decision in *Armstrong* v. *Bush,* 924 F.2d 282 (D.C. Cir. 1991) held that judicial review was available to enforce the provisions of the Federal Records Act, but not the Presidential Records Act. The Department of Justice has interpreted that ruling to be so broad that it would preclude the courts from enjoining the wholesale destruction of records that the Presidential Records Act clearly requires be preserved.

4. The Office of the Counsel to the President should return to its traditional mission of providing traditional legal counsel to the President and his immediate staff. Not more than a couple of decades ago, the White House Counsel's office consisted of just a few highly qualified jurists. The congressional appropriation committees, when funding the White House, should oversee the size and mission of the Counsel's office. The Counsel's office should be required to disclose the number of attorneys working in the Counsel's office, each attorney's job description, and the supervision of each attorney. If necessary, limitations should be placed on Executive Office appropriations designed to limit the scope of responsibilities performed by the White House Counsel's office.

5. Congress should consider the feasibility of prohibiting the EOP from procuring goods and services through its own procurement operations and requiring the EOP, where possible, to procure using existing contracts of other agencies, such as the General Services Administration's Federal Supply Schedules. Where current contracts do not satisfy the specific requirements of the EOP, the EOP should select another agency for its purchasing needs.

Further, Congress should consider requiring the EOP to submit to Congress a report detailing each noncompetitive procurement and the justification for the use of such procedure.

6. Only individuals of the highest quality and ethics should be employed by and volunteer services to the Government. The committee is frustrated that such obvious recommendations must be made at this time in our country's history. Individuals with their own financial interest as their paramount goal, with little respect for the constitutional responsibilities of the U.S. Congress, and with loyalties to anyone other than the American people should not seek or obtain employment in the public sector.

III. Actions in May 1993 Which Led to the White House Travel Office Firings

A. The career travel office employees are fired, accused by the white house of wrongdoing and political cronies are put in charge of the travel office

At approximately 10 a.m., on May 19, 1993, all seven members of the White House Travel Office staff were fired.[49] They were ordered to vacate the White House compound within 2 hours. Returning to the Travel Office by 10:30 a.m., the fired Travel Office employees found their desks already occupied by the President's cousin, Catherine Cornelius and employees of World Wide Travel, the Arkansas travel agency which arranged for press charters during the Clinton Presidential campaign. A week before any determination had been made by the FBI or Peat Marwick, World Wide Travel was summoned to Washington by Cornelius.

Presidential friend, Clinton/Gore campaign operative and Hollywood producer, Harry Thomason, began working at the White House in early 1993, allegedly on the "staging" of White House events. Mr. Thomason's company, TRM, had brokered charters during the campaign, and he shortly thereafter got in touch with his partner, Darnell Martens, to collaborate on future business. Mr. Thomason requested that Martens ask Penny Sample, another Clinton/Gore campaign veteran, to come to the White House to assist in the Travel Office.[50] Ms. Sample owned an airline charter brokerage company called Air Advantage which arranged charters for the Clinton/Gore campaign. Mr. Thomason claims he doesn't know how Martens came to be asked for this assistance,[51] but in

[49] There were only five employees present on May 19, 1993, when the firings of all seven occurred. The individuals present that day included Director Billy Dale, John Dreylinger, Barney Brasseux, Ralph Maughan and Robert Van Eimeren. Two of them were out of the country: John McSweeney was on vacation in Ireland and Deputy Director Gary Wright was on an advance trip in Seoul, South Korea.

[50] Committee deposition of Darnell Martens, April 11, 1996, pp. 148–150.

[51] Committee deposition of Harry Thomason, May 17, 1996, pp. 126–128.

sworn testimony both Martens and Catherine Cornelius confirm that Thomason did make such a request.[52]

By early afternoon on May 19, the Travel Office employees heard then-White House Press Secretary Dee Dee Myers inappropriately announce at a press briefing that they were the subject of an FBI criminal investigation. Ms. Myers also falsely reported that an audit had found "gross mismanagement." An official audit of the Travel Office never was performed, and nowhere in the report of the management review did Peat Marwick refer to "gross mismanagement" in the White House Travel Office prior to May 19, 1993.[53]

The Travel Office employees had been given no indication at the time of their dismissals that they were under investigation. They had cooperated fully with a review conducted by Peat Marwick in the days preceding the firings, which they were falsely told was part of the National Performance Review. After the completion of their out-processing, the Travel Office employees, shadowed by White House Security Officer Craig Livingstone, were driven out of the White House compound in a windowless panel van with no passenger seats. What the fired Travel Office employees did not know was that their nightmare had just begun.

B. THE TRAVEL OFFICE FIRINGS WERE A RESULT OF PRESSURE BY HARRY THOMASON AND MRS. CLINTON WHICH ACCELERATED IN THE WEEK BEFORE THE FIRINGS

May 10, 1993, Monday

The events precipitating the Travel Office firings erupted more than a week before in a May 10, 1993 meeting. At that time, Harry Thomason's baseless kickback allegations were coupled with Catherine Cornelius' open ambition to run the Travel Office. Mr. Thomason had already pressed his allegations on David Watkins, Mrs. Clinton and President Clinton.

Mr. Watkins told Cornelius that she should speak with Thomason about the Travel Office and she e-mailed White House colleagues, Clarissa Cerda and Mike Lufrano:

> I have a meeting with Harry Thomason at 10 a.m. this morning . . . to discuss the future of this office . . . could be over very soon.[54]

Lufrano e-mailed back with the warning:

> remember . . . everything you send on e-mail is stored forever in the archives. Careful![55]

Following her meeting with Thomason, Cornelius e-mailed Clarissa Cerda: "I need to start thinking about how you officially bring in someone to help . . . Does the White House engage in a memorandum of understanding to assist in crisis situation . . . please let me know."[56]

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[52] Committee deposition of Catherine Cornelius, April 30, 1996, p. 104; Martens deposition, pp. 172–173.
[53] Committee interview of Larry Herman, August 29, 1995.
[54] CGE 39295.
[55] CGE 39296.
[56] CGE 39297.

On May 10, 1993, Matt Moore, another assistant to David Watkins wrote a memo to Watkins' deputy, Patsy Thomasson, stating in part: "Billy Dale informs me that there is no written agreement in place to cover travel . . . no contracts in place." Moore's handwritten notes on the document mentioned Charlie Caudle, the owner of UltrAir and Express One who soon would be under investigation by the IRS.[57]

The same day, Thomason had a message on his calendar to "call Hillary . . . she wants to talk to you tonight."[58] Mr. Thomason also had messages to call David Watkins, Mack McLarty for a meeting the next day, and Susan Thomases at home.[59] At 1 o'clock, Thomason received a memo he requested from his TRM partner, Darnell Martens, outlining allegations of wrongdoing concerning the Travel Office.[60] He provided the memo to Catherine Cornelius, Vincent Foster, and Bill Kennedy at the White House that week.[61] In describing when and why he had the Martens memo faxed to the White House, Thomason testified:

> Answer. To the best of my knowledge it was after some conversations about the Travel Office had been discussed. There were some conversations about the Travel Office, and some of the White House personnel, and I am not exactly sure who wanted to know does Mr. Martens have anything on this and at that time I requested that—I told somebody to call Mr. Martens' office and request that it be sent.
>
> *Question.* Do you know who was making those requests at the White House?
>
> Answer. To the best of my recollection it was David Watkins or somebody in his office.[62]

Mr. Thomason enjoyed a very busy White House schedule for an avowed "non-employee." He was utilizing a White House office, had the benefit of a White House pass, had a full-time assistant who helped schedule his numerous meetings with White House staff. It was fitting that on May 11, 1993, David Watkins approved a work order to put phones and a computer hookup in "Harry Thomason's office."[63]

May 11, 1993, Tuesday

The next morning, May 11, Mrs. Clinton called Harry Thomason at 10 a.m. and left a message for him to call her.[64] He also received a message to call Craig Livingstone: "come over while Susan is here." Mr. Thomason also had a meeting with Mack McLarty scheduled on this afternoon.[65] (McLarty had the same time scheduled for a meeting with Thomason on his calendar.)[66] Mr.

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[57] CGE 8391.
[58] Harry Thomason phone logs, May 10, 1993, Thomason document production, Bates Stamp No. 00000105.
[59] *Id.*
[60] Committee deposition of Bobbie Faye Ferguson, April 12, 1996, p. 63.
[61] *Id.*; Thomason deposition, p. 128.
[62] Committee deposition of Harry Thomason, May 17, 1996, pp. 107–108.
[63] Committee deposition of Bonnie Berry, May 21, 1996, pp. 30–32.
[64] Harry Thomason telephone logs for May 11, 1993, Thomason document production, Bates Stamp No. 00000106.
[65] *Id.*
[66] McLarty calendar, CGE 26860.

Thomason does recall a meeting in which he provided McLarty with a copy of the White House "image" project report during this week.[67]

Mr. McLarty had no recollection of any meetings with Thomason on the White House Project but stated that he believed the President Clinton and Mrs. Clinton asked Thomason to come to the White House for the staging of events.[68] Mr. Thomason was given his pass on March 23, 1993.[69] The request for his pass did in fact show him reporting to President Clinton, contrary to White House reports that Rahm Emanuel, Assistant to the President and Director of Special Projects, was responsible for Thomason's tour of duty at the White House.[70] Mr. Thomason also had a 3 p.m. meeting scheduled with Susan Thomases following the meeting with McLarty and a message to call her at her home that evening.[71]

On May 11, 1993, Cornelius, while on a trip to Chicago with President Clinton, was paged by the Travel Office and given a message to call a Time magazine reporter who was seeking information on whether or not Cornelius was the President's cousin.[72] Steve Davison of World Wide Travel informed White House investigators that in this timeframe, "HT [Harry Thomason], JC [James Carville], GS [George Stephanopoulos], and HRC [Hillary Rodham Clinton] furious and ready to throw them out that day."[73]

The Management Review reported that in response to the call from Time, "Cornelius spoke with Deputy Communications Director Jeff Eller, with whom she had a personal relationship. She told Eller that she believed a Travel Office employee leaked this information to the press."[74]

May 12, 1993, Wednesday

On May 12, 1993, Watkins called Foster to set up a meeting with him. Mr. Watkins mentioned that Mrs. Clinton was interested in the matter which they were to discuss.[75] Mr. Thomason testified that the meeting was for President Clinton to sign some commemorative inaugural books for campaign workers. He claimed that the Travel Office was never mentioned.[76]

Mr. Martens arrived at the White House that morning for a 9:30 a.m. meeting with OMB's Jack Kelly. Mr. Martens set this meeting to discuss the logistics of obtaining a GSA Government contract for his and Thomason's company, Thomason, Richland & Martens

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[67] Thomason deposition, p. 179.

[68] Committee deposition of Thomas F. McLarty, July 12, 1996, pp. 23–24, 66–67.

[69] CGE 2931, 2933.

[70] In the White House Management Review, GAO interviews and in public statements, the White House gave the impression that Rahm Emanuel was responsible for bringing Harry Thomason to the White House. Rahm Emanuel's interview with the White House Management Review indicated that he told them that the President, Mack McLarty, George Stephanopoulos and Mandy Grunwald "all approved" the project, yet the review omitted Rahm Emanuel not being the sole actor in bringing Thomason to the White House. CGEPR 236.

[71] Harry Thomason phone logs, documents provided by Harry Thomason, Bates Stamp No. 00000106.

[72] White House Management Review ("WHMR"), authored by John Podesta and Todd Stern, July 2, 1993, p. 7.

[73] White House Management Review interview of Steve Davison, June 5, 1993, CGEPR 185.

[74] *Id.*

[75] Foster Travel Office notebook, CGE 899a.

[76] Thomason deposition, p. 156.

(TRM). Also that day, Martens received a White House pass. Mr. Martens was to report to Harry Thomason and David Watkins.[77]

Following his meeting with President Clinton, Thomason met with Foster about personal issues concerning President Clinton's family.[78] Michael Berman also attended the meeting.[79] At the end of their conversation, Thomason mentioned that he "may have learned of some graft" in the Travel Office and promised to let Foster know when he learned more.[80]

Mr. Thomason next met with Cornelius to exchange information on the Travel Office and then discussed their suspicions with Watkins. Ms. Cornelius showed Thomason her "file" and told him that cash seemed to be missing. Mr. Thomason told Cornelius on this date that Mrs. Clinton would be unhappy with what he believed was going on in the Travel Office. He made it clear to Mrs. Clinton that he was going to share his concerns with her.[81] Ms. Cornelius said Thomason repeated references to Mrs. Clinton during the course of the week.[82] The two later moved the meeting to Watkins' office.

Mr. Martens arrived after his OMB meeting and he joined in the meeting which had grown to include Cornelius, Thomason, Watkins and Patsy Thomasson.[83] Mr. Martens previously had been gathering information about the Travel Office and had contacted Billy Dale about obtaining the travel business.[84]

During his visit to the White House, Martens was asked by Thomason if the charter company, Air Advantage, would be able to handle a trip for the White House the following Sunday. This clearly indicated that the plan for the Travel Office firings was in place. (A fax sent the next day by Martens detailing how he could provide planes for Sunday also confirms the plan was in place.[85] Mr. Martens explained in his deposition:

> Answer. Harry had asked me at some point in time on the afternoon of May 12th when I was at the White House whether Air Advantage would be able to handle a trip for the White House on Sunday, that coming Sunday.
>
> *Question.* Which would have been May 14th?
>
> Answer. No, this is Friday——
>
> *Question.* May 16th, I am sorry.
>
> Answer. It might be the 16th or 17th, somewhere in there. And so I said I will track her down and ask her. He goes okay, just make sure they can do a 30 day billing, that they can bill like a normal 30 day invoice. I said okay.
>
> *Question.* So this is actually asking you to check with Penny Sample to see if 30 day billing is okay, not TRM?

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[77] CGE 18296, 18298.

[78] Foster Travel Office notebook, CGE 899a.

[79] Foster Travel Office notebook, CGE 899a. Mr. Berman was at the White House working on determining how they could utilize an excess of $10 million in leftover Presidential inaugural funds for White House activities.

[80] Foster Travel Office notebook, CGE 000923.

[81] Cornelius deposition, pp. 114–115.

[82] *Id.*

[83] Cornelius deposition, p. 85.

[84] *See* infra section V.

[85] Fax to Harry Thomason at the White House from Darnell Martens, May 13, 1993, discussing "30 day billing cycle" and "aircraft being reviewed for Sunday . . . " (Documents provided by Harry Thomason.)

Answer. Yes. For Air Advantage.
Question. Harry made that request?
Answer. Yes.[86]

In Thomason's own deposition, he attempted to explain that Martens' request for assistance originated:

> in connection with somebody at the White House saying if we do this we don't want to miss a beat and we have to have somebody in place to temporarily take over and could you recommend somebody, and I said the people that worked on the campaign are obviously the people. I don't know what 30-day billing cycle means. I just know that there was somebody from the White House [who] passed, evidently, along this information after I had called in, and this was the answer.[87]

Mr. Thomason next attended a meeting with Jennifer O'Connor to discuss the 25 percent White House staff cut, and other personnel matters. During the meeting, Thomason informed O'Connor that the Travel Office employees "were ripping us off" and that firing them would be a "great press story . . . Bill Clinton cleaning up House."[88] Ms. O'Connor recounted that she and Thomason had to leave the meeting to tend to a "crisis" in Watkins' office.[89] Mr. Watkins' contemporaneous notes show that Thomason returned to Watkins' office that afternoon. Mr. Thomason told Watkins he "bumped into" Mrs. Clinton in the hall, and she was ready "to fire them all that day."[90]

At this point, Watkins, who earlier had contacted Foster for assistance, went to meet with him along with Thomason and Cornelius. The accounts of the meeting by Cornelius and Watkins, as well as Foster's notes all recount Thomason discussing the kickback issue.[91] Mr. Thomason was evasive on this point in his deposition:

> Answer. Well, I remember Mr. Foster asking what are the rumors; and I remember just saying, okay, here is what all we have heard.
> *Question.* Was there any discussion that you recall concerning kickbacks or bribery allegations in that meeting?
> Answer. Again, I can't be specific. That was sort of the buzz that was in the air. Now, was it kickbacks or was it taking gifts; I mean, I don't know. You know, I just remember there was something that—and that is about the general term of taking something, you know; and I don't know if they were kickbacks or what, but yes was the buzz in the air.

At another point in his deposition:

> *Question.* Do you recall ever relaying that information to anyone in the White House that there were kickbacks, or

[86] Martens deposition, pp. 157–9.
[87] Thomason deposition, p. 213.
[88] WHMR interview notes of Jennifer O'Connor, June 11, 1993, CGEPR 383–390.
[89] WHMR interview notes of Jennifer O'Connor, June 11, 1993, CGEPR 383–390.
[90] May 31, 1993 notes of David Watkins, Watkins document production, PM 000169.
[91] Cornelius deposition, p. 79; Watkins memorandum to Mack McLarty, May 17, 1993, CGE 17753–17754; Foster Travel Office notebook, CGE 000903.

5 percent kickbacks, or kickbacks, or allegations of bribery?

Answer. Well, I don't remember 5 percent kickbacks, but there was always—in all of those meetings there was always sort of a buzz in the room that had to do with, well, there were kickbacks, there was this, there was that, and did I start them? I don't know, but I don't think so. Did I hear them? Yes. Did I repeat them? I don't recall.

Question. Do you know who you heard them from?

Answer. I don't, because it would always be a group of people in a room, and there was just the buzz about what somebody had heard and, you know, or discovered or something.

Question. And were these at the White House, these meetings or people in the room?

Answer. Right, I mean, you know, the—there were a couple of those kind of meetings.[92]

From the accounts of others present in this and other meetings, Thomason was the "buzz." Ms. Cornelius testified that Thomason told her about the kickbacks[93] and in fact, further testified that she could not recall "anyone else discussing [kickbacks]."[94] Testimony of Bruce Lindsey in the White House Management Review recounted that "Sometime in Feb-March-April HT [Harry Thomason] said to me that travel office—demanding kickbacks . . ."[95] Mr. Thomason's kickback allegations also surfaced in Jennifer O'Connor's testimony to the White House Management Review. She stated that while having lunch with David Watkins on May 12, 1993, Watkins told her "this is confidential," that Thomason had dealings with travel companies and that the Travel Office was soliciting kickbacks.[96]

The OPR report noted that Thomason related a conversation suggesting that a friend of his "had seen what he considered possible evidence of a kickback involving the Travel Office."[97] This account is further supported by an entry in Foster's Travel Office notebook where he writes, "HT related vague story of 3d party request for kickback/5 percent—vague."[98] Mr. Thomason was passing on information in which he had his own financial interest.

The Watkins/Cornelius/Thomason/Foster meeting adjourned and they reconvened later with White House Associate Counsel Bill Kennedy joining the group.[99] Ms. Cornelius returned from a quick trip to her house where she was keeping documents she had covertly removed from the Travel Office at David Watkins' request.[100] Mr. Kennedy then was tasked with crafting a response to this matter.[101] In the meeting they discussed who could do an audit. They

[92] Thomason deposition, pp. 136–137, 188.
[93] Cornelius deposition, p. 79.
[94] *Id.,* p. 88.
[95] WHMR interview notes of Bruce Lindsey, CGEPR 331.
[96] WHMR interview notes of Jennifer O'Connor, CGE 385.
[97] OPR Report, p. 9.
[98] Foster Travel Office notebook, CGE 923.
[99] Cornelius deposition, p. 94.
[100] Cornelius deposition, pp. 93–94.
[101] Cornelius deposition, p. 96.

sought an alternative to a GAO audit because previous investigations by GAO had been unfavorable to the White House.[102]

At approximately 5:30 p.m. Kennedy contacted James Bourke, Chief of the FBI's Special Inquiry Unit (SPIN). Even though two FBI agents were permanently assigned to the White House, Kennedy never asked them for "guidance"—his stated reason for contacting the FBI. By this time, Thomason, Foster and Watkins were well aware of Mrs. Clinton's interest in this matter and discussed it freely. Mr. Kennedy, however, made the implausible claim in his committee deposition that he had no idea of Mrs. Clinton's interest at that time.[103]

On this day, Cornelius, while planning the takeover of the Travel Office, called World Wide Travel to alert them to the opening for the new business. World Wide immediately sent an agent, Steve Davison, to Washington, DC in response to the call. In this timeframe, the Travel Office employees recall Catherine Cornelius' frequent absences from the Travel Office to attend meetings elsewhere. One employee recalled an occasion in the first weeks of May where Cornelius informed them that she had a meeting with Thomason and Mrs. Clinton.[104]

Throughout May 12 and May 13, Watkins received "periodic reports from Vince Foster that [the] First Lady had inquired about [the] Travel Office and why wasn't action being taken—report was that they should be fired immediately and out of here by the end of the day."[105] On the 12th, McLarty called Susan Thomases with whom Harry Thomason had conversations during the week. Lorraine Voles, deputy Press Secretary, reported that in this timeframe that Eller advised her about the Travel Office allegations. Ms. Voles' notes indicate that she had heard that Susan Thomases "went to Mac . . . Hillary wants these people fired . . . Mac wouldn't do it . . . DW [David Watkins] didn't want to do it."[106] Susan Thomases,[107] was at the White House the week before on Friday, May 7, 1993, from 2:30 to 7:47 p.m.[108]

May 13, 1993, Thursday

On May 13, 1993, Kennedy summoned the FBI to the White House after a flurry of early morning calls from the White House to the FBI. Mr. Kennedy told FBI Unit Chief James Bourke that "he was getting some pressure and he needed a call back in the next 15 minutes or he may have to go to another agency, such as the IRS."[109] Mr. Kennedy claims that his sense of urgency was

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[102] OPR interview of Catherine Cornelius, September 2, 1993, p. 3, she quotes Patsy Thomasson saying in response to Kennedy's idea to bring in the FBI, "Well, Billy Kennedy, I certainly would like that, because that would keep the GAO out."

[103] Committee deposition of Bill Kennedy, April 9, 1996, p. 133.

[104] Committee interview of Robert Van Eimeren, July 26, 1995.

[105] Notes of David Watkins, May 31, 1993, Watkins document production, Bates Stamp No. PM 000169.

[106] Notes of Lorraine Voles, undated (approximately May 1993), CGE 009110.

[107] Ms. Thomases was a reference for Catherine Cornelius on her resume. Ms. Thomases worked on advance throughout the campaign and Cornelius worked on travel. Ms. Thomases certainly was not one known for being shy with her views on how to run the White House or on her authority to speak for Mrs. Clinton.

[108] Secret Service WAVES records (for entrances and exits) for Susan Thomases, May 7, 1993.

[109] OPR Report, p. 15.

based on the fear that documents would be destroyed, but no other testimony corroborates his claim."[110]

Indeed, it is more likely that his sense of urgency was a response to that which Watkins and Foster were responding—pressure from Thomason and Mrs. Clinton. This is further supported by evidence that Kennedy alerted the FBI that those at "the highest level" in the White House wanted prompt action on a matter allegedly involving financial wrongdoing.[111] Mr. Kennedy made the dubious explanation that by highest levels, he must have been referring to Foster and Watkins.[112] It is unlikely that the highest levels referred to individuals that Kennedy did not report to and in fact, were on an equal footing with him.

At this time, the FBI was beleaguered by an embattled Director and was operating under a reduced budget imposed by President Clinton. When the White House called, the FBI immediately dispatched two Headquarters agents, Pat Foran and Howard Apple, despite their protests that it would be more appropriate to assign a field agent.[113] Mr. Kennedy was adamant that FBI Headquarters personnel with a "national perspective" be involved.[114] The two agents arrived at the White House Counsel's Office for an 11 a.m. meeting, which lasted approximately 30 minutes.[115]

Agent Apple reported that Kennedy told Agent Bourke that he would contact the IRS if the FBI did not respond.[116] Mr. Kennedy repeated the statement at this meeting, that the inquiry was directed from the highest levels. Although Kennedy denies making any reference to the "highest level," four FBI agents testified under oath that the did.[117] Agent Apple testified that when he questioned Kennedy's reference, Kennedy responded, "Let's just say *the* highest level."[118] Agent Foran testified that he interpreted Mr. Kennedy's reference to the "highest levels" to mean President Clinton or Vice President Gore.[119]

Mr. Kennedy also told the FBI agents that "a company which had done work for President Clinton during the campaign was interested in obtaining a contract for the services provided by the Travel Office," but had not been allowed to bid on the business.[120] During this discussion, Kennedy gave Agent Foran an "untitled

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[110] Contrast this statement with other testimony, such as Vince Foster's, that documents of "kickbacks" or some other financial allegations, simply could not all be destroyed. Furthermore, the idea that anyone at the White House was concerned with documents being destroyed in the Travel Office is inconsistent with the fact that there was no control asserted over the office at any time during the weeks before or after the firings. Neither Kennedy nor anyone else in the White House Counsel's Office ever made any attempts to secure the documents in the Travel Office.

[111] OPR Report, p. 20.

[112] Committee deposition of William Kennedy, April 9, 1996, p. 91.

[113] OPR Report, p. 17. Agent Howard Apple was the acting chief of the Violent Crimes and Major Offenders section. Agent Pat Foran was the Unit Chief of the Operational Intelligence Unit, Criminal Intelligence Section, "CID".

[114] DOJ, OPR interview of Howard B. Apple, Unit Chief of the Interstate Theft Crimes Unit, Criminal Investigative Division, August 11, 1993.

[115] OPR Report, p. 20.

[116] OPR Report, p. 18.

[117] *See* DOJ, OPR interviews of: Unit Chief Howard Apple, August 11, 1993; Patrick Foran, Unit Chief of the Operational Intelligence Unit, Criminal Intelligence Section, August 16, 1993; Richard Wade, Unit Chief of the Governmental Fraud Unit, Criminal Investigative Division, August 11, 1993; Thomas Carl, Supervisory Special Agent in the Government Fraud Unit, Criminal Investigation Division, August 1993.

[118] General Accounting Office interview of Howard Apple, October 15, 1993. (Emphasis added.)

[119] OPR Report, p. 20.

[120] OPR Report, pp. 21–22.

document to read that he retrieved from a folder in his desk."[121] The agents testified that "the document repeated the suspicions regarding the Travel Office that Kennedy had described to Foran and Apple orally."[122]

Although Agents Foran and Apple were not allowed to keep the document, both agents described it as a far lengthier document than the Martens memo and dissimilar in format from the Martens memo. This memo has never been produced to the committee and the White House continues to claim it does not exist.

The FBI agents ultimately told Kennedy that they were not the appropriate unit to handle this matter and returned to FBI Headquarters to determine who should assist. The agents testified that they clearly had the sense that Kennedy was under considerable pressure to resolve this matter.[123] Mr. Kennedy telephoned his good friend, Webster Hubbell, almost immediately after the agents left his office.[124] At this time, Hubbell was the No. 3 person at the Justice Department and, effectively, running the Department.

By 12:20 p.m. on May 13th, Martens responded to a request from Thomason at the White House. Mr. Martens faxed information to Thomason that "aircraft are being reviewed for Sunday, if needed . . . Penny [Sample, of Air Advantage] and I can be at White House to assist 'C' [Cornelius] as needed to begin operations."[125]

A second set of FBI agents was sent to the White House to meet with Kennedy the afternoon of May 13; Tom Carl and Rick Wade.[126] Mr. Kennedy repeated his message that this was an "urgent matter" which had interest from "high levels." These agents similarly reported that Kennedy was "very tense and frustrated throughout the meeting."[127] Mr. Kennedy repeated the various allegations about the Travel Office employees, including Thomason's allegations of kickbacks and bribery. When it appeared that Kennedy was not making any progress with the second set of FBI agents, he asked if it would assist them if they spoke with someone who had more direct evidence. Mr. Kennedy left and returned with Catherine Cornelius, President Clinton's third cousin and current Office of Administration Assistant. The agents were left alone with Cornelius to discuss her "allegations."[128]

Ms. Cornelius reported to the agents that she had copied and removed documents from the Travel Office in the course of her investigation.[129] She also relayed the information she received from Harry Thomason about solicitations of kickbacks from Miami Air. In addition, she gave her version of the alleged "lavish" lifestyles of the Travel Office employees. When Kennedy and Foster rejoined the meeting, they were told that the agents were "keying in" on the bribery allegation.[130]

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[121] *Id.*
[122] OPR Report, p. 22.
[123] OPR Report, p. 25.
[124] *See* Hubbell telephone log of 11:30 phone call from Kennedy to Hubbell.
[125] Martens deposition, p. 187; Bobbie Faye Ferguson production, BFF 1013.
[126] Richard Wade was Unit Chief of the Governmental Fraud Unit, Criminal Investigative Division; Thomas Carl was Supervisory Special Agent in the Government Fraud Unit, Criminal Investigation Division.
[127] OPR Report, p. 27.
[128] OPR Report, pp. 29–31.
[129] OPR Report, p. 31.
[130] OPR Report, p. 31.

The FBI accepted Cornelius' recitation of these otherwise unsubstantiated allegations as sufficient predication to launch a criminal investigation, with a particular focus on "kickbacks" for jurisdictional purposes.[131] No one questioned whether Cornelius had any conflicts of interest concerning her investigation of the Travel Office employees. Neither her relationship to President Clinton nor her widely known desire to take over the Travel Office as its Director were revealed to the FBI.[132] An FBI headquarters supervisor later testified that he was "surprised" that an interview of Cornelius had occurred since witness interviews were supposed to be handled by a case agent, not an FBI headquarters supervisor.[133]

Even as the FBI informed the White House it had sufficient predication to launch an investigation on May 13, the White House Counsel's Office shifted gears. Messrs. Foster and Kennedy informed the FBI agents that the White House intended to conduct an outside audit and would allow the FBI to proceed with an investigation at a later point if it determined that one were warranted.

Mr. Watkins' contemporaneous notes suggest a reason for this dramatic shift in strategy:

> What will reaction by press be if we do S&L/bank type audit and no improper findings. . . . What are negative political consequences if no criminal violations?[134]

The FBI telephoned the White House Counsel's office several times that afternoon to insist that for the sake of the investigation, FBI agents should be present in the Travel Office during the audit. Mr. Foster offered to check with "higher authority" to see whether the FBI should participate and promised to call back with an answer at 6:30 p.m.[135]

FBI White Collar Crime Unit Chief Tom Kubic[136] testified about the issue of whether FBI should be present at the audit. He said that he thought "that decision ought to be made not by FBIHQ, but by the agent conducting the investigation in consultation with the prosecutor."[137] In a strange turn of events, the FBI acquiesced when Foster called Agent Wade and informed him that "the White House did not want FBI agents to accompany the auditors."[138]

Agent Wade initially tried to convince Foster that FBI involvement in the audit would prevent the auditors from possibly being witnesses in a criminal matter. Mr. Foster remained firm that he did not want agents present during the audit.[139] According to Foster's notes, he consulted with Hubbell about the FBI being present. He wrote, "WH [Hubbell] & I, he agrees . . . discussion w/ Wade . . ."[140] A commitment was made to the agents that the docu-

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[131] OPR Report, pp. 34, 36.
[132] OPR Report, p. 30.
[133] "Report of OPR's Review of the Conduct of the FBI in Connection with its contacts with the White House in the Travel Office Matter," to JoAnn Harris, Acting Deputy Attorney General, from Michael E. Shaheen, Jr. Counsel to the Office of Professional Responsibility, March 18, 1994, p. 33, footnote 37.
[134] Handwritten notes of David Watkins, May 14, 1993, "White House Travel," CGE 007989–7991.
[135] OPR Report, p. 33.
[136] Agent Kubic also was the supervisor for Agents Wade and Carl.
[137] OPR Report, p. 33, fn. 37.
[138] OPR Report, p. 36, fn. 41.
[139] OPR Report, p. 37.
[140] Vince Foster Travel Office notebook, CGE 1050.

ments would be properly secured. Mr. Kennedy had no recollection of any identifiable actions by anyone in the White House to ensure that records were properly secured.[141]

The only "higher ups" with whom Foster met on May 13 concerning this matter were President Clinton's Chief of Staff, Mack McLarty and twice with Mrs. Clinton. Based upon the fact that McLarty is not a lawyer, he would have little knowledge about FBI concerns regarding the preservation evidence and the likelihood that the auditors might become witnesses at a trial. On May 13, Mrs. Clinton raised the topic of the Travel Office, asking Foster, "Are you on top of it?"[142] Mr. Foster assured her that Kennedy was addressing the matter but that he had "just heard about it yesterday."[143]

Mr. Foster recorded in his notebook that in his second meeting with Mrs. Clinton, she appeared less than satisfied with the timeliness of decisionmaking.[144] Mr. Foster particularly was concerned about who, other than Mrs. Clinton, may have known about this second meeting or overheard the conversation. He writes:

> Q—anyone else present . . . don't recall . . . when SS [Secret Service] in hall and door open I go in . . . sometimes other persons present, sometimes not.[145]

This meeting occurred after Kennedy's meetings with the FBI that day.

Mrs. Clinton also called McLarty on May 13 requesting to meet, specifically to talk about the Travel Office. Mrs. Clinton arrived at his office at approximately 3 p.m. McLarty testified that,

> [Mrs. Clinton] had heard that there might be serious problems, deep concerns, in the Travel Office, about management and conduct. . . . I responded that I was aware of those possibilities and with that she said, well, good, you are aware of it. I think this is a serious matter, we should look into it.[146]

Following this meeting, McLarty met with Watkins, Foster, and Patsy Thomasson about the Travel Office at approximately 4 p.m.[147] Prior to the start of this meeting, Foster told Patsy Thomasson that his "clients," a reference to the President and Mrs. Clinton, were very concerned about the Travel Office.[148] At this meeting, they decided to call in an outside company to audit the Travel Office.

Later that evening, Watkins and Patsy Thomasson contacted Larry Herman of KPMG/Peat Marwick (Peat Marwick).[149] Mr. Herman had already volunteered his services for NPR and had been scheduled to conduct some NPR work the following day. Mr. Wat-

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[141] Committee deposition of William Kennedy, April 9, 1996. pp. 98–99.

[142] Foster Travel Office notebook, CGE 000971. (In these same notes Foster describes the First Lady's demeanor in this meeting—"general impatience" . . . "general frustration.")

[143] Foster Travel Office notebook, CGE 000971.

[144] *See* Foster Travel Office notebook.

[145] Foster Travel Office notebook, CGE 001003.

[146] McLarty deposition, p. 33.

[147] McLarty deposition, pp. 30–31; OPR interview of P. Thomasson, September 22, 1993, p. 2.

[148] OPR interview of P. Thomasson, p. 2.

[149] O'Connor deposition, p. 63.

kins' assistant, Jennifer O'Connor, later contacted Herman to brief him with background information on the Travel Office work.[150]

Director of Media Affairs Jeff Eller[151] had at least two meetings with Thomason, in which Eller advised quick firings to get ahead of the press story.[152] Mr. Thomason had two messages from Eller on this date, May 13, marked "very important." Mr. Eller was working on "May 13 talking points," which assumed the Travel Office firings were to occur on that day and that the FBI was investigating.[153]

That evening of May 13, 1993, Foster called to update Mrs. Clinton on the day's activities. The call came in during a 3-hour dinner Mrs. Clinton had with Harry Thomason in the residence.[154] Despite the flurry of events on this day, as well as the keen and urgent interest expressed by both Mrs. Clinton and Thomason throughout this dinner, neither has any specific recollection of any discussions about the Travel Office during that dinner.

GAO investigators asked Mrs. Clinton in March 1994, if she participated in "any other discussions with White House staff or Mr. Thomason concerning the White House Travel Office matter during the period leading up to the removal of the Travel Office employees on May 19, 1993? If so, when and how would you describe those discussions."[155] Mrs. Clinton decided to limit her April 6, 1994, response with the oft-repeated mantra:

> She has no specific recollection of any particular conversation with Mr. Thomason on this issue at that time.[156]

Two years later Mrs. Clinton responded under oath to the committee's March 1996 interrogatories:

> I believe I became aware from Vincent Foster or Harry Thomason of concerns about financial mismanagement in the White House Travel Office. . . . I cannot recall specific conversations with him regarding the White House Travel Office or its personnel, but as indicated above, it is possible that at some point in May 1993, he may have mentioned to me issues of possible financial mismanagement in the Travel Office. I do not recall what, if anything, I may have said to him on this topic.[157]

The evidence points to Harry Thomason as the first person to pass on rumors of wrongdoing in the Travel Office to Mrs. Clinton. It is impossible that Foster could have been the person who first told Mrs. Clinton about the Travel Office matter unless he was lying to his notebook when he said he first heard about it on May

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[150] O'Connor deposition, p. 63.

[151] It was revealed that Eller had a close, personal relationship with Catherine Cornelius during this period.

[152] Committee deposition of Jeff Eller, April 18, 1996, pp. 15–16. Outside of these two meetings, Eller could recall virtually nothing of substance and stated, "I don't recall," "I don't know" or "I have no recollection," almost 700 times in the course of his deposition in response to questions about his involvement in and knowledge of the firings.

[153] May 13, 1993, talking points on the Travel Office by Jeff Eller, CGE 7933. (Although Eller could not recall doing the talking points or discussing them with anyone, Patsy Thomasson, John Podesta, Todd Stern and others identified them as "Jeff Eller's Talking Points.")

[154] White House residence logs.

[155] GAO questions submitted to Mrs. Clinton, April 6, 1994.

[156] *Id.*

[157] Mrs. Clinton's answers to Government Reform and Oversight Committee's interrogatories, March 21, 1996.

12. It is clear that Mrs. Clinton knew about the Travel Office at the time she first approached Foster and that she was not responding to information he was relaying to her. Moreover, David Watkins' notes state that on May 12, 1993, Mrs. Clinton told Thomason she wanted them all fired that day.[158] Mr. Thomason confirmed through his attorney to the White House Counsel's office that he told Watkins that Mrs. Clinton shared his views that the Travel Office employees should be replaced.[159]

The only other source of rumors that the committee has come across in over a year of investigation was Craig Livingstone. Mr. Livingstone testified that he heard of rumors in the spring of 1993 from a source he could not identify. He passed those rumors on to Kennedy, who thanked him.[160] Mr. Kennedy testified that he considered Livingstone's rumors to be the "worst kind of third party hearsay" and that he took no action and made no response to the rumors.[161]

Recently Mrs. Clinton denied even knowing who Livingstone was in 1993. Mr. Kennedy denied ever talking with Mrs. Clinton about these matters. This leaves Harry Thomason as the only possible source of these allegations against the Travel Office employees. Neither John Podesta nor Todd Stern could uncover any other sources of the rumors in their White House investigation.[162] The same is true of all the other investigations.

It is doubtful that either Livingstone or Kennedy could have informed Mrs. Clinton of all the rumors she reported hearing. It is most likely that by at least May 12, Thomason had ample opportunity and informed Mrs. Clinton of his allegations against the Travel Office employees. David Watkins' "soul cleansing" memorandum provides further confirmation:

> [T]he First Lady took interest in having the Travel Office situation resolved quickly, following Harry Thomason's bringing it to her attention. Thomason briefed the First Lady on his suspicion that the Travel Office was improperly funnelling business to a single charter company, and told her that the functions of that office could be easily replaced and reallocated.
>
> Once this made it onto the First Lady's agenda, Vince Foster became involved, and he and Harry Thomason regularly informed me of her attention to the Travel Office situation—as well as her insistence that the situation be resolved immediately by replacing the Travel Office staff.
>
> Foster regularly informed me that the First Lady was concerned and desired action—the action desired was the firing of the Travel Office.[163]

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[158] Notes of David Watkins, May 31, 1993, Watkins document production, PM 000169.

[159] Thomason deposition, p. 228; handwritten notes of Associate White House Counsel Natalie Williams, DF 780464.

[160] Livingstone deposition, March 22, 1996, pp. 27–28.

[161] OPR Report, p. 10, fn. 10. (Mr. Kennedy pinpointed the date of his receipt of these rumors at February 1993.)

[162] *See* committee depositions of John Podesta, June 5, 1996 and Todd Stern, May 31, 1996.

[163] Watkins memorandum, CGE 012287.

May 14, 1993, Friday

On May 14, 1993, the White House brought in what it heralded as an "independent" auditor. In fact, the individual brought in to head the White House Travel Office review was neither independent nor an auditor. The White House engaged the management consulting division, *not* the public accounting division of Peat Marwick, to conduct its "Management Review" of the Travel Office. Peat Marwick's engagement letter, draft report and final report all state that Peat Marwick was not asked to and indeed did not conduct the work necessary for an "audit, examination or review" in accordance with established accounting standards.[164] Although the Management Review team was directed to look for kickbacks, it found no such evidence.

Throughout the day, Patsy Thomasson kept Watkins and Kennedy apprised of developments.[165] Mr. Kennedy called FBI Agent Carl during the course of the Peat Marwick review to advise him of the progress.[166]

The White House directed Peat Marwick's efforts in the Travel Office review. In its draft report, Peat Marwick stated, "The procedures we performed were limited in nature and extent to those which the Office of the Counsel determined best fit its needs."[167] In contrast, the final report, states that the Office of Management and Administration limited the review procedures.[168] The distinction is telling, given the fact that the White House Counsel's Office would determine whether or not the FBI proceeded with a criminal investigation. Obviously, the White House did not want the White House Counsel's role in directing Peat Marwick's efforts to be revealed in its final report.

Over the course of the last 3 years the White House has maintained that the Travel Office records were not auditable. The testimony of Dan Russell, a Peat Marwick accountant, contradicts this.[169] He testified that the White House Travel Office records were indeed auditable and that an audit of the records could have been performed within several weeks.[170]

In a morning meeting in McLarty's office, Eller argued vigorously that the employees should be fired that day.[171] Mr. Eller later explained to the GAO that he made this argument only under the assumption that the decision to fire the employees had already been made by Watkins and Patsy Thomasson.

At approximately 6:30 or 7 p.m. on May 14, Foster asked Watkins to speak with Mrs. Clinton about the Travel Office. Mrs. Clinton had inquired about the Travel Office with Foster earlier in the

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[164] CGE 006965–006980. Mr. Herman, partner in charge of the review for Peat Marwick, confirmed "we were never asked to perform an audit." Response to committee interrogatories, June 19, 1996.

[165] Committee deposition of Patsy Thomasson, April 22, 1996, pp. 98, 101. Mr. Watkins was out of town at the time attending his daughter's graduation.

[166] OPR Report, p. 44.

[167] CGE 006965.

[168] CGE 006980.

[169] For example, in the White House Management Review it stated that Peat Marwick was unable to conduct a formal audit because financial records were too disorganized and irregular. WHMR, p. 10.

[170] Russell deposition, p. 59.

[171] McLarty deposition, p. 35. Other evidence shows that Eller had been meeting with Harry Thomason and Cornelius throughout this week.

day.[172] Even though Watkins was in Memphis, TN, trying to celebrate his daughter's graduation, Foster insisted that:

> it was important that [he] speak directly with the First Lady that day. [Watkins] called her that evening and she conveyed to [him] in clear terms her desire for swift and clear action to resolve the situation.[173]

During this conversation, Watkins recorded that Mrs. Clinton:

> mentioned that Thomason had explained how the Travel Office could be run after removing the current staff—that plan included bringing in World Wide Travel and Penny Sample to handle the basic travel functions, the actual actions taken post dismissal—and in light of that she thought immediate action was in order.[174]

Foster was present during the conversation.[175]

In contrast, Mrs. Clinton's recall of this conversation was first provided in responses to GAO inquiries on April 6, 1994, in which she responded:

> Mrs. Clinton does not recall this conversation with the same level of detail as Mr. Watkins. She recalls that on Friday, May 14, she had a very short telephone call with Mr. Watkins. Mr. Watkins stated that Mr. Foster had mentioned that Mrs. Clinton was interested in knowing what was going on with the Travel Office. Mrs. Clinton knew that Mr. Watkins was out of town. Mr. Watkins conveyed to her that even though he was not in Washington, his office was taking appropriate action.[176]

Mrs. Clinton also told the GAO that she "did not know the origin of the decision to remove the White House Travel Office employees" and that she had "no role in the decision to terminate the employees."[177] These statements are inconsistent with Watkins' sworn statements. He testified that "Foster regularly informed me that the First Lady was concerned and desired action—the action desired was the firing of the Travel Office staff."[178]

Almost 2 years later, Mrs. Clinton took an oath that her original answers were accurate. However, she provided additional information which indeed does show a role:

> I may have expressed the view that appropriate action should be taken if the circumstances warranted it. . . . I expressed my concern . . . that if there were fiscal mismanagement in the Travel Office or in any part of the White House, it should be addressed promptly.[179]

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[172] OPR Report, p. 45.

[173] Watkins memorandum, CGE 012287.

[174] *Id.* Watkins also reported that "Harry Thomason indicated that he could put a more efficient structure in place in an hour's time to handle all the tasks of the Travel Office." CGE 012292.

[175] Responses to questions for the First Lady from the Committee on Government Reform and Oversight of the House of Representatives, March 21, 1996, p. 11.

[176] April 6, 1994 response to GAO interrogatories by Mrs. Clinton.

[177] Mrs. Clinton's responses to committee interrogatories, p. 3.

[178] Watkins' testimony in committee hearing, January 17, 1996; see also Watkins "soul cleansing" memo, CGE 012287.

[179] Mrs. Clinton's answers to interrogatories, pp. 12–13.

On this day, Harry Thomason was asking about the Travel Office developments throughout the day. He had a message from Cornelius that "the audit started in the travel office."[180] Late that evening, Patsy Thomasson interrupted the Watkins' family graduation celebration again to "urge him" to call Harry Thomason who was staying at the Jefferson Hotel. Mr. Watkins reached Harry Thomason at midnight and told him the Peat Marwick report would not be released before Monday.[181] It appears that Harry Thomason and Eller had been pressing since the previous day for the firings to take place before 5 p.m. on May 14, 1993, which was a Friday.[182]

May 15–16, 1993, Saturday-Sunday

Throughout the weekend, the Peat Marwick review continued. Despite numerous conversations with FBI Headquarters, no one at the White House ever informed the agents that Peat Marwick was not performing an "audit."

Moreover, the White House did not inform the FBI that it was conducting its own investigation. Patsy Thomasson enlisted Jennifer O'Connor and Brian Foucart under the pretense of an NPR review to interview Billy Dale and report back to her.[183] Ms. Thomasson requested they provide a memo of the results.[184] Ms. Thomasson also tried to enlist one of her assistants, Peter Siegel, to go on a trip scheduled for the following Monday to shadow the Travel Office employees and record an "hour-by-hour" accounting of what they did. This mission was to be carried out "unobtrusively."[185]

On May 15, Kennedy contacted FBI Agent Carl at home to receive an private briefing from Peat Marwick. Agent Carl arrived at the White House at 5 p.m. with the Washington Metropolitan Field Office Supervisor assigned to the matter, David Bowie.[186] Again, Kennedy assured the FBI agents that the Travel Office records were secure.

Also on May 15, McLarty telephoned Foster to tell him that he was going to New York with Mrs. Clinton that evening and wanted Foster to "give highlights, status" to him before the trip.[187] Steve Davison of World Wide Travel reported, "We'd heard that Mack couldn't get a hotel room, that HRC was pissed at Travel staff," as a possible reason for the firings.[188]

On Sunday, May 16, 1993, Patsy Thomasson continued her own investigative work by calling in several computer people to remove the hard drives on all the computers in the Travel Office. Again, the FBI was not informed of these activities.[189]

A World Wide Travel employee Fan Dozier talked with Harry Thomason on this day and recounted that Thomason remarked:

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[180] Thomason message logs, Thomason document production, Bates Stamp No. 00000112.
[181] FBI 302 interview of David Watkins, August 10, 1993.
[182] It is a common practice to release information on Fridays to minimize news coverage.
[183] Committee deposition of Brian Foucart, May 3, 1996, pp. 30–32.
[184] OPR Report, p. 46.
[185] White House typed memo "For Peter," undated [but is from May 1993], CGE 008268.
[186] OPR Report, p. 46.
[187] Foster Travel Office notebook, CGE 000909.
[188] WHMR interview notes of Steve Davison, June 5, 1993, CGEPR 185–198.
[189] Thomasson deposition, pp. 123–124.

"you mean you're not up there working [in the Travel Office]?"[190] Mr. Thomason added that "the First Lady would be very upset" to hear that World Wide Travel was not already in place.[191]

Later that evening, McLarty was in the White House residence for a dinner with President Clinton and Mrs. Clinton and several cabinet members.[192] Mrs. Clinton spoke with McLarty in private about the progress of the Travel Office investigation. McLarty later added a notation to one of the numerous chronologies subsequently created by the White House Counsel's office that on this date, there was "HRC pressure."[193] Although McLarty previously did not acknowledge this meeting, he testified before this committee that Mrs. Clinton did pressure him to act at this time.[194]

Mr. Foster arrived at the White House for a late night meeting with President Clinton at approximately 9 p.m. The meeting lasted approximately 2 hours, until 11 p.m. On Foster's calendar detailing his activities on May 16 for Travel Office matters, the only notation he wrote was "?"[195]

May 17, 1993, Monday

Mr. Watkins had an early morning meeting with McLarty. Mr. McLarty informed him that this matter was on Mrs. Clinton's "radar screen."[196] Mr. Watkins recorded that there "would be hell to pay if . . . we failed to take swift and decisive action in conformity with the First Lady's wishes."[197]

Mr. Watkins drafted a memo to McLarty later this same day covering the planned Travel Office firings. Mr. Watkins copied this memo to Mrs. Clinton.[198] The memo was faxed to Eller who was traveling with President Clinton in California.[199] Mr. Eller discussed the memorandum with Presidential confidante Bruce Lindsey. In turn, Lindsey discussed the memorandum with President Clinton in California.[200] That morning, Lindsey placed a

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[190] WHMR interview notes of Fan Dozier, June 8, 1993, CGEPR 204–211.

[191] *Id.*

[192] McLarty deposition, pp. 37–38.

[193] "Chronology of Travel Office Firings (as of 5.25.93)" with handwritten notations by Chief of Staff Mack McLarty, CGEPR 0563–0564.

[194] McLarty deposition, pp. 40–42.

[195] Foster Travel Office notebook, CGE 911, 1039.

[196] Watkins memorandum, CGE 012287.

[197] Watkins "soul cleansing memo," CGE 012287.

[198] Early White House productions of this memorandum to the committee contained copies of this memorandum with Mrs. Clinton's names crossed out and unable to be read. No explanation has been given for why her name had been crossed out on these copies.

[199] White House Management Review interview notes of Bruce Lindsey, June 9, 1993, CGEPR 331–334. President Clinton's ill-fated trip to California ended with a $200 haircut on the runway of the Los Angeles airport.

[200] The fact that the President knew of the firings prior to their occurrence on May 19 had always been denied by the White House prior to this investigation. The committee uncovered notes that detailed the briefing of President Clinton on this matter. For example, on July 2, 1993, during a press briefing on the release of the White House Management Review, Mack McLarty was asked:

Question. Was the President aware that the Travel Office was being dismissed before it was dismissed?

Mr. MCLARTY. He was interviewed, Mr. Podesta interviewed him. He was not aware of the other——

Question. Neither one?

Mr. MCLARTY. I don't believe he was, not to my knowledge. And I think in terms of perhaps his being aware of some of this perhaps he was ill served in that regard.

phone call to Kennedy from Air Force One and left a message for Kennedy to call him.[201]

Mr. Dale went to see Watkins later this day to inquire about retiring. Mr. Watkins advised Dale that he did not want to discuss it at this time and scheduled a meeting for Wednesday morning, May 19, at 10 a.m. with all the employees.[202]

May 18, 1993, Tuesday

The FBI called the White House to see what was happening to the "audit" only to be put off for the day. Throughout the day, Cornelius was finalizing plans with World Wide Travel staff to effectuate the takeover of the Travel Office operations. A new director of the Travel Office was selected by David Watkins: the reticent Brian Foucart.[203] Mr. Foucart recalled little of any events while at the White House. He testified that he could not recall what his title was or exactly when he began working there.[204]

Harry Thomason also had a meeting with Craig Livingstone on this day although the purpose is unknown.[205] Ms. Cornelius enlisted Thomason's help as she had in the previous week to determine how the Travel Office could be run.[206]

At the end of the day, Kennedy put his arms around the shoulders of FBI agents assigned to the White House, Dennis Sculimbrene and Gary Aldrich and said,

> You guys are really going to thank me in the morning. . . . I can't talk about it right now, but I kept you out of something and you are going to be very grateful in the morning that you were kept out of this.[207]

The only event that occurred the next day was the firing of the seven White House Travel Office employees and the announcement that they were under investigation by the FBI. We now know that Kennedy exhibited an uncanny foresight into future events. However, Kennedy's statement reveals a level of prescience that being a part of the firing of the seven Travel Office employees was not something anyone wanted to acknowledge.

May 19, 1993, Wednesday

While the FBI awaited the completion of what it had been falsely told was going to be an audit, the White House suddenly decided to fire the Travel Office employees on Wednesday, May 19, 1993. The firings were announced in a press briefing and the President's press office proceeded, contrary to official policy, to announce that there was an ongoing FBI investigation.

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[201] Phone logs of William Kennedy, CGE 23023. Neither Kennedy nor Lindsey have any recollection of this telephone call. See committee deposition of Bruce Lindsey, July 29, 1996, p. 50; see also Kennedy deposition (April 9, 1996), pp. 130–131.

[202] WHMR, p. 11.

[203] Foucart deposition, p. 42.

[204] Mr. Foucart arrived at the White House after serving as the budget and finance person at the DNC.

[205] Mr. Thomason had undated notes of a meeting that he testified was with Craig Livingstone to discuss Livingstone's interest in securing the Director's job in the White House Military Office. Thomason did not recall when this meeting occurred. On May 18, 1993, Livingstone put Anthony Marceca on an access list to the White House. CGE 47618.

[206] Cornelius deposition, pp. 116–117.

[207] Committee deposition of Gary Aldrich, July 18, 1996, p. 49.

Early that morning, Watkins provided White House Press Secretary Dee Dee Myers with talking points which included the mention that the White House asked the FBI to investigate.[208] When Kennedy called Agents Carl and Wade to tell them about the impending firings, Agent Wade warned "that the termination could pose problems for the investigation."[209] The White House ignored the FBI's concerns and neither the FBI nor the Justice Department ever publicly voiced any further objections.

When word of the firings reached the Justice Department, its Criminal Division Acting Chief, Jack Keeney, drafted an "Urgent Memo" on May 19, 1993. In that memorandum, he noted that the FBI had become involved due to the "kickbacks" allegation.[210]

Peat Marwick's report was not available when the White House announced the firings on May 19. In fact, it was not yet written. Consequently, Peat Marwick's primary author, partner Larry Herman, was ushered into a meeting with George Stephanopoulos, Dee Dee Myers, Vince Foster, Bill Kennedy, Ricki Seidman and Harry Thomason. He was immediately greeted with the question, "Where the hell is the report?"[211] Mr. Herman testified that Harry Thomason pressed him with questions about whether they had uncovered anything about "kickbacks."[212]

During this timeframe, Thomason spoke to Ross Fischer of Miami Air and discovered that Fischer never made any allegations of kickbacks.[213] Harry Thomason quickly learned that his allegations were turning to dust.

Meanwhile, Thomason contacted his partner Darnell Martens and asked for his assistance in contacting Penny Sample of Air Advantage to come to Washington to help in the Travel Office. She arrived the next day.[214] Mr. Thomason again was vague about his participation to summon Penny Sample. He testified:

> *Question.* There was a time before the firings when Darnell Martens placed a telephone call to Penny Sample. It was in May of 1993. Did you have any involvement or offer any advice concerning the telephone call that was placed to Penny Sample to come to the White House?
>
> Answer. I don't know. I don't know. I mean, at one point I remember somebody in the White House said: Who could do this if we decided to make a change in this department? But so, I don't remember anything else about it actually.
>
> *Question.* Do you know who recommended Mr. Martens call Ms. Sample to come to the White House prior to the

[208] WHMR, p. 11.

[209] OPR Report, p. 49.

[210] Urgent memo of May 19, 1993 from Jack Keeney to Janet Reno, Philip Heymann and Webster Hubbell. While Attorney General Reno, Deputy Attorney General Heymann and Associate Attorney General Hubbell all deny reading this memo until the following week, an assistant to Heymann, Cynthia Monaco states that she personally handed the memo to Heymann on the day it was written or possibly as late as the next day and that she watched him read it according to her informal interview with the committee. Nevertheless, the oblivious response from the Justice Department to the highly unorthodox developments of this investigation in the earliest days seemed to set a pattern.

[211] Herman interview.

[212] *Id.*

[213] Staff interview of Ross Fischer in fall 1995. This information was notably absent from any public accounts or in the White House Management Review which was released on July 2, 1993 absent this exculpatory information.

[214] Martens deposition, p. 173.

firing of the White House Travel Office employees on May 19th?

Answer. I don't. Mr. Martens was at the White House in a meeting with several people later, and I'm not sure what the date was or anything, and it came out of that conversation. But exactly who, I couldn't tell you.[215]

May 20, 1993, Thursday

The firings were met with near universal skepticism in the press once it was revealed that President Clinton's cousin and Harry Thomason were in the wings to take over the operations of the White House Travel Office. The press soon began to learn just how instrumental they had been in generating the firings.

The announcement of the FBI investigation was a particular problem because to this point, the FBI had allowed the White House to totally control the alleged investigation. The White House had already made a premature announcement of the investigation and now the FBI press office was busy catching up with the White House "press responses." The FBI had to deal with White House press responses that continued to support the White House's indications that there would be an FBI investigation.[216]

The FBI press response did concede that the FBI planned to await the "final report of the auditors" in order to "analyze their findings and conduct appropriate investigation."[217] At this point, the FBI did not have the report and had not learned there was not going to be an "audit" upon which to base an investigation. FBI Media Affairs Director John Collingwood testified that he sent copies of his "press responses" to the White House throughout this week.[218]

The press also learned on this date that Cornelius and Clarissa Cerda prepared a February 15, 1993 memorandum for Watkins which positioned them as co-directors of the Travel Office. When this broke in the press, Patsy Thomasson instructed Cornelius and Cerda to deny that Watkins ever read the memo, a claim which both believed was false.[219] A White House created chronology disclosed that Gene Gibbons of Reuters and Wolf Blitzer of CNN informed Stephanopoulos that they had obtained this memorandum. They agreed to hold their stories until Watkins, Myers and Stephanopoulos met with the reporters' bureau chiefs the following morning.[220]

Once Eller's personal relationship with Cornelius became public, he told interviewers that he threw away all his documents and al-

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[215] Thomason deposition, pp. 17–18.

[216] *See* OPR Report, p. 62.

[217] FBI press response, May 20, 1993, OPR Report, p. 57; *see supra* note 64.

[218] OPR Report, p. 57, fn. 65.

[219] Cornelius deposition, p. 143; committee deposition of Clarissa Cerda, April 16, 1996, pp. 124–125. Ms. Cornelius testified in detail to the actions taken by Patsy Thomasson against her in her attempt to "save David's job." Not only was Cornelius asked to resign from her job at the White House, but her mess privileges were taken away by Thomasson when she refused to do so. Ms. Cornelius testified that she would not leave the White House unless President Clinton asked her to do so. Ms. Cornelius' attorney authored a letter to Deputy Chief of Staff Bill Burton requesting a substantial raise for Ms. Cornelius above the pay rate of the job. In this letter, it is noted that Cornelius had "admirably chosen to remain silent" as a "complete team player" throughout this whole Travel Office ordeal. Letter from Stephen Braga to Charles William Burton, August 6, 1993, CGE 029028–30.

[220] "Chronology of Travel Office Firings (as of 5.25.93)", CGE 563–564.

legedly "removed himself" from the issue. However, Cornelius testified that Eller was engaged in a heated discussion with Stephanopoulos about this matter about this time—an altercation neither can now recall.[221]

With the pressure growing for a Peat Marwick report that matched the advance hype, Larry Herman called in front office reinforcements from Peat Marwick. Mr. Kennedy informed the FBI, which had made several requests for the report, that the "auditors" were working on the report but that "changes were being made to the draft and that [the FBI] would get a copy as soon as it was available."[222]

May 21, 1993, Friday

The FBI still had not received what they thought would be an "audit" report from the White House. Ms. Myers and Stephanopoulos met with various White House personnel to try to put a story together to quell the growing press fury. Mr. Foster recorded in his notes of this date that at some point Stephanopoulos was told of HT's [Harry Thomason's] memo and that Stephanopoulos "gets upset" because he had already told the press that Thomason had no financial interest at stake.[223]

Ann Devroy and Ruth Marcus of the Washington Post contacted Stephanopoulos about the "Martens memo" they had obtained. This memorandum detailed Martens' efforts to obtain Travel Office business as well as his call to Dale in February 1993, about obtaining Travel Office business.

The story about the Cornelius/Cerda memorandum to take over the Travel Office was reported that morning by CNN and Stephanopoulos quickly dismissed it as the work of yet another "low-level staffer" in the Clinton White House. He claimed that the memorandum had nothing to do with the firings. The Martens memorandum's release made it imperative that the "management decision" to fire the employees not only be backed up by Peat Marwick but also by the FBI.

Delays in the final Peat Marwick review and the FBI formal announcement of an investigation had become a problem. The White House called John Collingwood at the FBI to come to a White House press strategy meeting. Once there, Stephanopoulos asked him to revise his FBI press response.[224] He did so upon his return to the FBI and faxed it to the White House. Mr. Stephanopoulos used the revised response in his 4 p.m. press conference.

The White House finally released the long-awaited Peat Marwick review at this press conference. The FBI did not receive the Peat Marwick review until later that evening at Headquarters. The assigned FBI field office did not receive the report until the following week. Nevertheless, before anyone at the FBI reviewed the Peat Marwick report, the FBI "investigation" had been confirmed.

In a previously undisclosed phone conversation between White House Counsel Bernie Nussbaum and Deputy Attorney General

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[221] Cornelius deposition, p. 142; committee deposition of Jeffrey Eller, April 18, 1996, p. 129; committee deposition of George Stephanopoulos, May 15, 1996, p. 33.

[222] OPR interview of Supervisory Special Agent Thomas Carl, August 1993, p. 10.

[223] Foster Travel Office notebook, CGE 917.

[224] OPR Report, p. 62.

Phil Heymann on the morning of Friday, May 21, Nussbaum asked Heymann if the White House could say that the FBI had signed off on an investigation.[225] Mr. Nussbaum later claimed that Stephanopoulos pressed him to take action.[226] Mr. Nussbaum also said FBI Deputy Director Floyd Clarke happened to be in Heymann's office when Heymann gave the go ahead to announce the investigation.

White House Deputy Director of Records Management Lee Johnson sent a memorandum to Staff Secretary John Podesta on this date expressing serious concerns about the records in the Travel Office and the lack of control over these records.[227] Podesta's office was responsible for records management at the White House.[228]

Mr. Johnson repeatedly contacted Steven Neuwirth in the White House Counsel's office about this matter and received no response. FBI Agent Sculimbrene also raised concerns about the lack of control over the documents. He stated that he had seen people throwing out records and documents from the Travel Office and was shocked that there was absolutely no FBI presence or control over the investigation at this point.[229] Mr. Podesta's Deputy Todd Stern later noted that: "document handling . . . terrible . . . no documents secured . . . but FBI may not want this—prejudice case . . . who drove it and who knew."[230]

That evening, Cornelius and Cerda had dinner at the Jefferson Hotel with Thomason and his White House assistant Bobbie Faye Ferguson. Ms. Cerda told Ferguson that she and Cornelius had been told to say that Watkins did not read their February 15 memorandum.[231] Ms. Cerda did not think this was true and believed she was being asked to lie.[232]

May 22, 1993, Saturday

The White House staff was reeling from a grueling press week on both the Christophe haircut and the Travel Office firings. President Clinton's staff gathered at the White House throughout the weekend to "war room" the press strategy. Mr. Thomason appeared at the White House over this weekend.[233]

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[225] WHMR interview notes of Bernard Nussbaum, June 8, 1993, CGEPR 380–382.

[226] *Id.*

[227] CGE 7763.

[228] May 21, 1993 memo to John Podesta from Lee Johnson, CGE 007763. This memo was not provided to the Justice Department in the course of the investigation into Billy Dale. It was finally provided to the defendant in the course of his trial after it became public. This was among a number of documents that the White House was seriously deficient in providing the Justice Department which continued to receive records from the White House throughout the trial.

[229] Sculimbrene Public Integrity interview, August 16, 1995. None of the Justice Department prosecution team for the *Dale* case questioned Agent Sculimbrene about these documents even though he made his knowledge of the situation abundantly clear to his superiors at the FBI. After Agent Sculimbrene was asked to testify in the Billy Dale trial, he was treated as an outcast by his superiors at the FBI. Agent Sculimbrene testified that he was drug tested for the first time in his career and then ultimately removed from the White House so that he would not cause the Clinton administration to be "uncomfortable." After months of working without any assignments at a desk in the field office, Agent Sculimbrene finally resigned from the FBI. FBI general counsel Howard Shapiro attacked Agent Sculimbrene's integrity and honesty in testimony before the committee. Testimony before the committee, August 1, 1996.

[230] Handwritten notes of Todd Stern, May 27, 1993, CGEPR 0679.

[231] Ferguson deposition, p. 81.

[232] Committee deposition of Clarissa Cerda, April 16, 1996, pp. 124–125.

[233] Secret Service logs, CGE 9287.

May 24–25, 1993, Monday-Tuesday

On May 24 and 25, 1993, an increasingly skeptical press continued to question White House cronyism and misuse of the FBI. The Attorney General was asked by a Washington Post reporter on May 24, if she was aware of the White House contacts with the FBI. General Reno denied any such knowledge in spite of the fact that an Urgent Memo about the matter was provided to her on May 19.[234]

The press learned that Collingwood had been at the White House on Friday, May 21, and continued to raise questions about President Clinton's staff exerting pressure on the FBI. New York Times columnist William Safire accused the White House of "politicizing" the FBI during an appearance on "Meet the Press" on May 23 and again in his New York Times column on May 24.[235]

On May 25, President Clinton was questioned during a photo session about Mr. Safire's allegations. President Clinton responded that:

> whenever you've asked me a question, I've told you all I know about it. All I knew was there was a plan to cut the size of the office, save tax dollars, save the press money.

President Clinton's lack of knowledge is in conflict with Bruce Lindsey's testimony that he briefed President Clinton on the matter prior to the firings. When Lindsey briefed him, President Clinton asked, "What's it about?"[236]

General Reno took the White House to task for directly contacting the FBI without going through the Justice Department and expressed her consternation with these events to President Clinton's Counsel Bernard Nussbaum.[237]

The White House announced that a "White House Management Review" would be immediately undertaken to be presided over by then-Chief of Staff Mack McLarty. Mr. McLarty was put in charge of the internal investigation even though he clearly had a role in the firings. The incongruity of putting the person who authorized the firings in charge of this investigation ensured from the beginning that the full story would not be told.

May 27, 1993, Thursday

White House Management Review co-author Todd Stern memorialized his concerns in his handwritten notes:

> *problem* is that if we do any kind of report and *fail* to address these Qs [questions], press jumps on you wanting to know answers; while if you give answers that aren't fully honest (e.g. nothing re HRC) you risk hugely compounding the problem by getting caught in half-truths. You run the risk of turning this into a 'cover-up'. . . . We

[234] OPR Report, p. 68, fn. 76.
[235] Numerous copies of Mr. Safire's column were produced by the White House.
[236] WHMR interview notes of Bruce Lindsey, CGEPR 331–334.
[237] OPR Report, pp. 68–69.

> need to think seriously about whether or not it won't be better to come clean . . .[238]

Unfortunately, Mr. Stern's musings were never heeded—coming clean was not on the White House agenda.

IV. The Travel Office Firings Were Part of a Campaign Payback Scheme That was in Place Long Before May 1993

A. HARRY THOMASON SOUGHT THE TRAVEL BUSINESS FROM THE EARLY DAYS OF THE TRANSITION, TOLD MRS. CLINTON HE COULD PROVIDE THE SERVICE AND PRESIDENT CLINTON AND MRS. CLINTON PROVIDED THE ACCESS TO DO SO. HARRY THOMASON MALIGNED THE TRAVEL OFFICE EMPLOYEES, AS WELL AS TRAVEL OFFICE CONTRACTOR ULTRAIR IN ORDER TO MOVE THEM OUT OF THAT OFFICE. THOMASON'S TRAVEL BUSINESS INTERESTS POSED AN INHERENT CONFLICT WITH HIS INVOLVEMENT IN TRAVEL OFFICE DECISIONS OR ANY SOLICITATION OF BUSINESS IN THIS AREA

The origins of the Travelgate story began long before the May 19, 1993, firings and long before the Clintons crossed the White House threshold in January 1993. Harry Thomason, famous Hollywood producer and a long-time close friend of the Clintons, became an indispensable member of the 1992 campaign entourage. He and his wife provided much needed assistance: from their own personal aircraft in the early days of the campaign and help with Hollywood fund-raising, to scripting and staging of the 1992 Democrat convention complete with a Thomason produced video, "The Man from Hope."

1. Harry Thomason's ownership interest in aviation companies presented inherent conflicts of interest in his seeking Travel Office business

Mr. Thomason possessed an ownership interest in several aviation oriented companies. He had a 33 percent ownership interest in Thomason, Richland & Martens, Inc., (TRM), an aviation consulting company based in Cincinnati, OH. TRM's cash flow depended heavily on moneys derived from the Clinton/Gore campaign from the fall of 1991 through the election in November 1992. This reliance continued throughout the Clinton/Gore transition.

Mr. Thomason's two partners had a 33 percent ownership in TRM. Darnell Martens was brought into TRM and served as the president of the company. Martens testified how the company began financially:

> *Question.* And so there were the two financial backers?
> Answer. Yes.
> *Question.* Did they in fact put up equal money——
> Answer. No.
> *Question.* Can you just explain what happened with that?
> Answer. Each were to put up $50,000. Harry put in 25 initially, Dan [Richland] did not. Maybe a year and a half

[238] Handwritten notes by Todd Stern, May 27, 1993, CGEPR 0682–683.

later, Dan put up 25,000. He subsequently put in his other 25,000. And Harry has yet to put in his final 25,000.

Question. Were you a financial backer of the company?

Answer. Only from the aspect of bringing the Executive Jet contract with me as part of the original deal.

Question. And you served as president?

Answer. Correct.[239]

Mr. Thomason met Darnell Martens in 1989 when he bought a plane from Executive Jet while Martens was employed there.[240] Mr. Martens, who claims his real life ambition was to work in the television industry, kept in touch with Thomason over the next several years. Mr. Martens testified that in 1991, Thomason encouraged him to present a business plan for the company that ultimately became TRM. TRM was incorporated in November 1991, shortly after Bill Clinton announced he was running for President.

Mr. Martens additionally took on a role with a second Harry Thomason-owned aviation company, the Thomason Aircraft Corp., as acting president. The Thomason Aircraft Corp., marketed aircraft parts and some aircraft sales.[241] This company became a client of TRM and Martens worked between the two companies in Ohio and California. At one point, Thomason Aircraft supplied an eight-seater plane to TRM.

Martens' income was covered under an arrangement he made with Executive Jet to provide his salary for approximately 1 year. In May 1993, his 1 year contract was ending and the additional commissions he obtained for his service to the Clinton/Gore campaign were drying up. The access that Harry Thomason could provide was an attractive solution for the cash strapped start up company. Mr. Martens testified that after the inauguration he wanted to have enough money so that he could spend a few months doing research and "get back to his business plan" providing financial advisory service for companies that owned aircraft and developing "benchmark products."[242]

2. TRM, Thomason's company, provided service to the Clinton/Gore campaign and sought to capitalize on their association with the new administration

In December 1991, Thomason told Martens that he had a friend, Bill Clinton, who was running for President. In his deposition, Martens explained:

I kind of rolled my eyes and said: Okay, so what?

And he goes: Well, it is Bill Clinton.

I had never heard of Bill Clinton. In fact, when he said it, right then was the first time I had ever heard the name.

So I said: Yes, so?

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[239] Martens deposition, p. 36.

[240] Martens deposition, p. 10.

[241] Martens deposition, p. 16. The Thomason Aircraft Corp. was a "corporate aircraft maintenance facility at Van Nuys Airport," California. This company had a "piston maintenance operation, a turbine maintenance operation and then a parts department." Aircraft sales was added to the company's activities the following year. *Id.,* pp. 12–14.

[242] *Id.,* pp. 14, 38, 45, 48.

> He goes: Well, the thing is that they have been getting into chartering airplanes and just ad hoc, you know, if somebody needs to go somewhere. And we are real concerned about primarily the safety issues, who are they using, how much are they paying, are they properly insured, some of those issues. You know, there has been some discussion around with some of the advisors that maybe somebody should take a look at what they are doing so that they don't actually have something bad happen, you know, use an operator they shouldn't or whatever.
>
> He said: It seems to me maybe you would want to go down and see if there was an opportunity for you to do some consulting for them.
>
> I said: Sure, that will be fine.[243]

Mr. Martens attended a Los Angeles fund-raiser with Thomason, shook Bill Clinton's hand, and then met with David Buxbaum of the Clinton/Gore campaign and obtained the campaign charter business. Mr. Buxbaum was in charge of budget matters and reported directly to Watkins who was then Clinton/Gore campaign manager. Mr. Martens was not aware of any competitive bidding done to obtain the business.

Initially, TRM provided all the planes for the fledgling campaign. As Clinton successes mounted in the primary season and the entourage grew, Martens utilized a New Mexico charter company, Air Advantage, to serve as a charter broker. Air Advantage paid an agreed upon percentage to Martens through TRM. Although Martens testified that he did billing and consulting work with Air Advantage, Air Advantage owner Penny Sample claimed she really didn't know what Martens did or for what they were paying him.[244]

When Bill Clinton won the Presidency in November 1992, the TRM partners and their associates set their sights on "Washington opportunities." Linda Bloodworth-Thomason ridiculed the idea of her husband trying to get the Travel Office business as the equivalent of taking over someone's lemonade stand when the whole Travel Office debacle blew up in May 1993, after the firings:

> given our salaries, setting our sights on the White House travel office would be the financial equivalent of us taking over someone's lemonade stand.[245]

However, Thomason and Martens did in fact seek a quarter of a million dollar Government contract as well as the potential $10 million annual cash flow. It is now apparent, that even before the start of the Clinton administration, Harry Thomason spoke with Mrs. Clinton about replacing Travel Office employees because they were "disloyal" and discussed the fact that he (TRM) could do the same work he had performed for the campaign.[246]

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[243] Martens deposition, pp. 20–21.

[244] GAO deposition of Penny Sample, September 1, 1993, pp. 21–22.

[245] Judith Michaelson, *Putting 'House' and Past in Order, Old Nemeses Delta Burke and Thomason's Combined Forces,* Los Angeles Times, January 4, 1995.

[246] Handwritten notes of President Clinton's Associate Counsel Natalie Williams detailing a conversation with one of Harry Thomason's attorneys, Amy Sabrin, DF 780464. Although President Clinton claimed executive privilege over all of Ms. Williams' handwritten notes, the committee received production on August 15, 1996.

3. A January 29, 1993 memorandum from Darnell Martens to Harry Thomason catalogs the ambitious Washington agenda for TRM: pursuing Travel Office business and obtaining "official status" at the White House

a. Seeking "Washington opportunities"

In a memorandum never before provided to investigators until the committee threatened to subpoena Harry Thomason, the multiple Thomason-Martens enterprises were revealed. In the January 29, 1993 memorandum from Martens to Thomason, Marten detailed numerous "Washington opportunities" that could be pursued by "capitaliz[ing] on the 'Thomason' name recognition."[247]

Mr. Martens first suggested changing the TRM firm name to "Harry Thomason & Associates" as they moved forward with their "opportunities." Mr. Martens made up his own letterhead and proceeded to use this new name when faxing requests for meetings at the White House.[248] Mr. Thomason testified, however, that this was done without his approval and claimed to have put an immediate halt to the name change. Nevertheless, this same heading appears on later TRM correspondence to the White House.[249]

b. Obtaining "some form of official status"

Second, Martens' memo recommended obtaining "some form of official status as advisors to the White House for general aviation policy matters." The memorandum proposed achieving this goal through special consulting projects such as developing a "computerized safety and operational database" or reviewing "all non-military Government aircraft to determine financial and operational appropriateness."[250] President Clinton greatly facilitated this effort after a February 10, 1993, cabinet meeting when he announced he was "ordering an inventory of the airplane fleet."[251]

Messrs. Martens and Thomason did in fact obtain the "official status" of White House passholders. Harry Thomason obtained his pass on March 23, 1993, and Darnell Martens obtained his pass on May 12, 1993.[252] Mr. Thomason was listed as reporting directly to President Clinton.[253] Mr. Martens reported to Harry Thomason and Watkins.[254]

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[247] DOJ document production, EZ 037684.

[248] Confidential fax cover sheet (CGE 2228) with memo offering assistance with the Travel Office, May 13, 1993, Bates Stamp No. BFF 1031; memorandum from Martens to Bruce Lindsey, April 12, 1993, regarding proposal to perform financial audit of non-military Federal aircraft, CGE 2229.

[249] Thomason deposition, p. 110.

[250] Confidential memorandum to Thomason from Martens, January 29, 1993 regarding "TRM Action Items", DOJ production, Bates Stamp No. EZ 037684.

[251] "Remarks at a Meeting with Cabinet Members," 29 Wkly Comp. Pres. Documents, p. 67.

[252] *See* GAO interview of Craig Livingstone, March 10, 1994. Craig Livingstone testified to GAO investigators that this request was "unheard of." Livingstone went to the Office of Administration to find out why he had been given an access form from President Clinton requesting a pass for Harry Thomason. According to Livingstone, Watkins refused to provide any explanation and only told him that it needed to be done.

But see Thomason deposition, p. 75. Thomason stated in sworn testimony that after arriving at the White House for several days and having to wait at the gate for someone to grant him entrance through the gate, Livingstone approached him one day and said: "[W]hy are we doing this? You know, it causes a waste of time, you a waste of time. Why don't we get you a temporary pass so that we just won't have to make the call everyday."

[253] CGE 2933.

[254] CGE 18296.

Harry Thomason was enlisted to come to the White House when the White House fell upon hard times with the press and President Clinton's polling figures headed south. Mr. Thomason was officially brought in to assist in better "staging" of events for the President. Mrs. Clinton acknowledged discussing these "staging" efforts with Harry Thomason.[255]

Rahm Emanuel told White House Management Review investigators that McLarty, Stephanopoulos, Mandy Grunwald and President Clinton were consulted about bringing in Harry Thomason for staging advice and they all signed off on the project. Mr. Emanuel confirmed in sworn testimony before this committee that McLarty approved bringing in Harry Thomason.[256]

In stark contrast, McLarty claimed he had no role in bringing Harry Thomason to the White House in numerous public statements as well as the White House Management Review.[257] Furthermore, McLarty testified to this committee that he "thought the President and First Lady had asked him [Harry Thomason] to come to the White House."[258] Other Clinton administration staff consistently maintained that Emanuel was responsible for Harry Thomason coming to the White House. The White House Management Review is vague on the subject:

> At the end of April, Thomason returned to Washington. He had been asked to consult on the staging of Presidential events and was provided with an access pass of the kind issued to staff, allowing him open passage throughout the White House complex.[259]

It is unlikely that Emanuel's position gave him the authority to bring someone to work at the White House, provide an East Wing office, computer, phone hook up, White House pass and direct senior staff to meet with such an individual for a "project." Such a task clearly would be within the scope of the Chief of Staff, particularly when it involved the Clintons' close friend and supporter, Harry Thomason.

Mr. McLarty denies his role in bringing in Harry Thomason and furthermore, states he never met with Thomason while he was at the White House.[260] Mr. Thomason directly contradicts this account. He testified to this committee that in the May 12, 1993 meeting reflected on his calendar, he gave McLarty a copy of "The White House Project."[261]

Mr. McLarty's testimony that he believed President Clinton and Mrs. Clinton asked Harry Thomason to come to the White House for the "staging" efforts, would explain why Thomason's White

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[255] Mrs. Clinton's answers to interrogatories, p. 9.

[256] WHMR interview notes of Rahm Emanuel, June 14, 1993, CGE 0236. In his committee deposition, Emanuel could not recall this fact. However, Todd Stern, who took notes at Emanuel's interview, confirmed that his notes did reflect that the President, Mack McLarty, Mandy Grunwald and George Stephanopoulos approved the "White House Project" that Harry Thomason was working on. *See* Stern deposition, pp. 38–39.

[257] GAO interview of Thomas F. "Mack" McLarty, March 21, 1994.

[258] McLarty deposition, p. 23.

[259] The White House Management Review, p. 6.

[260] McLarty deposition, pp. 23–24.

[261] McLarty does not appear to have turned over his copy of "The White House Project" to John Podesta and Todd Stern in the course of the Management Review. Stern recalls receiving the document from Rahm Emanuel. Podesta does not recall from whom they received the document.

House pass had him reporting directly to the President. Moreover, there is evidence that McLarty sent a memorandum to certain staff explaining Thomason's designated role at the White House prior to Thomason's scheduled interviews with department heads. This memorandum has not surfaced in the course of the committee's document requests to the White House.[262] Again, the White House Chief of Staff would be the logical person to send out such a memo so that staff would understand why they were being asked to take time out of their schedules to meet with Harry Thomason.[263]

c. Seeking the Travel Office business

Mr. Martens clearly envisioned seeking the Travel Office business according to his January 29 memo to Harry Thomason:

> Determine who controls the scheduling of the White House Press Corps aircraft. This can be done by TRM much as the campaign aircraft were handled.

There is no documentary evidence that Thomason ever objected to any of these activities. In fact, Thomason personally forwarded a proposal memorandum for a GSA contract to President Clinton, which was one of the items on the January 29 memorandum list.[264]

Mr. Martens January 29 memo also recommended that he and Thomason "travel to Washington within the next 30 to 45 days to meet with either DOT [Department of Transportation] or White House transportation advisors" regarding these items. Within the month, while an overnight guest at the White House, Harry Thomason passed on his ideas personally to President Clinton.[265] Martens even fancied that he and his Hollywood partner could provide "selection assistance" regarding President Clinton's choice for a new FAA Administrator.[266]

4. Putting Martens in touch with the White House to obtain Travel Office business

Mr. Thomason used his access to the White House to put Martens in touch with Myers and learn how to solicit the Travel Office business. Ms. Myers in turn put Martens in touch with Billy Dale. When Martens attempted to seek Travel Office business from the former Travel Office Director, Billy Dale, he was rebuffed. Then, perhaps, was the point at which Mr. Dale's fate was sealed. He made the mistake of not giving business to President Clinton's friend even though to do so would have disrupted a longstanding arrangement preferred by the customers of the Travel Office—the White House press corps.

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[262] Jennifer O'Connor recounted such a memo in handwritten notes, CGE 37586; *see also* Cornelius deposition, p. 76. Cornelius testified that O'Connor told her of such a memo. The committee specifically sought this memorandum from the White House to no avail.

[263] In the course of the White House Project, Harry Thomason had meetings with dozens of White House staffers as is reflected in an agenda provided by both the White House and Harry Thomason. Most of Thomason's meetings were conducted on April 30 and May 1, 1993.

[264] CGE 2296–2297.

[265] Thomason was an overnight guest in the White House residence on February 16 and 17, 1993 and forwarded the February 11, 1993 memo (CGE 2297) to the President.

[266] *See* Darnell Martens memorandum, dated January 29, 1993, DOJ production, Bates Stamp No. EZ 037684.

5. Drafting a memorandum covering his conversation with Dale which shows he was seeking the Travel Office business

Mr. Martens recounted his impressions of this conversation with Dale in a memorandum that was disclosed to the press just days after the firings. Mr. Martens testified that he wrote the memorandum contemporaneous with his conversation with Dale in early February 1993.[267] The Martens memorandum clearly states that TRM was seeking business from the Travel Office:

> Dee Dee Myers stated to both Harry Thomason (personally) and Darnell Martens (by phone) that the White House was not tied to any particular charter operator and that based on that assumption, she saw no reason why Thomason, Richland & Martens, Inc. (TRM) should not be able to compete for the White House Press Corps charter business.[268]

Mr. Martens goes on to detail his conversation with Dale in which he was told that "there was no possible combination of price/service under which TRM could earn the White House business.[269]

Mr. Dale acknowledged that he interpreted Martens' overtures as a bid for TRM to get the Travel Office business and that he simply didn't need a "middle man."[270] What Martens was soliciting was to take over Dale's job. Robert Van Eimeren overheard the conversation and concurred with Dale's account.[271]

A reading of the Martens memorandum further leads to the conclusion that TRM was seeking the Travel Office business. Again, Martens wrote, "Martens informed Dale that TRM purchases a much higher volume of charter hours than the White House does and that the buying power could be combined with the White House business to lower the cost from particular vendors to the Press Corps."

Mr. Martens' memorandum continues for close to two pages to outline his opinion that the Travel Office is a Republican operation: "Airline of Americas [UltrAir—the then current charter company] is a Republican-operated charter airline."

Mr. Martens seemed to view the White House Travel Office business as a political plum that now belonged to Clinton supporters:

> Once again, a company which made its choice and has represented that it did not support the Clinton presidential initiative continues to benefit from its special relationship with Billy R. Dale and the White House Travel Services Department.[272]

6. Laying out the strategy to get the Travel Office business in a March 5, 1993 memorandum: dig up dirt on the current employees and replace them with campaign cronies

Even more significant was another version of this "Martens memo" that never saw the light of day prior to this investigation.

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[267] Martens deposition, p. 52.
[268] Martens memo, WHMR, exhibit "G".
[269] *Id.*
[270] Committee interview of Billy R. Dale, November 27, 1995.
[271] Committee interview of Robert Van Eimeren, July 26, 1995.
[272] Martens memo, WHMR, exhibit "G".

Even the criminal investigation team in the Public Integrity Section of the Justice Department failed to obtain this document until brought to their attention by the committee. Like its predecessor, this March 5, 1993, memorandum further supports that TRM was seeking business in the Travel Office. Mr. Martens subsequently tried to explain it away by suggesting that it was merely a "memo to myself." Mr. Thomason finally turned over this document under threat of a subpoena in December 1995.

The March 5 memorandum from Martens to Thomason discussed Martens' efforts to gather incriminating information on the Travel Office employees while promoting TRM's plan to take over the Travel Office. In this version, Martens outlines the "solution" for the Travel Office:

> the Administration should disband the antiquated Transportation Department system in favor of the functions being outsourced to TRM/Air Advantage.[273]

Air Advantage was the same charter company used by TRM during the campaign. This is precisely what the events of May 1993, were designed to achieve. Similar to the May 13, 1993, fax discussed above that was sent to the White House, Thomason and Martens clearly envisioned "Penny [Penny Sample of Air Advantage] and I [Martens]" working at the White House.

Perhaps no other document so clearly lays out the agenda behind the maligning of the Travel Office employees—dirty them up, move them out and move in TRM and Air Advantage. The explanation is all laid out in this long-withheld document. The cover memo to this March 5 "solution" memo indicates that Martens took the following actions to investigate the Travel Office employees:

- "contacted the DOT regarding the AOA [Airline of the Americas/UltrAir] campaign violations"
- "we are contacting a party Treasurer to determine if AOA's owners made substantial Republican contributions"
- "we are to receive a package from Miami Air today with additional information on their experience with the White House . . . "
- "we are trying to obtain an on-the-record conversation with the ex-AOA employee."

Mr. Martens noted in his cover memo that he felt like "Mike Wallace on 60 minutes." He informed Thomason that he would be sending additional information.

Of course, Martens and Thomason have said that this memo, like the others meant nothing.[274] Mr. Martens testified that this was just a memo "to myself."[275] They attempted to explain it away as just a big misunderstanding by people who write fabricated memos to themselves that inadvertently fall into the wrong hands. In spite of this, Thomason did pass this information on to others at the White House including, but not limited to, Watkins, Foster, Kennedy, Cornelius, Patsy Thomasson, and O'Connor over the next few months.

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[273] Memorandum from Darnell Martens to Harry Thomason, March 5, 1993.
[274] *See* depositions of Martens and Thomason.
[275] Martens deposition, p. 74.

Notably, Harry Thomason made numerous phone calls to Mrs. Clinton's press office, to Lindsey's office, and to the Washington Post on March 5, 1993.[276] In the following days, the calls to Mrs. Clinton's office continued. Thomason's phone logs identify numerous contacts with Mrs. Clinton and her office throughout the week of May 10 through May 14, 1993. He called the private residence phone on both May 5 and May 6, 1993, and had a lengthy dinner in the residence on May 13, 1993.

The paperwork for Thomason's White House pass was completed on March 10, faxed to Mrs. Clinton's press office on March 23, 1993, stamped "RUSH ASAP."[277] Mr. Thomason obtained a Temporary White House Office pass, not a Temporary White House volunteer pass as would have been appropriate had he been a volunteer.[278] Since Harry Thomason's White House Project did not begin until the end of April, why the "RUSH ASAP" to get his pass in March if not for tending to Travel Office affairs?

The January 29 and March 5 Martens memoranda are consistent with the information Thomason passed on to White House officials. In order to get rid of the Travel Office employees, however, the "good story" that Thomason was hoping for needed a better plotline. Simple patronage and steering contracts to rich friends never makes for a good story.

"These guys are crooks," Harry Thomason roared through the White House. "They are ripping us off" he declared according to White House employee Jennifer O'Connor.[279] With these words, the lives of seven men changed forever.

Mr. Thomason worked with Cornelius and Watkins on his vision of the new Travel Office. The May 13, 1993 fax to the White House clearly shows that the plan was set in action on May 12, 1993. This was the same date that Martens was at the White House, obtained his White House pass, assigned to report to Harry Thomason. On this same day, Cornelius called upon World Wide Travel Agency to send staff to Washington. By the time Watkins was assigned this agenda item, the outcome of the Travel Office had already been decided by higher ups. He only had to determine the means; the ends were set. Mr. Watkins only executed the directives from above.

White House officials preposterously claimed that Thomason's efforts in obtaining Travel Office business and Government contracts for TRM were unrelated. They clearly were contemporaneous and overlapping as part of a larger effort to benefit from "Washington opportunities" for TRM. Mr. Thomason sought to take full advantage of the access that Thomason enjoyed with President Clinton and Mrs. Clinton.

Mr. Thomason's business interests, "advice" and "staging" all complemented each other. The good story of the Travel Office clean-up was just another "image project" to get better press for President Clinton and business for TRM. In order to accelerate his

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[276] The phone number called at the Washington Post was 334–7463. Thomason phone records, Thomason document production, Bates Stamp No. 876.

[277] This factual evidence is consistent with Watkins "soul cleansing" memo in which he states that "Management and Administration had no part in bringing Thomason into the White House . . . Contact with this Office on the subject consisted only of the First Lady's Office calling to insist on immediate access for Thomason." CGE 12291–12292.

[278] CGE 2933.

[279] WHMR interview notes of Jennifer O'Connor, June 11, 1993, CGEPR 0384.

plans, Thomason and Martens made what turned out to be totally baseless allegations against the Travel Office employees and UltrAir. Even the Justice Department found no basis for kickbacks or bribery allegations.

In contrast, the Justice Department did dismiss the criminal charges against Thomason and Martens after a tortured reading of the documents.[280] Moreover, it took considerable gullibility to buy into the "we lied to our memos" theory Martens presented concerning his memos. Given that DOJ's Public Integrity Division never sought these documents until *after* this committee obtained them, the actions of Harry Thomason and Darnell Martens deserve additional scrutiny by the Independent Counsel. The committee has compiled a far more extensive record of documentation that addresses a wider array of issues pertaining to Harry Thomason and Darnell Martens.

B. CATHERINE CORNELIUS PURSUED HER INTEREST IN TAKING OVER THE TRAVEL OFFICE FROM THE VERY FIRST DAYS OF THE TRANSITION AND INTO THE EARLY DAYS OF THE ADMINISTRATION, PROPOSING HERSELF AS CO-DIRECTOR OF THE OFFICE

The firings were long a glimmer in the eye of Catherine Cornelius, who wanted to run the Travel Office herself. Ms. Cornelius had a relationship with Eller, who also pushed for the firings as early as December 1992 when he told reporters there may be changes in the office. During the campaign, Cornelius handled travel matters along with World Wide Travel and wanted to continue that role when she joined the White House.

During the transition, Cornelius met with Betta Carney and Steve Davison of World Wide Travel and made suggestions to Watkins for reorganizing the Travel Office. On December 2, 1992, Betta Carney wrote a letter to Cornelius expressing interest in the White House Travel Office business.[281]

In late December, Cornelius began to prepare several memos detailing her plan to take over the Travel Office. On December 31, 1992, she sent a memorandum to Watkins and Barbara Yates[282] outlining the functions of the White House Travel Office. Cornelius claimed in her memo that the Clinton-Gore administration "has a unique and unprecedented opportunity to establish a comprehensive Travel Management Program for the White House."[283] In her summary conclusions, Cornelius outlines the advantages to her plan which include the elimination of five staff positions from the payroll, replacing those positions with those of an "out sourced agency."[284]

A follow-up memo to Watkins expands on the existing structure of the office.[285] On the first day of the new administration, people

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[280] *See* memorandum from Lee Radek to Stuart Goldberg, January 11, 1996, "Subject:" Recommendation to Decline: Harry Thomason and Darnell Martens. AX 500000–500023.

[281] CGE 7918.

[282] Ms. Yates worked as a financial consultant at Baird, Kurtz, and Dobson, the financial consulting firm for the Clinton-Gore Campaign.

[283] Memorandum from Cornelius to Watkins and Yates, December 31, 1992, Watkins document production, Bates Stamp No. JML 2551.

[284] *Id.*

[285] Memorandum from Cornelius to Watkins, January 26, 1993, Watkins document production, Bates Stamp No. JML 2558.

began calling the Travel Office asking for Cornelius, "the new head of the White House Travel Office."[286] Catherine Cornelius herself says she was open about her ambition to run the Travel Office.

Ms. Cornelius took the job at the White House with Watkins with the promise of a better position with a better salary. Ms. Cornelius hoped that position to be the co-director of the Travel Office. Her desire to be the co-director had been made clear to Watkins in her February 15, 1993 memo designating herself in that position.[287] It was particularly inappropriate for Cornelius to pursue an investigation of an office in which she hoped to assume the position of director. Yet that is exactly what happened. Despite her apparent conflict of interest, Kennedy put her in front of the FBI agents to describe a basis for a criminal investigation of the Travel Office employees.

After several months in Watkins' office, Cornelius was moved over to the Travel Office in early April 1993. She was officially tasked to handle the staff travel for White House employees including Health Care Task Force travel arrangements.

On April 16, 1993, Harry Thomason called Watkins to discuss a number of items including the Travel Office.[288] Mr. Watkins' notes of this conversation refer to the Travel Office and "charter press . . . be taking kick-backs . . . ask for 5% kickbacks."[289] The White House Management Review remarked that Thomason phoned Watkins in April to pass on "allegations about corruption in the Travel Office."[290]

Mr. Watkins' notes of April 16, 1993, also reference a conversation Thomason had with Bruce Lindsey. Mr. Thomason's phone records show a call from Thomason's Hollywood studio to Lindsey the day before.

Two days later, Watkins called Cornelius into his office to tell that there may be some wrongdoing in the Travel Office. Cornelius told DOJ Public Integrity investigators in 1993, and the committee in 1996, that Watkins read from a notebook as he described the allegations against the Travel Office employees: "Those guy are a bunch of crooks. They have been on the take for years."[291]

Ms. Cornelius had not observed any wrongdoing at this point, however, once the thought was planted in her mind, she started to watch over the Travel Office employees with a new perspective.[292] Mr. Watkins told her to keep her "eyes and ears open."[293]

Ms. Cornelius began copying receipts and records from the Travel Office and removing documents to review. One evening in April, she carried documents to Watkins office for his review.[294] In the

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[286] Testimony of John McSweeney before the Committee on Government Reform and Oversight, January 24, 1996.

[287] *See* WHMR, exhibit F.

[288] Watkins contemporaneous notes of April 16, 1993, CGE 29184. These notes also reflect a discussion with Thomason about the Secret Service. A Secret Service agent named Bob Coy is reflected in the notes as well as some references to agents talking to Bob Woodward and a reference to someone named "George Stewart." The committee has learned that George Stewart is a private investigator from the Little Rock, AR area. It was reported that he was contracted by the White House early in the administration to do undisclosed investigative work.

[289] Handwritten notes of David Watkins, CGE 029184.

[290] WHMR, p. 6.

[291] Public Integrity 302 interview of Cornelius, September 19, 1994; Cornelius deposition, p. 70.

[292] Ms. Cornelius was a 24-year-old, recent college graduate working in her first job.

[293] Cornelius deposition, p. 70.

[294] Public Integrity 302 interview of Catherine Cornelius, June 9, 1993.

process of copying and removing documents, Cornelius jammed a check in the copier which was later found by one of the Travel Office employees. Cornelius also took documents home with her, a fact known by Watkins and later by Kennedy and Foster. No one raised any concerns about her removal of these Presidential records.[295]

In the course of her time in the Travel Office, Cornelius reported to Watkins that she thought the Travel Office employees lived beyond their means. Cornelius offered examples of this high-lifestyle to include vacation time in Europe, ownership of a race horse and Billy Dale's lake home in Virginia.[296]

When Harry Thomason arrived in Washington on May 10, 1993, Cornelius met with him and the two swapped stories about what they thought would merit "a good story" about the Travel Office employees. Mr. Thomason told Cornelius of his allegations that the employees were seeking "kickbacks" from Miami Air. The committee now has evidence that Thomason repeated these allegations to Mrs. Clinton, Foster, Kennedy, Lindsey, Patsy Thomasson and numerous others at the White House.[297]

By May 12, 1993, Thomason and Martens planned to bring Penny Sample of Air Advantage into the White House and the firings were on the way. The recommendations set forth in the TRM memos and in Catherine Cornelius' memos came to fruition throughout the rest of the month.[298]

C. DARNELL MARTENS GIVES THE NOD TO HIS CAMPAIGN BENEFACTOR PENNY SAMPLE OF AIR ADVANTAGE

Air Advantage, whose president was Penny Sample, served as the Clinton-Gore campaign's charter broker. Mr. Martens knew her through the billing and consulting work that he did with Air Advantage during the campaign. Mr. Martens testified that after the election he wanted to assist or refer Air Advantage and other campaign charter carriers in obtaining White House press charter business. Even Martens recognized the goodwill, if not financial benefits, that would flow from his help to provide these companies with White House access.

In a May 23, 1993, Los Angeles Times article, Harry Thomason claimed that "Darnell Martens had contacted White House Travel Office Director Dale in February to find out how nine airline charter companies that supplied planes for the Clinton campaign could bid for the White House business."[299]

Mr. Martens enlisted Sample's assistance to provide information on the background of the White House Travel Office and the charter airline they used. Ms. Sample began gathering information for Martens' memorandum. She called Airline of the Americas and re-

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[295] The White House Records Management employees became very concerned after the firings when they learned there was no control over the documents, and that Cornelius had asked for boxes. Lee Johnson, the Deputy Director of Records Management, wrote a memo to Staff Secretary John Podesta on May 21, 1993 expressing concern over the handling of White House Travel Office records. CGE 7763.

[296] Mr. Dale's lake home held a mortgage of less than $100,000. Mr. Dale had lived in his home in Maryland for over 30 years and his mortgage was paid.

[297] This evidence is derived from their testimony as well as Foster's Travel Office notebook.

[298] *See supra* discussion of May 10–May 27, 1993.

[299] David Lauter and John M. Broder, *Clinton Friend Defends Role in Travel Flap,* Los Angeles Times, May 23, 1993.

ported back to Martens the number of airplanes and where they were located.[300] She provided background information on the White House Travel Office's contractual arrangements with Pan Am and Airline of the Americas for press travel charters.[301] Mr. Martens testified that Penny Sample "knows a lot about everybody." He added "that's her job."[302] In return for her undercover work, Martens called Sample to come to the White House to take over the charter business after the firings.

D. ARKANSAS TRAVEL AGENCY WORLD WIDE TRAVEL PROVIDED SERVICES DURING THE CAMPAIGN, OBTAINED THE DNC CONTRACT IN NOVEMBER 1992, AND SOUGHT WHITE HOUSE TRAVEL OFFICE BUSINESS

World Wide Travel played a critical role in the 1992 Clinton Presidential campaign. In particular, the Washington Times reported that Watkins credited World Wide with:

> setting up cash management practices that obtained advance payments from traveling journalists. This freed campaign money for advertising in such key states as Michigan and Illinois.

Mr. Watkins stated that World Wide's billing arrangement with the Clinton campaign, "allowed us to win key primaries, to have money that otherwise would be tied up in accounts receivable to put in advertising."[303] Travel Weekly explained that:

> This was achieved by requiring them to pay by credit card whereby the agency issues ghost American Express cards to those travelers who, for whatever reason, do not carry plastic. Representatives of the press and the Secret Service also were required to sign a manifest each time they boarded a plane chartered by the campaign. The agency billed immediately and collected payment within 48 hours. . . . Because of the quick turn around, the Clinton campaign was then able to spend the freed-up funds on advertising efforts in key primary states, such as Michigan and Illinois.[304]

Ironically, World Wide's aggressive billing led the White House press corps to challenge Stephanopoulos' May 20, 1993, contention that World Wide would save the press corps money:

> George, speaking of sloppy record-keeping, I don't know anyone on the campaign plane who ever got a detailed accounting of the charges. I think most of us just got a charge on our American Express bill saying, 'signature on file,' and had to then call up and hound World Wide Travel to get some sort of detailed bill. I mean, did you look into their accounting procedures at all before you selected them as an interim travel agency?[305]

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[300] Martens deposition, p. 73.
[301] *Id.,* p. 68.
[302] Martens deposition, p. 73.
[303] "Travel agency in loop; Helped Clinton before election," by Frank J. Murray, the Washington Times, May 21, 1993.
[304] "Clinton Camp Credits Agency for Governor's Primary Wins," by Fran Golden, Travel Weekly, September 10, 1992.
[305] White House press conference, May 20, 1993.

Ms. Cornelius called World Wide Travel to come to Washington on May 12, 1993, asking them to be prepared to come to the White House at any time. On May 19, 1993, after being fired by Watkins, the Travel Office employees returned to their office to find at their desks World Wide Travel agents.

World Wide soon realized that Cornelius had not arranged the "emergency contract" authorizing them to be in the White House. Nor was the bad press following the firings doing anything for its reputation. After 2 days in the White House, on Friday, May 19, Steve Davison told Watkins that World Wide was leaving.[306] They finally agreed to remain through the day and leave the following Monday when American Express was brought in to assume the duties of the fired Travel Office employees.

When the "plan began to unravel," Watkins, Thomasson, and Foucart begged World Wide Travel to stay. Special Assistant to the President Patsy Thomasson told World Wide "we'll give you anything you want."[307] World Wide Travel later told White House investigators that "what I needed was the seven people."[308] However, the fired Travel Office employees were carted out of the White House in a windowless van. The White House press offensive to discredit them was well underway.

Mr. Davison explained to investigators that "no one gave any forethought as to what would happen when the seven [Travel Office employees] left." World Wide Travel said that "we felt betrayed beyond belief."[309] World Wide Travel left the White House within 2 days of their arrival.

E. CONCLUSION

Harry Thomason, assisted by Mrs. Clinton was at the center of events leading to the firings of the Travel Office employees. Early on in the administration, Thomason had told Mrs. Clinton and the President about the alleged problems, and by May his rumors of wrongdoing had spread.

The White House consistently maintained that the firings of the Travel Office employees were due to mismanagement evidenced by a Peat Marwick audit. There was no audit. The firings were initiated long before Peat Marwick was called, and before anyone in the Clinton administration met the Travel Office employees. Furthermore, as the GAO report noted, if there was mismanagement in the Travel Office, it was the responsibility of David Watkins and Patsy Thomasson to handle.[310] GAO found serious management deficiencies in the way Watkins and Thomasson managed the Travel Office, and in the course of their GAO interviews, it became apparent that they had little working knowledge of basic Government management regulations.[311]

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[306] WHMR interview of Steve Davison, CGEPR 174.

[307] *Id.*

[308] *Id.* Mr. Davison had worked with Watkins and Cornelius during the campaign and thought Watkins had placed her in the Travel Office "because he wanted to get rid of her." He told investigators that Cornelius "portrayed herself as bosom buddy of BC [Bill Clinton]," but that she "didn't have a clue" as to running a travel operation. WHMR interview notes of Steve Davison, June 5, 1996, CGE 0174–0203.

[309] CGEPR 200.

[310] *See* GAO Report on the White House Travel Office Operations, May 2, 1994.

[311] David Watkins GAO interview, December 9, 1993.

The firings were discussed in December 1992, a full month before the new administration took office. Mr. Eller told the press in December 1992, that there might be changes in the Travel Office. The firings were decided upon in order to advance the personal agendas of Presidential friends and family, long before any wrongdoing or mismanagement was alleged. It is clear from the volume of documents and testimony that the committee has obtained that the decision to fire the employees was made first—in order to push the interests of Clinton friends and family—and the rationale came later.

V. Harry Thomason Pursued Opportunities in Government Contracts Through his Relationship With the President Which Would Have Resulted in a Financial Benefit to him and his Company

While Harry Thomason was spreading rumors of wrongdoing in the Travel Office, he and Martens were seeking other Government business, including a quarter of a million dollar Government contract. The January 29, 1993, memo discussed above was a laundry list of "Washington opportunities" for TRM.[312] One of the "opportunities" Martens sought for his and Thomason's company was a consulting project to review "the operational and fiscal soundness of all federal non-military aircraft."

On February 10, 1993, Martens was surprised to hear President Clinton discuss the idea on television because he had not yet had a chance to formally put something together on the topic:

> *Question.* Okay. In the memo, you talk about the fact that the President had stated in a Cabinet meeting that his staff had informed him that there were savings to be had in the review of government aircraft.
>
> Answer. Yes.
>
> *Question.* Did you actually see that on CNN?
>
> Answer. Yeah. I was in a hotel room getting dressed in the morning and saw it.
>
> *Question.* Did Harry give you any information or did you receive any information that the President was going to bring up basically your project in a Cabinet meeting?
>
> Answer. No, because it's—I was amazed. In fact, I was stunned. That's why I put it in here. Because it's opposite—I hadn't put it in a memo yet, and to my knowledge Harry hadn't been back to see him so—because that was the purpose of putting this memo together, so Harry would understand what I was talking about, and then he said he would mention it to him if he had a chance.[313]

Mr. Martens put together the February 11, 1993, memo. While Thomason has portrayed this as something Martens was pushing, it was Thomason who had the access to brief the President. In the February 11 memo, Martens said, "Put me in front of the right per-

[312] Memo from Darnell Martens to Harry Thomason, January 29, 1993, Re: TRM Action Memo.

[313] Martens deposition, pp. 87–88.

son at the White House and I will prove the value of both the project and Thomason's capabilities."[314]

Mr. Martens explained:

> We've demonstrated our capabilities to the President by coordinating all aircraft activities for the Clinton For President Committee, the Clinton/Gore '92 Committee and the Clinton/Gore Transition Team. . . . Harry, I can state without qualification that TRM is uniquely qualified to conduct this study.

Again, Martens viewed these contracts, as he had the Travel Office business, as a reward for good service to the Clinton-Gore campaign. There are no written documents from Thomason disabusing him of that notion and certainly Thomason's actions on behalf of TRM kept Martens encouraged.

The February 11 memo was forwarded to McLarty, Gearan and Watkins, with a note indicating that the President had reviewed the material and forwarded it to them for "Action." Written on the memo was a note for McLarty from the President: "Mack—These guys are sharp—shd [should] discuss w/Panetta/Lader." Staff Secretary Podesta could provide no information as to what "Action" the President intended be taken on this memo.

Mr. Podesta first became aware of the memo when it showed up in the President's "out box."[315] As Staff Secretary, Podesta was responsible for the daily flow of paperwork in and out of President Clinton's office. Mr. Podesta had never seen the February 11 memo go into the President's office but he did see it coming out.[316] Mr. Thomason spent the night in the White House residence on February 16, 1993, and even bowled that evening with the President. While Thomason distinctly remembers beating the President at bowling that evening, he has "no recollection" of giving the President the February 11, memo soliciting the GSA contract for his company TRM.[317] Since Martens later refers to this in an April memo and mentions that Thomason discussed it with the President, it is clear Thomason did give the President the memo.[318]

On March 12, 1993, Martens sent Thomason another memo about the proposed Federal aircraft study and refers to a discussion Thomason had with the President about the February 11, 1993 memo: "Based on your discussion with President Clinton of my 2/11/93 memo, I began the process of obtaining specific information."[319] This memo provides an overview of the proposed project.

By April 1993, Thomason had put Martens in touch with Bruce Lindsey who took care of aviation matters in the White House,[320] although his official position at that time was head of Presidential personnel. On April 6, 1993 Martens faxed Lindsey his February

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[314] Confidential memo to Harry Thomason from Darnell Martens, Re: White House Inventory of the Federal Aircraft Fleet, CGE 2223.

[315] Podesta deposition, p. 54.

[316] Podesta deposition, p. 54.

[317] Thomason deposition, pp. 118, 122.

[318] Darnell Martens sends Bruce Lindsey a cover note on April 6, 1993 forwarding his February 11, 1993 memo describing it as a memo "which was presented and discussed with the President in mid-February." CGE 002227.

[319] Intercompany memorandum from Darnell Martens, president to Harry Thomason, chairman, Re: Federal Aircraft Management Information System (FAMIS), on TRM, Inc. stationery, March 12, 1993, CGE 002224.

[320] Lindsey deposition, p. 30.

11 memo, detailing a "follow-up memo to Harry's meeting with the President." The memo discussed the cooperation of ICAP [Interagency Committee on Aviation Policy] and a work summary estimating a 1-year timeframe for the project and the estimated costs. The cover letter again noted TRM's "loyalty to the Administration."[321]

The following day Martens met with Lindsey to discuss the project. He sent Lindsey a follow-up memo on April 12, 1993 "recommending that the Office of the President initiate an operational and financial audit of all non-military Federal aircraft." He wanted to do this by working with ICAP and GSA participation, but it was clear that the project was to be White House based. Martens recommended an Executive order to get the project moving.

By April 26, 1993, Martens sent a note to Lindsey to see if any action had been taken and reminded Lindsey that Thomason would be in the White House that coming Friday and Saturday. He wanted to see if Thomason could follow up with Lindsey at that time. Martens sent Lindsey another summary of the proposed audit on April 29, 1993.

Lindsey claims that throughout this time, he had no idea that TRM had any connection with Thomason.[322] This is not credible given that the meetings were initiated by Thomason and that some of the memos sent to Lindsey had a letterhead which read, "Harry Thomason & Associates."

Clearly, as with the Travel Office business TRM sought, Thomason and Martens were capitalizing on Thomason's access to the White House. The GSA/ICAP contract was being designed so that Martens could officially work at the White House, thus explaining why he was issued a pass on May 12, 1993, upon arriving at the White House. While at the White House, Martens would also be able to provide assistance as needed in the new Travel Office. Mr. Thomason had already begun work on various projects at the White House. These included projects such as how to use excess Presidential inaugural funds for paying extra White House staff, and the staff cuts issue in addition to his "staging" duties at the White House.

Mr. Thomason had a financial interest in White House business. Despite his protestations that he was too rich to care about any of this business, he was maximizing his connections to keep his fledgling aircraft business and Martens afloat. It is significant that Podesta was aware of Thomason's efforts from the first day he was tasked with the Management Review. Despite the fact that the review addressed "conflicts" and "appearances of impropriety," the White House totally ignored Mr. Thomason's conflicts.

Furthermore, this project was not eliminated once the Travel Office firings occurred. It was not until sometime in August 1993, that then-Deputy Chief of Staff Roy Neel wrote current Chief of Staff and then-OMB Chief Leon Panetta a memo saying that no action should be taken on the project.[323] By this time, the Justice Department's criminal investigation on Harry Thomason's possible conflicts of interest was underway and no doubt, a second conflict

[321] CGE 002227.
[322] *Id.,* p. 39.
[323] Memorandum for Leon Panetta from Roy Neel, August 25, 1993. CGE 017597.

had to be put to bed. Was Foster aware about this second looming conflict?

VI. Employment Status of Selected Advisors to the President

One of the Federal personnel regulations to which every White House is expected to comply is the "Special Government Employee laws."[324] The committee's investigation has revealed a general lack of attention that all executive branch agencies in the Clinton administration paid to the status of their advisors and volunteers. This is especially true of a White House which President Clinton pledged would be the most ethical ever.

A. SPECIAL GOVERNMENT EMPLOYEE DEFINED

The United States Code defines a special Government employee (SGE) as a person who is ". . . retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed 130 days during any period of 365 consecutive days. . . ."[325] If the period of employment exceeds 130 days during any period of 365 consecutive days, that individual should be considered a regular Government employee, with or without compensation.

The law is clear that a person who performs work as a Federal employee cannot evade the conflicts laws simply by avoiding formal appointment to office.[326] Thus, a consultant or advisor who is not a regular Government employee may be a special Government employee for purposes of the conflicts of interest laws.

While regular and special Government employees are treated the same under the conflict-of-interest requirements of Title 18 U.S. Code Sections 204, 207, 208, and 209, they are treated differently in the conflict-of-interest provisions included in Sections 203 and 205.[327] Section 216 of Title 18 sets out the criminal penalties for willful and non-willful violations of 18 U.S.C. Sections 203, 204, 205, 207, 208, or 209. Section 216 also provides the Attorney General with the option to bring a civil action for damages or seek an injunction against a person who engages in conduct constituting offenses under the conflict-of-interest provisions.

Section 211 of Title 18 prohibits any SGE from improper use of title or position. This prohibits the use of a SGE's influence in return for money *or any thing of value*. Government employees also must comply with the Standards of Conduct regulations for all executive branch employees including regulation of gifts, disclosure of

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[324] The category of a "special Government employee" was established by P.L. 97–849 (1962), to facilitate recruiting persons with specialized knowledge and skills to serve Government without applying the full range of conflict of interest laws that apply to regular Government employees. *See,* S. Rept. No. 2213, 87th Cong., 2d Sess. (1962), reprinted at 1962 U.S. Code Cong. & Ad. News 3852–3853.

[325] 18 U.S.C. 202(a).

[326] White House ethics counsel came to this conclusion when reviewing the activities of Harry Thomason. *See* CGE 43349.

[327] As will be discussed later, these sections restrict regular Government employees from representing anyone except the Government before a court or Government agency in a particular matter in which the United States is a party. However, this only applies in relation to a covered matter involving a specific party or parties in which the Government employees at anytime have participated personally and substantially for the Government, or which is pending in the department or agency in which the special Government employees are serving. The restriction on representation on any pending matter does not apply to special Government employees who have served in a department or agency for not more than 60 days of the last 365 consecutive days.

non-public information, use of official property for unofficial purposes, and outside activity that conflicts with Government duties.

B. AN INDIVIDUAL MAY UNDERTAKE CERTAIN ACTIVITIES THAT QUALIFY FOR A SPECIAL GOVERNMENT EMPLOYEE STATUS WITHOUT FORMAL APPOINTMENT

The Justice Department's Office of Legal Counsel issued an opinion concerning the status of advisors to the President and whether their act of providing advice to the President qualifies them as a SGE is found in an opinion of the Justice Department's Office of Legal Counsel.[328] The Office of Legal Counsel found that although "the term 'employee' is not defined in the conflict-of-interest laws, it was no doubt intended to contemplate an employer-employee relationship as that term is understood in other areas of the law."

Beyond the definition of SGE, discussed above, Title 5 of the United States Code identifies several criteria to determine whether a person is an "officer" or "employee" of the United States.[329] As a matter of first principles, an individual obviously is an officer or employee if "properly appointed." The first SGE requirement, however, only requires that the individual be "retained, designated, appointed, or employed." There are two other criteria whereby an individual may become an officer or employee, when that individual has not been formally appointed. If the person:

—is engaged in the performance of a Federal function under authority of law; and

—is subject to the supervision of a Federal officer or employee.

The Office of Legal Counsel, and supporting materials prepared by the Office of Government Ethics, stress that any determinations of an individual as a SGE must be performed on a case-by-case basis. A leading commentator on the subject, cited in the OLC opinion, is Professor Bayless Manning. He suggests several questions to be posed if the individual does not have a formal designation. He writes:

> Is the person's advice solicited frequently? Is it sought by one official, who may be a personal friend, or impersonally by a number of persons in a government agency that needs expert counsel? Do meetings take place during office hours? Are they conducted in the government office, and does, perhaps, the adviser maintain a desk or working materials in government facilities?[330]

It may be helpful to provide a few examples of when individuals are or are not considered SGEs based on the assistance they provide to the Federal Government.

Example 1: A question has arisen as to whether Mr. A should be regarded as an SGE for purposes of the Federal conflict-of-interest laws. Generally, Mr. A advises the President almost daily, principally on an informal basis. This essentially

[328] "Conflict of Interest-Status of an Informal Presidential Advisor as a 'Special Government Employee'", 1977 OLC Lexis 9; 1 Op. O.L.C. 20, February 24, 1977. See also, OGE Op. 82x22.
[329] 5 U.S.C. Sections 2104, 2105.
[330] See Bayless Manning, Federal Conflict of Interest Law, pp. 29–30 (1964).

personal relationship would not in itself result in Mr. A's being a SGE.

Example 2: Mr. A, from the example above, departs from his usual role of an informal adviser to the President in connection with his recent work on a current social issue. Mr. A has called and chaired a number of meetings that were attended by employees of various agencies, in relation to this work, and he has assumed considerable responsibility for coordinating the administration's activities in that particular area. Mr. A clearly is engaging in a governmental function when he performs these duties, and he presumably is working under the direction or supervision of the President. For this reason, Mr. A should be designated an SGE for purposes of this work.[331]

Example 3: An expert in policy analysis was used as a consultant by staff of the Office of Management and Budget. Although he took no oath of office, had no tenure and received no salary, he is still an SGE due to the nature of his relationship with individual members of the OMB staff.[332]

Example 4: The First Lady of the United States is not an SGE however frequently she might advise the President or make policy recommendations.

C. TREATMENT OF SGES IN THE EXECUTIVE BRANCH

Once a person is deemed to be an SGE, he is subject to the criminal conflict of interest provisions included in Title 18 of the United States Code and must file periodic financial disclosure forms as well.

The term "special Government employee," as defined in Section 202(a), is used in sections 203, 205, 207, 208, and 209 of Title 18. A January 28, 1963, memorandum from the Attorney General highlighted the similarities and differences among conflict-of-interest statute applications to regular and special Government employees under these statutes.[333] Special and regular Government employees are treated similarly in sections 207 and 208 of Title 18 of the U.S. Code.

Section 205 prohibits a Federal employee from personally representing another before a Federal agency, with or without compensation. Specifically, Section 205 prohibits a Federal employee from acting as "agent or attorney" for anyone before any Federal agency in connection with any particular matter in which the United States is a party or has a direct and substantial interest.

Section 207(a) restricts employees after leaving Government service from representing anyone other than the Government in connection with a particular matter:

(1) in which the Government is a party or has an interest,

(2) in which he or she participated personally and substantially, and

[331] See 1977 (Counsel-Inf. Op.) 1 Op.O.L.C. 20.
[332] See *United States* v. *Mississippi Valley Generating Co.,* 364 U.S. 520, 552 (1961).
[333] See 18 U.S.C. Sec. 201 nt., for a reprint of this memorandum.

(3) which involved a specific party or specific parties at the time of the participation.[334]

Section 207(c) places a 1 year restriction on senior level officers and employees from representing anyone other than the United States before his or her former department or agency after terminating Federal employment. This restriction does not apply to SGEs who serve less than 60 days in a 1-year period before terminating their employment.[335]

Section 207(d) applied the 1-year restriction discussed in 207(c) to "very senior" personnel, i.e., the Vice President, officials at Executive Schedule levels I and II, and certain persons on Presidential and Vice Presidential staffs. Unlike those covered by subsection (c), officials covered by subsection (d) also may not undertake any representation before any Executive Schedule levels I through V person in any executive branch department or agency.

Section 207(f) restricts any person subject to restrictions in subsections (c), (d), or (e), from representing a foreign entity before any department or agency or aiding or advising a foreign entity with the intent to influence a Federal Government decision within 1 year after terminating employment.

Section 208 permanently restricts both special and regular Government employees, unless exempted, from participating personally and substantially in a governmental capacity in which they, their spouses, minor children, general partners, organization in which they serve as a director, trustee, general partner or employee, or any person or organization with whom they are negotiating or have an arrangement concerning prospective employment, have a financial interest. A person may act in a governmental capacity through such things as decision, approval, disapproval, recommendation, rendering advice, investigation, or otherwise, in a judicial or other proceeding application for request for ruling or other determination, contract, claim, controversy, charge or accusation.

Exceptions may be granted in a number of circumstances. For example, an officer or employee may avoid this restriction if he or she first advises the appointing official of the nature and circumstances of the proceeding or other governmental action, and makes full disclosure of the financial interest and receives in advance a written determination by the appointing official that the interest is not so substantial as to affect the integrity of the services of the officer or employee.

1. Michael S. Berman's activities at the Clinton White House

In many ways, the experience of Michael S. Berman is representative of the manner in which the Clinton administration views its obligations under Federal personnel laws. According to his deposition before the committee, Mr. Berman was adjudicated to be a special Government employee by the Department of Justice when

[334] In section 207, the term "participated" means an action taken as an officer or employee through decision, approval, disapproval, recommendation, rending of advice, investigation, or other action.

[335] At the request of an agency, the Director of the Office of Government Ethics may waive this prohibition if the Director determines that imposing it would create an undue hardship in obtaining qualified personnel and granting the waiver would not create the potential for gaining undue influence or unfair advantage.

he volunteered to assist in the Senate confirmation of Webster Hubbell.

Mr. Berman testified that the "appropriate ethics office" at the Department of Justice determined that to perform these duties, Mr. Berman would have to be classified as an SGE and comply with all of the conflicts of interest laws when it came to representing his clients before the Justice Department. Mr. Berman complied,[336] and while he did not file a financial disclosure statement, he did understand that:

> There was a requirement that I could not do any business at the Department during the period of time, and I didn't do any.[337]

This attention to Federal law by the Clinton administration ended when Mr. Berman left the Department of Justice and became a volunteer at the White House. Again, according to his testimony before this committee:

> *Question.* Was there any prohibition placed on you doing work at the White House while you were at the Department of Justice?
> Answer. No.
> *Question.* Similarly, was there any prohibition placed on your company generally at the White House?
> Answer. No.
> *Question.* During the period that you had the—were on the access list, did you fill out any disclosure forms or similar forms?
> Answer. No.
> *Question.* And was there any prohibition on you doing other activities at the White House while you were on the access list?
> Answer. No.[338]

While Berman was at the White House to assist in the Supreme Court nomination of Ruth Bader Ginsberg and advise on the Senate confirmation of Webster Hubbell, he also provided advice to numerous Clinton senior staff. It appears that he was performing many of the same duties at the White House as he had performed at the Department of Justice. This includes attending meetings, offering advise on management practices, drafting memos, issuing reports, etc. Naturally, he still was functioning as a special Government employee. The committee found no evidence that the Clinton White House, unlike the Department of Justice, ever bothered to inquire or evaluate his status.

During Mr. Berman's deposition, he was asked:

> *Question.* Did anyone at the White House ever discuss with you special government employee issues or status of special government employees at the White House?
> Answer. No.[339]

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[336] Deposition of Michael Berman, p. 11.
[337] Id., p. 17.
[338] Id., pp. 17–18.
[339] Id., p. 55.

This lack of attention to statutory requirements is very troubling when repeated instances of such ethical lapses are uncovered. This issue is of particular importance because Mr. Berman admits to representing outside clients during his work at the White House. Mr. Berman testified to his numerous telephone calls to Bruce Lindsey concerning certain airline industry clients that he was representing.[340] He testified:

> Answer. The White House has a role in deciding, along with DOT—I represent United Airlines—as to whether or not United Airlines will fly from Chicago to Heathrow, or American Airlines will fly from Chicago to Heathrow. And if there were a series of calls—some of them may well have been social, but my guess is that—and I don't know specifically, but there were some cases in '95, and Bruce [Lindsey] is one of the people in the White House that one contacts if you are interested in aviation issues. That was part of his portfolio.
>
> *Question.* So this call would have been made in your capacity as part of the Duberstein Group?
>
> Answer. Yes.[341]

Such representation of a private interest while also an employee of the Federal Government appears to collide with the restriction contained in Section 205, discussed above, which prohibits a Federal employee from acting as "agent or attorney" for anyone before any Federal agency in connection with any particular matter in which the United States is a party or has a direct and substantial interest. Obviously, if Berman was a special Government employee while in the White House, a review of his activities in relation to all of the conflicts of interest and standards of conduct regulations needs to be undertaken.

2. Activities of Harry Thomason and Darnell Martens

Harry Thomason is a Hollywood television producer and personal friend of the President and First Lady. He was involved in a variety of aspects of the Clinton/Gore campaign from the primary season through the November 3, 1992 election.[342] After raising large amounts of money for the Clinton campaign, Mr. Thomason flew in from California to assist Mr. Clinton in the pivotal New Hampshire primary and produced the "Man from Hope" video for the 1992 Democratic Convention, among other things. Mozark Productions, the Hollywood production company owned by Harry Thomason and his wife, Linda Bloodworth-Thomason, became known as the 1992 Clinton campaign's "second campaign headquarters" as a result of all the activities undertaken there on candidate Clinton's behalf. The Los Angeles Times reported,

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[340] Mr. Berman testified that Bruce Lindsey handled issues relating to the airline industry for President Clinton.

[341] Id., pp. 85–86.

[342] For more information on the activities of Harry Thomason while at the White House, see memorandum to Lee J. Radek, Chief, Public Integrity Section, Criminal Division, U.S. Department of Justice from Stuart M. Goldberg, Senior Litigation Counsel and Raymond N. Hulser, Trial Attorney, Public Integrity Section, Criminal Division, Recommendations to Decline: Harry Thomason and Darnell Martens, January 11, 1996. See also, memorandum from Beth Nolan, Associate Counsel to the President, to Cliff Sloan, July 14, 1993.

> The Thomason's production company, Mozark, has become known as the "second campaign headquarters" for Clinton—and has become Hollywood's own little slice of Arkansas. Clinton's brother, Roger, 35, who works as a $500-a-week production assistant on "Designing Women" and "Hearts Afire", and that each day the "Clinton Clipper," a collection of the day's articles and headlines on the campaign, appears on the office fax machine.[343]

Mr. Martens was an executive with Executive Jet in Cincinnati, OH when he first met Thomason in the late 1980s. In November 1991, they incorporated Thomason, Richland & Martens, Inc. (TRM), an aviation consulting firm in Cincinnati. Mr. Thomason and Mr. Martens each were one-third partners in TRM along with Dan Richland, the Thomasons' Hollywood agent.

In January 1992, Mr. Thomason introduced Mr. Martens to then-Governor and Mrs. Clinton at a campaign fundraiser luncheon in Los Angeles. He also suggested that Mr. Martens go to Little Rock to see if he could assist the Clinton campaign there. Mr. Martens did so and, for the duration of the 1992 campaign, Martens assisted in the chartering of aircraft for the campaign. Martens reviewed charter contracts and rates, determined whether they were proper, checked certifications and so forth.

While TRM never had a formal contract with the Clinton campaign, Martens charged a brokerage commission or a consulting fee for TRM's work, depending on the size of the charter. For corporate aircraft, Martens worked through Executive Jet. After interviewing several brokers for larger airplanes, he selected Air Advantage of Albuquerque. Through Air Advantage, he came to know, and work with, Penny Sample, Air Advantage's president. Ms. Sample's activities are discussed below.

In March 1993, Thomason was asked to come to the White House and provide guidance on ways to better use the White House for public relations events and improve the President's image. An itinerary for a series of meetings at the White House was developed and Thomason was provided a White House pass.

At the White House, Thomason was given access to a telephone and computer, as well as office space in the East Wing. He was even listed in a White House phone directory. Mr. Thomason received no compensation from the Government for his work at the White House. He was appointed to no Government position, had no title and took no oath of office.

As was discussed in detail in the overview chapter, Mr. Thomason and his business partner Darnell Martens clearly were central players in events that led to the firings in the Travel Office. In fact, the chronology clearly evidences Mr. Thomason's involvement in nearly every aspect of the management of the White House during the early months of the Clinton administration.

As early as February 1993, Mr. Thomason approached senior Clinton administration officials to discuss possibilities for his company to bid on lucrative aviation contracts with the Federal Government. Messrs. Thomason and Martens were seeking a several

[343] "Designing Presidential Politics; Television: Behind the Scenes [With the Bloodworth-Thomason's]," by Diane Haithman, Los Angeles Times, July 25, 1992.

hundred thousand dollar sole source Government contract to perform a review of all civilian Government aircraft. They worked with Bruce Lindsey and communicated with the President about these activities in the spring of 1993.

While working at the White House, Thomason told President Clinton about alleged problems at the White House Travel Office. Mr. Thomason subsequently spread Travel Office rumors to various staffers about alleged "kickbacks" solicited by Travel Office personnel. Mr. Thomason was involved in efforts to implement the so-called 25 percent personnel cuts at the White House. He authored "The White House Project," and worked on management problems in the Correspondence Office. His duties clearly went beyond the scope of the imaging project.

The White House Travel Office Management Review, the General Accounting Office review and the Department of Justice each concluded that Messrs. Thomason and Martens should not be considered special Government employees for the purposes of his dealing with the Travel Office matter and, as a result, were not required to abide by conflict-of-interest statutes. However, each of these reports relied upon the limited fact pattern found in the White House Management Review.

The committee's investigation uncovered numerous documents which directly support the conclusion that Mr. Thomason fulfilled the requirements of an SGE. Moreover, Thomason appeared to be pursuing his personal financial business each day while he was at the White House in violation of the conflict of interest statutes. Throughout the 3 years of investigation, we have seen the elaborate steps taken by White House counsel to hide pieces of this material from other legitimate investigative bodies.

On January 11, 1996, the Department of Justice determined that neither Harry Thomason nor Darnell Martens were subject to the provisions of 18 U.S.C. Sections 208 or 208 and, therefore, should not be prosecuted.[344] Due to the narrow interpretation the Justice Department reads into the SGE statute, we believe its analysis was flawed for several reasons. After reviewing the law, which the committee also believes that it should be reviewed during the next Congress. The Justice Department's conclusions will be addressed individually here.

a. The Justice Department found that there is no evidence that Martens or Thomason had any formal status as a Government employee or special Government employee[345]

The Department points out that neither was appointed to a position, took an oath of office or received a title, that the personnel office did not keep a file on them, they did not seek a regular appointment, receive compensation, or hold themselves out to be a Government employee. It comes as no surprise that the Clinton White House did not require its volunteer workers to take an oath or otherwise review applicable statutes regarding the activities of Government volunteers. One thing that the American people have

[344] Memorandum from Stuart M. Goldberg, Senior Litigation Counsel and Raymond N. Hulser, Trial Attorney, Public Integrity Section, Criminal Division, to Lee J. Radek, Chief, Public Integrity Section, Criminal Division, January 11, 1996.

[345] Justice Department memorandum, p. 22.

learned over the last several years is that this White House was hardly vigilant when it came to such details.

Harry Thomason was asked, however, to assist in the White House by the President of the United States and regularly worked with numerous senior administration officials. He was given a White House pass and the paperwork submitted for his pass indicates he was to "report" to President Clinton. The frequent number of telephone calls and meetings with the President or Mrs. Clinton clearly demonstrates their supervisory nature. Finally, the receipt of compensation is not a requirement to become a Government employee.[346] Beth Nolan's review of this section pointed out that a person cannot avoid being designated an SGE merely because there has not been a formal appointment.

b. The Justice Department found that there is not sufficient evidence that either Thomason or Martens was a de facto Government employee or special Government employee or that they sought to avoid the formalities of Government office in an effort to skirt the conflict of interest laws[347]

Contrary to the Justice Department's findings, it would be difficult to imagine a more clear example of a de facto Government employee than Harry Thomason. He was asked by President Clinton to come into the White House to assist in developing a successful management structure at the White House, certainly a Government task. He received a "hard pass" for easy entry into the White House, which were hard to get for even regular White House employees. He had a telephone, desk, and office in the White House. Harry Thomason was even listed in the White House telephone directory.

Furthermore, an "intentional" effort to skirt the conflict of interest laws would be informative when determining whether someone meets the definition of Government employee, but it would not be determinative. What is required, as discussed above, is an employer-employee relationship characterized by typical criteria.

c. The Justice Department found that insufficient evidence exists that Thomason performed a Federal function or acted under the supervision of a Federal employee[348]

The Department's memo included a shocking footnote:

> Thomason might also argue that his imaging project, which focused on communicating President Clinton's message more effectively, **was political campaign work, rather than federal government work**. In fact, the proposal that Thomason prepared suggested the use of inaugural funds for its implementation, rather than government funds.[349] (Emphasis Added).

It is startling that the Department of Justice would argue that a private individual may have been performing campaign work out of the White House, using Federal Government resources such as

[346] 364 U.S. p. 552.
[347] Id.
[348] Id.
[349] Id., p. 23. Footnote 36.

computer equipment, telephones, etc., and then disregard the implications of that admission.

The committee disagrees with the Department's suggestion, however, that the work of Thomason and Martens was campaign related, rather than governmental. Mr. Thomason's "imaging project" was similar to the type of work performed by press secretaries throughout the Clinton administration. In fact, a good portion of the current White House Counsel's Office devotes its resources toward improving the "image" of the President.

Beyond the imaging project, however, Thomason additionally helped to reshape the entire management structure at the Clinton White House. The chronology provided in this report clearly demonstrates his involvement in numerous management issues, many far beyond the scope of Presidential imaging.

Given that broad range of job duties, it stands to reason that Mr. Thomason would make recommendations on the efficiency and effectiveness of White House offices and that his changes would immediately be implemented. What is not allowed, however, is that he would base his recommendations in pursuit of his own financial interests.

d. The Justice Department found that both men participated in some manner in the inquiry concerning the Travel Office—at minimum providing information relevant to the decisionmakers. It is not at all clear, however, that such participation would qualify as "substantial" under the statute[350]

Given the lack of cooperation the Clinton White House provided to and was accepted by the Justice Department, one can quickly see how its analysis would conclude that the activities of Thomason and Martens were minimal. Facts uncovered by the committee, however, suggest just the opposite.

A review of the chronology of events, provided earlier in this report, suggests that Harry Thomason in particular was involved in White House activities nearly every day, including numerous telephone calls to Government officials and private meetings with the President, Mrs. Clinton, and the Chief of Staff. Copies of official correspondence were routinely sent to Thomason as though he was a regular member of the White House staff, and meetings were scheduled to include Thomason at the White House. In the days leading up to the firing of the Travel Office workers, Thomason spent nearly all of his time in meetings or telephone calls discussing the operations of the Travel Office.

e. The Justice Department found that Thomason and Martens clearly had no decisionmaking role[351]

Once again, the Department makes a conclusion which ignores the realities of Government service. Neither Thomason nor Martens were required to "sign" documents attesting to their decisionmaking role. But, given the fact that at least Thomason was introduced to the White House staff as a close friend and advisor to

[350] Id., p. 24.
[351] Id.

the President, who occasionally spent the night at the White House, their influence was surely felt. That influence should not, by itself, suggest that Thomason or Martens were Government employees, but in an analysis of the facts, it would be inappropriate and not very realistic to conclude that Thomason or Martens lacked a decisionmaking role.

The committee also questions whether holding a decisionmaking role is a vital step to being considered a Government employee. Thousands of Government employees are hired to advise more senior officials on what decisions to make. Their services are sought for the quality and type of advice they provide, not the decisions they make.

f. The Justice Department found that even if we could establish that they had some employment status, we would have difficulty establishing that the employment was connected with the Travel Office[352]

The Department echoes a view discussed in an analysis by the White House which suggests that an individual can be deemed a Government employee for some circumstances but not for others. In effect, according to this analysis, an individual can wear two hats. One moment, they can meet with a senior Government official to advise them on what steps that official should take to make the President "look better" in public functions. The next moment they advise that same Government official on how the Government should buy services offered by the advisor. The committee rejects that conclusion.

When an individual gains special status by accepting a Government official's request for help, they should not try to use that privilege for profit. The committee refuses to accept the conclusion that the Congress, when drafting the Government employment statutes, meant to allow individuals to profit from the Government at a time when they held special authorities provided by the Government. The committee agrees that Congress should revisit the Government employment statutes to ensure that agencies abide by their obligations to determine when volunteers become Government employees. But the committee does not believe that current law should be read to allow volunteers to become profiteers.

In a revealing inter-office memorandum, White House Associate Counsel Beth Nolan opined:

> When viewed as a whole, the facts revealed in the [White House Travel Office Management] Report could support a conclusion that Mr. Thomason was an uncompensated consultant with the status of a special government employee, by virtue of his assignment to consult on the staging of presidential events . . . the matter is not free from doubt, and we should proceed to analyze Mr. Thomason's conduct as if he were a government employee.[353]

Although this document was kept from the committee for years under claims of executive privilege, even Nolan's limited review of

[352] Id.
[353] Nolan memorandum, p. 6, CGE 43265.

the few facts she had, determined that Harry Thomason likely was a special Government employee. However, Nolan went on to repeat the Department of Justice's reasoning that even if Thomason was an SGE for the purposes of the imaging project, such a status should be compartmentalized and should not have an impact on his other activities. Specifically, she stated,

> Harry Thomason may have been a special government employee with respect to the assignment he was given to consult on staging presidential events, but this did not convert him into a special government employee for other matters, including the Travel Office.[354]

Not only did Nolan only rely on the facts provided in the White House Travel Office Management Review, but she did not discuss how, if Thomason was a special Government employee, his activities could be compartmentalized so as to allow him to represent his personal business interests when he was not wearing his SGE hat. Nothing in the legislative history suggests that Congress meant to allow a President to bring his campaign staff into the White House as part time SGEs, introduce them to influential contracting officers throughout the Government, allow them to gain inside advantages on other Government contracts, and then bid on Government business simply by taking off their SGE hat. The theory that an SGE could change his status as easily as walking into another room is bad public policy and not found in any legitimate reading of the statute.

In the final analysis, the committee believes that when viewed in light of the totality of activities taken on by Thomason, he should be viewed as a special Government employee. Previous analysis of this matter was fatally flawed, however, due to the lack of cooperation by members of the White House staff who intentionally withheld information from Government officials seeking to investigate the White House activities of Harry Thomason and Darnell Martens. Because Martens acted more as an assistant to Thomason, without the same trappings of approval by the White House, the committee is not prepared to conclude that he meets the definition of SGE. That does not suggest, however, that the committee condones his efforts to use the special access afforded Thomason to profit at the public's expense.

As suggested, the committee's investigation was further frustrated by a convenient lack of memory regarding the circumstances of Thomason's activities at the White House. Individuals who could otherwise remember precise details about some of their activities throughout 1993 made inconsistent or even conflicting statements about their relations with Thomason. Once again, we have seen a friend of the President's "air brushed" out of internal reports and statements since the early days of the Clinton administration. Even further, Harry Thomason refused to cooperate with the General Accounting Office and refused to be interviewed a second time for the White House Travel Office Management Review. Without the force of a subpoena, Thomason very likely would have refused to cooper-

[354] Id., p. 11.

ate with this committee as well. Further inquiry should determine whether this lack of cooperation was criminal.

3. Activities of Penny Sample

What is less disputed is that Penny Sample, president of Air Advantage, was a special Government employee for the purposes of assisting in White House Travel Office operations following the May 19, 1993 firings. On May 20, 1993, after the Travel Office workers had been terminated, Sample was brought into the White House Travel Office as a volunteer worker. In her interview with the General Accounting Office, she stated that she had:

> . . . made charter arrangements for the Clinton campaign. She reported that she was contacted on May 17 or 18 by Mr. Martens, with whom she had worked during the campaign, to inquire about her availability to work in the White House Travel Office. She was asked to call Ms. Cornelius, who inquired if she would be available to provide temporary assistance in the procurement of aircraft charters for the White House press corps without compensation. She agreed to do so but said that she could only do so for a short period of time.[355]

Ms. Sample did not leave that post until June 2, 1993 following revelations that she had received a commission from the first airline charter that she had booked for a White House Travel Office trip to New Hampshire on May 22, 1993. Air Advantage forwarded the $52,000 to Midwest Air.

It is clear from the circumstances surrounding Sample's arrival at the White House that she should have been considered an SGE. Again, due to the lax management standards at the White House, no one analyzed this volunteer's employment standards and responsibilities. She was, however, given an affirmative work assignment at the White House. She reported to a permanent Government employee (David Watkins); performed a single task, was provided access to all materials necessary to perform her work, and made financial decisions which obligated the Federal Government.

White House attorney Beth Nolan also believed Penny Sample was an SGE:

> . . . it seems clear that PS was asked to serve as a volunteer in the White House to perform a federal job, and as such probably was a special government employee.

As discussed above, Section 208 of Title 18 restricts Government employees from participating personally and substantially in a governmental capacity in which he or she has a financial interest. A person may act in a governmental capacity through such things as decision, approval, disapproval, recommendation, rendering advice, investigation, or otherwise, in a judicial or other proceeding, application for request for ruling or other determination, contract, claim, controversy, charge, accusation.

Penalties for violating section 208 of Title 18 appear in 18 U.S.C. Sec. 216. Section 216 establishes different criminal penalties for non-willfully and willfully engaging in conduct constituting offenses

[355] General Accounting Office Report, pp. 67–68.

under the conflict of interest provisions. Non-willful engagement is punishable by imprisonment for not more than 1 year or a fine in an amount set forth in Title 18, or both.[356] Willful engagement is punishable by imprisonment of not more than 5 years or a fine in an amount set forth in Title 18, or both.[357]

White House attorney Beth Nolan's notes also are revealing at this point:

> P.S. is the president of a charter broker, Air Advantage. She arranged for Air Advantage to forward a fee to Midwest Express to cover official White House expenses. **Even though there seems to have been no financial advantage to Air Advantage in this transaction, its forwarding of a $52,000 fee probably had a financial effect on Air Advantage.** Section 208 requires neither that the financial effect be positive, nor that the financial effect be substantial (there is no de minimis exception). (Emphasis Added)

The fact pattern discussed in this chapter and the introductory overview support this committee's conclusion that Penny Sample was a special Government employee subject to the conflict-of-interest provisions of Title 18. The committee further agrees with the analysis of Clinton White House attorney Beth Nolan, above, when she concludes that Sample and Air Advantage violated Section 208 of U.S.C. Title 18.

4. Conclusion

What is also clear as a result of the committee's investigation is that President Bill Clinton willingly opened the doors of the White House to friends and supporters and allowed those individuals to, in effect, take whatever booty they could find. Documents provided under threat of subpoena by Thomason and Martens provide shocking evidence that close friends of the President planned to raid the public treasury long before Bill Clinton was sworn into office.[358]

The committee condemns the greedy, self-serving activities of those who obviously believed "access had its privileges" and used their special access to the White House to promote their own financial gain. A Washington Post article provides interesting insight into Thomason's belief that one's support of a successful Presidential candidate entitles one to realize personal private gain from subsequent voluntary public service:

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[356] See, 18 U.S.C. Sec. 3559, which indicates that the offense of non-willful engagement is classified as a Class A misdemeanor because the term of imprisonment is 1 year or less, and 18 U.S.C. Sec. 3571, which indicates that the fine for an individual convicted of that offense is not more than $100,000.

[357] See, 18 U.S.C. Sec. 3559, which indicates that the offense of willful engagement appears to be classified as a Class E felony, and 18 U.S.C. Sec. 3571, which indicates that the fine for an individual convicted of such an offense is not more than $250,000.

[358] At the time this committee is drafting this report, White House political advisor Dick Morris resigned his position with the Clinton re-election campaign. This resignation comes on the heels of reports that Mr. Morris shared sensitive Government information with an outside individual, allegedly a call girl. The White House defended themselves by arguing that Mr. Morris was not a Government employee and did not hold a security classification. That defense misses the point. News accounts suggest that Mr. Morris was involved in not only campaign decisions, but public policy decisions concerning actions of the Presidency as well. Advising the President on whether the administration should support or oppose numerous pieces of legislation and public policy proposals clearly is a Government function. Given his broad responsibilities, the Clinton White House should have determined whether Mr. Morris met the requirements to be a special Government employee and should have conducted a security background investigation.

> I do find it surprising that a person who was as instrumental as I was in the Clinton campaign cannot pick up a phone in the White House and ask for information for people . . . If President Bush was in office, I would do the same thing if I had this access.[359]

Both Thomason and Martens could have gained considerable financial advantage had they succeeded in their overall efforts to review the entire Federal civilian aircraft fleet under the auspices of the Interagency Committee on Aviation Policy (ICAP). Taking effective control of the White House Travel Office was simply a first step in their plans to capitalize on Thomason's name recognition in Washington, DC during the Clinton administration.

VII. Lack of Competitive Bidding

A. BACKGROUND

Purchases by the Federal Government from the private sector provide opportunities for the expansion of participating businesses and the creation of new service-oriented companies. Procurement expenditures generate secondary and related consumer spending. Thousands of Federal activities are involved in acquiring products and services that affect the Nation's economy. The economic impact resulting from the award of a major contract can greatly benefit a city or region, while the loss of a Government contract can cause financial hardship.

The growth of Federal procurement during the past decades resulted in a proliferation of complex and overlapping Federal regulations that often hindered an agency's ability to purchase the best goods and services at the lowest cost. Potential vendors complained of the frustrating labyrinth of Federal specifications that controlled the production of goods. This committee, working with the Clinton administration, took significant steps to reform these bureaucratic procedures.

On September 7, 1993, Vice President Albert Gore's National Performance Review issued a report entitled Creating a Government that Works Better and Costs Less.[360] This report included 20 specific recommendations on procurement reform. The Clinton administration proposed a legislative package designed to restructure and reduce impediments to the Federal Government's acquisition practices. Following extensive hearings by this committee, President Clinton signed into law P.L. 103–355 on October 13, 1994.[361] That same day, President Clinton issued Executive Order 12931, entitled Federal Procurement Reform, which requires executive branch agencies to make their own administrative procurement procedures more effective and innovative "over and above those required by statute."[362]

Federal acquisition laws were further revised, under the leadership of Chairman Clinger and this committee and the Clinton ad-

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[359] "Travel Office Flap Cited as Evidence of Need for White House Staff Changes," Ann Devroy, Washington Post, May 27, 1993.

[360] Albert Gore, Jr., Vice President of the United States; *Creating a Government that Works Better and Costs Less;* Report 1994; September 14, 1994.

[361] 108 Stat. 3243.

[362] Executive Order No. 12931, 59 Fed. Reg. 52,387 (1994).

ministration, as part of the 1996 Defense Authorization Act.[363] Division D of that act, referred to as the Federal Acquisition Reform Act of 1996, concerns changes to the procurement requirements for armed services and civilian agency acquisitions. The general effect of Subdivision D is to eliminate or simplify certain contracting procedures. For example, one provision raises the dollar thresholds for contracts that use other than competitive procedures and are approved by high-level agency officials. Another provision limits the competitive range to the largest number permitting an efficient competition. The committee believes that these provisions will streamline Government contracting and cut out unnecessary requirements.

Notwithstanding these recent reforms, the preferred method for Federal procurement has traditionally been full and open competition, where all potential suppliers and vendors are given an equal opportunity to compete for Government contracts.[364] In the past, agencies used streamlined small purchase procedures only for purchases of $25,000 or less. The Federal Acquisition Streamlining Act raised this minimum to $100,000. The Federal Government publicizes its intention to buy property by posting solicitations in public places, announcements in the Department of Commerce publication Commerce Business Daily, and by sending invitations for bid to business firms on applicable mailing lists.

Whenever possible, agency contracting officers are required to promote full and open competition in soliciting offers and awarding Government contracts. Procurement actions may involve sealed bids, negotiated proposals, sole source acquisition, or multiple award schedules.

This committee's position is that any effort to reform the Federal Government's procurement process should begin with a firm commitment to encourage the use of competition in the Federal marketplace. In order to require Federal agencies to increase their use of competition in Federal procurement actions, Congress enacted the Competition in Contracting Act of 1984.[365] This legislation required Federal agencies to open their bidding process to all qualified firms wishing to compete for the Government's business and by eliminated advertising restrictions and non-competitive bidding procedures.

B. COMPETITIVE BIDDING IN THE CLINTON WHITE HOUSE

Despite the support for competition in the Federal marketplace by both the Congress and the administration, the Clinton White House apparently believed that full and open competition should apply only to other agencies, while it awarded lucrative contracts to friends and political supporters of the President. The White House contends that the Travel Office's failure to conduct competitive bidding for press charters played a part in its decision to fire the Travel Office workers. However, it was the Clinton administra-

[363] The National Defense Authorization Act for Fiscal Year 1996, Pub. L. 104–106. For information on the legislative history of the National Defense Authorization Act for Fiscal Year 1996, see H.R. Rept. No. 450, 104th Cong., 2d Sess. (1996).

[364] 41 U.S.C. s. 253. Subsection (c) states that a competitive bid is not required when there is "an unusual and compelling urgency."

[365] The Competition in Contracting Act of 1984 can be found in Title VII of division B of the Deficit Reduction Act of 1984 (Pub. L. 98–369; 98 Stat. 1175).

tion, itself, that failed to utilize competitive bidding in the award of lucrative Government contracts. The White House directed procurement funds toward friends and supporters of the President. For example, on June 24, 1993, 1 month after the Travel Office firings, the White House refused to utilize a competitive bidding procedure to purchase a $25 million telephone system contract for the White House. Clinton aide Patsy Thomasson was involved in this and other non-competitive awards. In each case, she conveniently claimed that "urgent and compelling" circumstances existed to obviate any obligation to bid the contract competitively.

According to the White House Management Review, "[Harry] Thomason was concerned that the White House charter business was not competitively bid and that the Travel Office might also be engaged in wrongdoing."[366] Others professed concerns about problems in the Travel Office. The White House Travel Office Management Review states that:

> On May 1, at the White House Correspondents Association Dinner, Thomason heard George Condon, President of the Correspondents Association, address the growing expense to the press of traveling on Presidential trips, a particular problem for smaller news agencies. Harry Thomason viewed the no-bid practices of the Travel Office as part of the problem.[367]

That view was further echoed in the General Accounting Office Report:

> To ensure that the Travel Office receives the best value for the funds it spends, goods and services generally should be procured through a competitive process.[368]

Clinton administration actions leading up to and following the Travel Office firings belie these professed concerns regarding competitive bidding, however. From the hiring of KPMG Peat Marwick through the recruitment of World Wide Travel, Air Advantage, and possibly, American Express, the Clinton administration avoided legitimate competitive bidding of Travel Office contracts altogether.

C. KPMG PEAT MARWICK CONTRACT

When it was decided that an outside firm should review the Travel Office, David Watkins, Assistant to the President for Management and Administration called KPMG partner Larry Herman. Mr. Herman, who had addressed staff members of the National Performance Review on the issue of reinventing Government, was recommended to Watkins by Jennifer O'Connor, a member of the White House staff. Mr. Herman's firm was hired over the phone on the evening of May 13, 1993. Mr. Herman was asked to be at the White House early the following morning. No competitive bid was

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[366] White House Chief of Staff Mack McLarty and Office of Management and Budget Director Leon Panetta, *White House Travel Office Management Review,* July 2, 1993, p. 5.

[367] White House Chief of Staff Mack McLarty and Office of Management and Budget Director Leon Panetta, *White House Travel Office Management Review,* July 2, 1993, p. 6.

[368] General Accounting Office, *White House Travel Office Operations: Travel Office Operations*, Report No. GGD–94–132, May 1994 p. 27.

solicited to conduct this review of the White House Travel Office.[369] Mr. Watkins later said that KPMG Peat Marwick was sought because the White House had no internal audit capability.[370] Deputy White House Counsel Vincent Foster, while in the presence of FBI agents, initially recommended that an audit be conducted on the Travel Office. Because the FBI had no authority to conduct an audit without the predicate of an investigation, the FBI suggested that Foster "get OMB or GAO to do the audit."[371] The committee found no evidence to suggest that the White House staff investigated the suitability of an audit conducted by the General Accounting Office or the Office of Management and Budget.

The White House Travel Office Management Review, while criticizing the procurement practices of the fired Travel Office staff, did not even discuss the fact that KPMG Peat Marwick was brought into the White House without a competitive bid. The gap in the report regarding the circumstances under which KPMG was hired is problematic. White House documents indicate that the authors of the White House Travel Office Management Review were aware that a problem existed with the non-competitive bid for KPMG. These documents indicate there were numerous discussions between White House Counsel and the Chief of Staff McLarty about how to get around (i.e., justify) this problem.

In the end, Peat Marwick arrived at the White House without a contract for the work it was about to undertake. Mr. Herman drafted a preliminary work contract on May 19, 1993, 5 days after the review was initiated. While this contract was signed the week of May 17, 1993, the final KPMG contract was not sent out by the White House until 3 months later, on August 17, 1993. To justify why normal procurement procedures were not followed, the White House argued:

> Normal procurement procedures were not an option due to a perception of potential financial mismanagement. Due to this perception, the need for financial review became urgent and compelling, with time of the essence.[372]

The committee does not support this conclusion. The White House should have searched for other means to conduct an internal review of the White House Travel Office. The arguments raised in defense of the decision to hire an outside auditor bring force to the case for legislation approved by this committee that would provide the President with his own, hand picked auditor.

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[369] General Accounting Office, *White House: Travel Office Operations,* Report No. GGD–94–132, p. 57. Clinton aide David Watkins reported to Chief of Staff McLarty on May 17, 1993 that the Travel Office staff had been told the audit was part of the Vice President's National Performance Review effort. The committee was informed that the KPMG partner responsible for the review was on leave and worked on a voluntary basis for the National Performance Review. Representatives of the Vice President later informed the committee that while reforming the Travel Office was consistent with the goals of the National Performance Review, the review was not conducted under the auspices of the NPR.

[370] A bill referred to the House of Representatives by this committee, H.R. 3452, 104th Cong., 2d Sess. (1996), the Presidential and Executive Office Accountability Act, introduced by Congressman John Mica, would provide, inter alia, an internal Inspector General for the Executive Office of the President. Surprisingly, the White House has expressed its opposition to this measure.

[371] Michael E. Shaheen, Jr., Office of Professional Responsibility of the U.S. Department of Justice, *Report of the Office of Professional Responsibility's Review of the Conduct of the FBI in Connection with its Contacts with the White House in the Travel Office Matter,* pp. 28–29.

[372] White House memorandum from Patsy Thomasson to Dale Helms, Delegation of Authority Relative to Peat Marwick Contract, August 9, 1993, CGE 2514–2518.

D. WORLD WIDE TRAVEL

World Wide Travel Service, Inc., was selected by White House staff to provide commercial travel services in lieu of those formally provided by the long-term employees of the White House Travel Office. World Wide had performed similar services for the Clinton Presidential Campaign in 1992. According to the General Accounting Office report:

> Ms. Betta Carney, President of World Wide, told us that on May 11 she was telephoned by Ms. Cornelius, who reported that the White House Travel Office staff would possibly be dismissed in the near future, due to allegations of wrongdoing; Ms. Cornelius asked that this information be kept secret. The next day, Ms. Cornelius, who told us she called at the direction of Mr. Watkins, asked if World Wide could start at the White House Travel Office for an interim period until a competition could be held. A representative of World Wide arrived in Washington on May 14 and remained on call throughout the weekend, but was not called. According to Mr. Stephen Davison, World Wide's Director of Customer Service, on May 18, he and a World Wide travel agent met with Ms. Cornelius, who reported that the Travel Office matter was not resolved. However, that evening Ms. Cornelius called to ask that the World Wide officials meet her the next morning (May 19) in Mr. Watkins' office. At the meeting the next morning, Mr. Watkins informed the World Wide representatives that the Travel Office employees had been fired and were vacating the premises.[373]

Representatives of World Wide were in the offices of the White House Travel Office before the career White House employees had returned from the 10 a.m. meeting at which Watkins fired them on May 19, 1993.

Also in the General Accounting Office interview, Betta Carney said that when Catherine Cornelius called her on May 12, 1993, to come to the White House, Carney asked:

> [I]s this legal, could we do this, and on site, without a formal contract? And she said something about emergency procurement of some type that the White House lawyers had talked about it, and that there was a possibility that it would be okay and that we should be ready to send someone up there at a moment's notice.[374]

In questions posed by reporters at a White House press conference, Betta Carney was referred to as:

> . . . the closest associate with David Watkins here, . . . [and] sort of carried the campaign in its early days when they didn't have any money and agreed to bill them on a delayed basis as their contributions came in. And Watkins

[373] General Accounting Office, *White House: Travel Office Operations,* Report No. GGD–94–132, pp. 66–67.

[374] Barney Gomez and Bob Homan of the General Accounting Office; interview with Betta Carney and Steve Davison of Worldwide Travel; Little Rock, AR; September 7, 1993; p. 48.

> has been quoted as saying that that enabled them to free up money to use for advertising in the Michigan and Illinois primaries at a time when they might not otherwise have been able to do so. That sounds like it treads dangerously close to corporate contributions and FEC violations.[375]

George Stephanopoulos did not comment on this allegation, but he confirmed that individuals at World Wide Travel made donations to the Clinton campaign.

Notwithstanding evidence to the contrary, the White House tried to argue that the selection of World Wide Travel was not based on its prior personal or business relationship with members of the campaign staff, now members of the White House staff.[376] There is no evidence that the White House had any other reason to choose World Wide Travel, an Arkansas based travel service, over other, nationally known travel firms.

The conclusion of the White House Travel Office Management Review simply states that, "hiring World Wide Travel on a no-bid basis—even as an interim, stop-gap measure—created the appearance of favoritism toward a local friend of the campaign."[377] All evidence points to the fact that the appointment of World Wide Travel was, in fact, favoritism toward a friend of the Clinton campaign. There is evidence, however, that this was intended not as an "interim, stop-gap measure," but as a permanent, financial arrangement.

E. AIR ADVANTAGE

Penny Sample, president of Air Advantage, provided airline charters for the Clinton campaign and was assisted by Thomason, Richland & Martens (TRM), an aviation consulting business. Mr. Martens contacted Penny Sample on May 17, 1993, and asked if she would be willing "to provide temporary assistance in the procurement of aircraft charters for the White House press corps without compensation."[378] Sample agreed to provide this service as a volunteer. Within 2 weeks, Sample left the White House Travel Office after it was disclosed that she received a commission on the first charter trip she arranged for the White House, a press trip to New Hampshire on June 22, 1993.

This financial arrangement was mentioned in both the General Accounting Office report and White House Travel Office Management Review, but neither discussed at any length to the lack of competition afforded when the contract was signed. The GAO Report stated:

> With the removal of the Travel Office employees, several organizations were approached to provide White House travel services. World Wide Travel Services, Inc. And Air Advantage had both been involved in campaign travel . . .

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[375] George Stephanopoulos; White House press briefing; Washington, DC; May 21, 1993, p. 8.

[376] At the time that World Wide Travel was chosen by the White House, both Catherine Cornelius and David Watkins were on staff at the White House.

[377] White House Chief of Staff Mack McLarty and Office of Management and Budget Director Leon Panetta, *White House Travel Office Management Review,* July 7, 1993, p. 20.

[378] General Accounting Office, *White House: Travel Office Operations,* Report No. GGD-94–132, p. 45.

> Air Advantage was brought in on May 18 or 19 to provide temporary help in procuring aircraft charters for the White House press corps.[379]

The White House Management Review stated:

> Bringing in Penny Sample of Air Advantage, to handle press charters on a no-bid, volunteer basis furthered the appearance that the White House was trying to help its friends. This implies no improper conduct on Sample's part, but again created an appearance of favoritism.[380]

Favoritism was a major factor in the selection of a White House contractor. Unfortunately, this fact was ignored in each of the major Travel Office reviews.

F. AMERICAN EXPRESS

On May 21, 1993, at 4:10 p.m., then White House Communications Director George Stephanopoulos announced that World Wide Travel would be departing the White House Travel Office effective immediately, as a result of White House concerns with appearances of favoritism in its hiring practices. Mr. Stephanopoulos then announced that American Express would replace World Wide Travel in the Travel Office beginning Monday, May 24, 1993. Once again, no competitive bid preceded this announcement of a major change in the Travel Office. The White House engaged in a formal competitive bid for this business on Sunday, May 23, 1993, 2 days after Stephanopoulos' announcement that American Express had been awarded the contract.

The timing of Stephanopoulos' announcement seems curious, when competitive bidding had yet to occur. The committee did learn, in the course of its investigation, that Patsy Thomasson met behind closed doors with representatives of American Express hours before Stephanopoulos' May 21, 1993 announcement. In fact, Patsy Thomasson requested that she have the FBI guard the doors for her closed-door meeting with American Express. When told that was not appropriate given the FBI's role in the Travel Office matter, Ms. Thomasson had Secret Service agents guard the door. Ms. Thomasson also discussed the travel contracts over the phone with American Express, until she was told to stop contacting them. There was no indication that Patsy Thomasson met with either of American Express' two competitors for the Travel Office business. American Express' selection subsequently was credited to its excellent bid presentation and for including resumes of those who would work in the Travel Office in its packet.

The committee is concerned that this preparation very likely followed Ms. Thomasson's own "heads-up" of American Express.

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[379] *Id.,* p. 45.

[380] White House Chief of Staff Mack McLarty and Office of Management and Budget Director Leon Panetta, *White House Travel Office Management Review,* July 7, 1993, p. 20.

VIII. The White House Initiated a Full-Scale Campaign of Misinformation in the Aftermath of the Travel Office Firings and put in Place a Cover-up From Which it Could not Extricate Itself

A. President Clinton led the misinformation campaign from the first days of the travelgate debacle

Immediately after the firing of the White House Travel Office (WHTO) employees on May 19, 1993, the press asked whether the President had approved of that decision:

> *Question.* Who made this decision to fire them?
>
> Ms. Myers: David Watkins supervised the review. David Watkins runs the Office of Administration. It was his decision.
>
> *Question.* And had the acquiescence of the President?
>
> Ms. Myers: Absolutely.[381]

Bruce Lindsey briefed President Clinton about the Travel Office firings 2 days before they occurred.[382] David Watkins called Air Force One on May 18th to inform the President of the firings.[383] As Ms. Myers noted, the President approved the firings. We now know that the President also approved bringing in Harry Thomason for the "image" project[384] which included staging good press events—one of which was supposed to be the firing of the Travel Office employees—"Bill Clinton cleaning house," as Harry Thomason explained.[385]

On the afternoon of May 19th, the President was already distancing himself from his Press Secretary's statement regarding his role in the White House Travel Office matter:

> *Question.* Mr. President, can we ask you if you feel you were fair in summarily dismissing some employees of the government of long-standing without a hearing, and leaving the impression perhaps that they may have committed criminal acts?
>
> The President: I don't know. I'll have to refer to the Chief of Staff about that.
>
> *Question.* We're speaking about the Travel Office, sir.
>
> The President: I know. All I know about it is that I was told that the people who were in charge of administering in the White House found serious problems there and thought there was no alternative. I'll have to refer to them for any other questions. That is literally all I know about it. I know nothing else about it.[386]

On May 25th, the day the White House announced it was placing five of the former White House Travel Office employees on "extended administrative leave" and initiating an internal investigation, the President again was asked about the firings:

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[381] White House press conference, May 19, 1993.
[382] WHMR interview of Bruce Lindsey, CGEPR 331–334.
[383] Phone logs of David Watkins.
[384] Committee deposition of Mack McLarty, July 12, 1996, p. 23.
[385] Committee deposition of Jennifer O'Connor, March 29, 1996, pp. 37–38.
[386] May 19, 1993 White House press conference.

> *Question.* Mr. President, are you upset by this whole Travel Office mess? And who is responsible for it, sir?
>
> The PRESIDENT: Well, ultimately, anything that happens in the White House is the responsibility of the President. And whenever you've asked me a question, I've told you all I know about it. All I knew was there was a plan to cut the size of the office, save tax dollars, save the press money.[387]

The next day, May 26th, while responding again to media questions about the Travel Office firings, President Clinton explained:

> . . . the press complained to me repeatedly about being gauged (sic) by the White House Travel Office. I kept hearing everywhere.[388]

During the CBS This Morning, town hall meeting on the morning of May 27th, President Clinton said:

> We found out that there were seven people working in the Travel Office, primarily to book travel for the press, and that the press was complaining that the cost was too high. So, there were all these recommendations made to change it. But nothing was done until an accounting firm came in and reviewed the operations and found serious management questions in terms of unaccounted funds and things like that. So then the person in charge of that made the decision to replace them.[389]

Of course this statement was false, as the New York Times pointed out, writing:

> . . . why even after the public had learned how Clinton friends engineered the travel office flushout, did the staff feed President Clinton the discredited line that the firings were simply economy measures?[390]

"Let's not obscure what happened," the President said in the days following the firings.[391] Yet this is the course set by the President himself from the first day of the firings.

B. THE INITIAL PRESS OFFENSIVE AGAINST THE TRAVEL OFFICE EMPLOYEES MISCHARACTERIZED THE PEAT MARWICK REVIEW AND THE FBI'S ROLE IN ORDER TO COVER-UP THE REAL REASONS FOR THE FIRINGS

The first series of Clinton administration deceptions occurred in the days immediately following the firings. White House statements on May 19, 1993, indicated the firings followed an audit performed pursuant to Vice President Gore's National Performance Review, which uncovered "abysmal mismanagement" and "shoddy accounting practices."[392] Spokesperson Dee Dee Myers added that the FBI was investigating possible criminal violations by the fired

[387] May 25, 1993 White House press conference.
[388] May 26, 1993, White House press conference.
[389] CBS This Morning (CBS television broadcast, May 27, 1993).
[390] "A Stealthy, Evasive Confession," the New York Times, July 11, 1993, Section 4.
[391] The Washington Post, "Travel Office" (Cont'd), May 28, 1993, p. A20.
[392] May 19, 1993, White House press conference. (Statement of Dee Dee Myers).

employees. In fact, an audit of the Travel Office never was undertaken, let alone completed.

Peat Marwick's engagement letter, draft and final report all specify that its work did not constitute an audit. Peat Marwick told the White House that:

> such procedures do not constitute an audit, examination, or review in accordance with Standards established by the American Institute of Certified Public Accountants and, therefore, we do not express an opinion or any other form of assurance on the information presented in our report.[393]

Peat Marwick further explained to the White House that:

> The procedures we performed were limited in nature and extent to those which the Office of the Counsel determined best fit its needs.[394]

The White House also informed the press that the Travel Office records were "in shambles" and not auditable. However, a Peat Marwick C.P.A., Dan Russell, testified before this committee that the pre-firing Travel Office records were auditable and that they simply would have needed more than the 3 days allowed by the White House for their review to perform such an audit.[395]

The Travel Office employees themselves first heard the allegations of criminal wrongdoing on television while packing their personal belongings before leaving the White House. When firing them earlier that day, David Watkins made no mention of any criminal investigation but instead represented the firings as part of a reorganization effort.[396]

The Vice President's office quickly distanced the firings from anything having to do with the National Performance Review by repudiating the White House press secretary's assertions that the Peat Marwick review was part of the National Performance Review.[397] Meanwhile, Larry Herman, Peat Marwick's partner in charge of the review, was confounded by the fact that the White House would base the Travel Office firings on an as-yet-unfinished report. Mr. Herman never told anyone at the White House his review would justify the firing of all of the employees, particularly those that had nothing to do with the financial aspects of the office.[398]

The White House Press shop pressured Herman to provide selective off-the-record press briefings on May 19.[399] Harry Thomason and Jeff Eller were also present in the press room that day when "kickback" allegations were circulated to the press. By that time,

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[393] KPMG Peat Marwick Draft Report, CGE 006966, (although it was dated May 17, 1993, it was not actually drafted before May 19 or 20, 1993).

[394] KPMG Peat Marwick Draft Report, CGE 006966, (although this was dated May 17, 1993, it was not actually drafted before May 19 or 20, 1993).

[395] Committee deposition of Dan Russell, March 27, 1996, p. 59.

[396] Foucart deposition, May 3, 1996, pp. 42–43. Foucart took notes of David Watkins' speech to the employees as he fired them: "What we are going to do is surgical rather than prolonged."

[397] Letter to Nancy Kingsbury (GAO) from Todd Campbell in the Vice President's office, December 1993, CGE 2554.

[398] Committee interview of Larry Herman, August 29, 1995; see also GAO interview of Larry Herman, August 31, 1993, p. 11.

[399] Committee interview of Larry Herman, August 29, 1995.

Herman informed White House officials that he had found absolutely no basis for the kickback allegations.[400]

George Stephanopoulos stated in a May 20 press conference that Harry Thomason had "no financial interest" in White House travel matters,[401] a patently false statement in light of Thomason's various White House business solicitations on behalf of TRM.[402] Mr. Foster later wrote of a meeting on May 21 in which they discussed Thomason's financial interests. Mr. Foster's notes indicate that Stephanopoulos became "upset" when he was shown an "HT memo," presumably reflecting that Thomason had a financial interest in the matter.[403] Mr. Foster also noted that while Stephanopoulos said there was no financial interest, "DD/M [Dee Dee Myers] & Eller [Jeff Eller] and I disagree."[404]

The initial response by White House officials when faced with a press hostile to the firings was to hide the truth. They withheld the full scope and extent of Harry Thomason's favor-seeking at the White House, misrepresented the Peat Marwick review and repeatedly maligned the seven fired Travel Office employees. When that did not work and the press raised issues of cronyism and patronage, on May 21, the White House press office summoned the FBI spokesperson to the White House to edit the FBI's press statements in an effort to bolster the White House's story.[405] When news of this additional effort to politicize the FBI was learned the following Monday, May 24, the Attorney General contacted White House Counsel Nussbaum and expressed concern about the direct contact by the White House with the FBI.[406]

The press highlighted the fact that at the very time the FBI spokesman was attending a White House press strategy meeting on the Travel Office, embattled FBI Director William Sessions was meeting with Webb Hubbell and Janet Reno about whether he would keep his job.[407] When Attorney General Reno learned of the direct contact that the FBI had with the White House in both initiating the investigation and revising the FBI press statements, she expressed her concerns. Ms. Reno told Nussbaum that the FBI should not have the appearance of being used for political purposes.[408]

C. NEITHER THE CONGRESS, THE PRESS NOR THE PUBLIC BOUGHT THE WHITE HOUSE STORY

The Travel Office firings were met by intense press skepticism. From the first days, when the roles of Harry Thomason and Catherine Cornelius became apparent, this was a clear-cut case of cronyism. The New York Times editorial page wrote on May 26, 1993, "By design or incompetence or a blend of the two, the White House

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[400] Committee deposition of Harry Thomason, May 17, 1996, p. 223. (Thomason claims he inadvertently ended up in the press briefing room at the precise time of the briefing on the Travel Office firings because he was taking a tour of the White House.)
[401] White House press conference, May 20, 1993.
[402] See supra at Sections IV, V and VI.
[403] Vince Foster Travel Office notebook, CGE 000917.
[404] Vince Foster Travel Office notebook, CGE 000917.
[405] OPR Report, p. 58.
[406] OPR Report, p. 68.
[407] OPR Report.
[408] OPR Report, pp. 68–69.

has used a highly vulnerable FBI for unworthy political purposes."[409]

The Washington Post editorial page wrote on the same day: "It looks as if the FBI logo was being used by the White House as a political shield."[410] Washington Post editorial page editor Meg Greenfield wrote on June 7, 1993:

> They should see no business, hear no business and speak no business and, above all, do no business. Harry Thomason and Linda Bloodworth Thomason, the First Family friends involved in all the fuss last week, indignantly pointed out that they were much too well off to have even been interested in the money to be gained from a travel-office deal . . . But the familiar "moi?" defense (a decent person like me couldn't possibly do a gross thing like that) is irrelevant to the conflict-of-interest issue. Where a prospective conflict exists such people must keep out of it.[411]

The Baltimore Sun editorial page opined, "Some Republicans have called for a congressional review. Democratic senators ought to join them. This is an important matter. It should be above partisan point-making."[412]

What became known as "Travelgate" was soon being compared to Watergate: "It was no exaggeration when the Senate minority leader on Tuesday compared the Clinton administration's use of the FBI last week in the flap over the White House Travel Office to Richard Nixon's attempt to pervert the agency to political purposes during Watergate. It is an outrage," noted the Chicago Tribune editorial page on May 26, 1993.[413]

In the face of such severe criticism, acknowledging the full extent of Harry Thomason's activities and the President's role in promoting Thomason's business interests would cause additional political vulnerability. With Mrs. Clinton's health care bill being touted as the centerpiece of the Clinton agenda, acknowledging her role in the Travel Office would detract from one of the administration's highest priorities at that time.

The inability to tell the truth about the Travel Office firings must be viewed in the context of the poll-driven, image conscious Clinton White House of 1993. The President's popularity polls reached a devastating low of 36 percent following the May 19, 1993 Travel Office firings.[414] The firings had the misfortune of coinciding with the May 18 $200 haircut aboard Air Force One on the Los Angeles International Airport tarmac.

June 1993 brought hard-fought budget battles in which the President's tax raising budget narrowly passed the Senate by one vote. The headlines at the time were brutal: "Another failed Presidency?" "What Went Wrong?" "The Incredible Shrinking President." The hemorrhaging had to be stopped and the President

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[409] "Myopia at the White House: The FBI Abused," the New York Times, May 26, 1993, p. A20.
[410] "The Missing Voice," the Washington Post, May 26, 1993, p. A18.
[411] "The Moi? Defense," Meg Greenfield, Newsweek, June 7, 1993, p. 72.
[412] "The White House and the FBI," the Baltimore Sun, May 26, 1993, p. 18A.
[413] "Clinton tries to shake Travelgate," the Chicago Tribune, May 26, 1993, p. 12.
[414] "The Man Who Has Clinton's Ear," Michael Kinsley, Time, September 2, 1996.

called upon confidante and then Chief of Staff, Mack McLarty, the very same person who approved the firings.

D. THE LAST BEST HOPE FOR A COVER-UP? A MAN FROM HOPE, MACK MCLARTY

The President undermined his own commitment to "get to the bottom" of the Travel Office matter in announcing the Management Review when he incongruously put the person who had fired the employees in charge of the review. Then-Chief of Staff McLarty presided over a review in which the conclusions were as pre-determined as the decision to fire the Travel Office employees.

Mr. McLarty did not fail the President. Mr. McLarty participated in the cover-up of the President's involvement in bringing Harry Thomason to the White House for the image project. Mr. McLarty also concealed how the President inappropriately assisted Thomason with getting business for his company, Thomason, Richland & Martens. Finally, McLarty covered up the fact that the President knew about the firings before they occurred.

While aboard Air Force One, on May 17, 1993, Jeff Eller approached senior Presidential aide Bruce Lindsey and informed him of the Travel Office and Lindsey asked, "if involved w/HT's [Harry Thomason's] concern?"[415] Mr. Eller briefed Lindsey on the pending firings, Lindsey in turn briefed President Clinton a full 2 days before the firings occurred.[416]

But Thomason's "staged" productions clearly received disastrous reviews. It was time for an image make-over.

1. David Gergen assumes damage control patrol

The President was reportedly furious with his staff when Thomason's idea of a good story—firing the Travel Office employees—went south. There was talk of a staff shake-up. Newspaper stories at the time were strikingly critical of the abuse of the FBI in these events. The Washington Post had taken the President to task:

> But it was wrong to smear them in public as wrongdoers in advance of any finding that they have done wrong. If they were fired for unconfessed political reasons, that was wrong, too. And the apparent muscling of the FBI to put a stronger gloss on the case (even as its director fights and is beholden to the White House to keep his job) was wrongest of all.[417]

In late May 1993, the President turned to the another image maker, David Gergen. It is noteworthy that on May 28th when David Gergen was brought to the White House to meet with the President about his new position,[418] Harry Thomason and Linda Bloodworth-Thomason were in the residence that evening for dinner with Mrs. Clinton. Gergen was ushered up to the residence by Roy Neel at approximately 10 p.m. where Gergen met with Mrs. Clinton and the President. Mr. Gergen told the committee "I have

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[415] WHMR interview notes of Bruce Lindsey, June 9, 1993, CGEPR 0331.
[416] *Id.*
[417] "The Missing Voice," the Washington Post, May 26, 1993, p. A18.
[418] Committee interview of David Gergen, September 13, 1995, p. 7.

to tell you, I do not know Mr. Thomason. If he walked in the door now, I wouldn't know him."[419] White House residence logs show the Thomasons arriving for dinner at 8:30 p.m. and David Gergen and the Thomasons leaving the residence together at 1 a.m.

One of Gergen's first tasks was to placate the press in the midst of the biggest press debacle to that date: the Travel Office firings. Mr. Gergen testified he also was involved in quelling rumors that Mrs. Clinton and Susan Thomases were behind the firings. Mr. Gergen told the press that this charge was false; however, he said he could not recall the source of his information.[420]

2. White House Management Review: Truth or Obfuscation?

At about the same time Gergen was brought in, McLarty tasked Presidential aides John Podesta and Todd Stern to conduct the White House Management Review. Mr. Podesta and Stern regularly reported back their findings to McLarty throughout the review process. Mr. McLarty, the supervisor of the review, does not appear to have informed Podesta and Stern of his conversations with Mrs. Clinton until information from other sources surfaced about her role.[421]

The White House told the public that John Podesta was put in charge of these matters because he had no involvement in the events examined. But in fact McLarty, in selecting Podesta to head up the matter, selected a person who was knowledgeable about Thomason's efforts to obtain Government contracts as well as the President's efforts to help Thomason.[422] Mr. Podesta forwarded the Harry Thomason/Darnell Martens "these guys are sharp" memo to McLarty and others.[423]

Mr. Podesta became aware of the February 11, 1993 memo that Darnell Martens had forwarded to Harry Thomason when it showed up in President Clinton's "out box" on February 17.[424] As Staff Secretary, Podesta was responsible for the daily flow of paperwork in and out of the President's office. Although Podesta had never seen the February 11, 1993 memo go into the President's office, he did see it coming out.[425]

On February 16, 1993, Thomason was at the White House, spent the night at the White House and even bowled with the President that evening.[426] Although Thomason distinctly remembers beating the President at bowling that evening, he has "no recollection" of giving the President the February 11, 1993 memo soliciting the GSA contract for his company, TRM.[427] Podesta found the memo in the President's out box the very next day.[428]

Yet the Management Review, which distinctly addressed the issues of "personal interests" and "the appearance of favoritism," totally ignored Thomason's efforts in getting Government contracts

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[419] Gergen interview, p. 21.
[420] Gergen interview, p. 10.
[421] *See* committee depositions of John Podesta and Todd Stern.
[422] See supra Sections V and VI.
[423] In addition, Podesta was contacted by the Office of Records Management on the day following the firings to inform him of the grave concern about loss of records in the Travel Office.
[424] Podesta deposition, p. 54.
[425] *Id.*
[426] White House residence logs of February 16–17, 1993.
[427] Harry Thomason deposition, pp. 118, 122.
[428] Podesta deposition, p. 54.

and President Clinton's assistance in Thomason's efforts. While earlier drafts of the Management Review included these matters and the authors thoroughly reviewed the issues involved, they were excluded from the final report. In committee depositions, neither Podesta nor Stern could credibly explain how Harry Thomason's solicitation of aviation contracts had nothing to do with "the appearance of favoritism."[429]

3. The Management Review excluded information which was exculpatory to Travel Office employees and derogatory to President Clinton and his cronies

Clearly the omitted facts regarding Thomason's efforts to obtain Government business were relevant in learning the true picture behind the firings. Mr. Podesta had even asked Beth Nolan, the White House ethics counsel, to review the issue of whether or not Harry Thomason was a special Government employee and whether or not issues of conflict of interest pertained to Thomason.[430] But when Ms. Nolan came back with a preliminary conclusion that Thomason might in fact be a special Government employee and might have conflicts, the information was excluded from the final report.[431]

In striking contrast, while the Management Review excluded information that could have had negative public and possibly legal impact on Harry Thomason, its authors spent a large portion of the report condemning the Travel Office employees and their operations. The authors excluded the most significant finding regarding allegations against the employees: that the "kickbacks" allegation made by Thomason had no basis in fact.[432]

The kickback allegation provided the predicate for FBI involvement in the Travel Office matter.[433] In the course of the review, Podesta contacted Ross Fischer of Miami Air, who denied he ever made the allegation.[434] In fact, it appears the Management Review authors recognized this problem. Their own notes allude to concerns about FBI jurisdiction absent the kickbacks issue.[435] A kickbacks discussion was deemed irrelevant, despite the authors' awareness of exculpatory information.

A pattern developed throughout the course of the review: information unflattering to the Travel Office employees was included in the report, exculpatory information was not. In the case of Harry Thomason, little unflattering information was included. This is especially true where such information might involve the President.

In seeking derogatory information on the Travel Office employees, Podesta reviewed their personnel files.[436] Mary Beck, the Director of Personnel in the Office of Administration, said this was the only instance during her tenure in the White House in which

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[429] *See*, Podesta deposition, May 29, 1996; Stern deposition, June 5, 1996.
[430] Nolan deposition, p. 35.
[431] Memorandum for John Podesta and Todd Stern from Beth Nolan, July 1993, subject: Questions from Travel Office Report re Harry Thomason, CGE 43235–43246.
[432] WHMR interview of Ross Fischer, CGEPR 237–239.
[433] OPR Report, pp. 31–32.
[434] WHMR interview of Ross Fischer, CGEPR 237–239.
[435] CGEPR 0530–537, memo to Todd Stern from Dwight Holton, dated June 22, 1993, re: Complete list of checks, and checking plan.
[436] CGE 029652, memo from Mary Beck to John Podesta, re: Official Personnel folders.

such an unusual request was made of her office.[437] The files circulated around the White House for several weeks before Ms. Beck made an urgent call for them to be returned.[438] Although asked repeatedly, Podesta could provide no "official need" for the files.[439]

Soon after the firings Thomason retained attorney Bob Bennett and Thomason thereafter did not cooperate with Podesta's review. For example, Thomason refused to do a follow-up interview and Podesta became aware that Thomason was not pleased with the direction of his report.[440] Mr. Thomason's actions were successful; his stonewalling of Podesta worked. Mr. Podesta gave up on pursuing further information about Thomason.

By omitting the efforts of Thomason's company, TRM, to get business contracts from the Government, the report considerably diminished the full picture of Thomason's abuse of Presidential access. The report thereby made no reference to the President's complicity in that abuse. An internal White House memo, over which the President initially claimed privilege, asked:

> Doesn't ICAP [the GSA efforts] show how deeply Thomason and his personal interests had infiltrated the White House? Is the reason this was not included to avoid mentioning the involvement of the President in promoting the financial interests of his friends?[441]

The committee believes the answers to these two questions are "yes."

The fact that TRM and Harry Thomason indeed *had* sought contracts clearly undermines his claim that he was not seeking the Travel Office business. The Martens memo, which had been made public, clearly showed that TRM was seeking the Travel Office business; however, it was implausibly dismissed by Martens as not meaning precisely what it said. Had the report included information about Thomason's other Government interests, this information would have been more damaging.

In contrast to every other interview conducted during the White House Management Review, there were reportedly no notes taken of the "interview" that Podesta conducted with the President.[442] Mr. Podesta recalls nothing of the interview with the President, whether he discussed the President's knowledge of the firings, or whether he asked about the President's complicity in Thomason's activities. The only answer Podesta offered was that everything that the President told him was in the report.[443]

The review also omitted various documents and comments that undermined the official White House story. White House talking points of May 13, 1993, authored by Jeff Eller, demonstrated that there were plans to fire the employees a full day before Peat

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[437] Committee deposition of Mary Beck, p. 27.
[438] July 15, 1993 memo to Irene McGowan from Mary Beck, CGE 22205.
[439] *See* Podesta deposition.
[440] Committee deposition of John Podesta, June 5, 1996, p. 120.
[441] DF781538–542. This memo was among those initially withheld by the President under a claim of executive privilege on May 30, 1996 and not released to the committee until August 15, 1996.
[442] Podesta deposition, p. 98. In contrast, there are brief notes of Podesta's interview with the First Lady, CGEPR 0129.
[443] *See,* Podesta deposition, p. 99.

Marwick came to the White House.[444] This was left out of the report. These talking points claimed that the FBI was going to perform an audit, thus showing the real purpose of requesting FBI involvement.[445]

Another story omitted from the final draft of the Management Review was David Watkins' and Patsy Thomasson's intimidation of Catherine Cornelius. Mr. Watkins enlisted the help of his assistant, Brian Foucart, to convince Cornelius to resign.[446] Patsy Thomasson attempted to go through Cornelius' friend and roommate, Clarissa Cerda, to secure Cornelius' resignation.[447] Ms. Cerda, however, did not cooperate. Patsy Thomasson contacted Cornelius directly regarding Cornelius' memo on Travel Office reorganization.[448] Ms. Thomasson wanted it to appear as though Watkins never relied on Cornelius' memo on Travel Office reorganization. She wanted Cornelius to conceal any knowledge she had regarding whether Watkins read the memo.[449]

4. The Management Review minimized the role of Mrs. Clinton

The White House Management Review, while successful in its attempt to cover up the President's actions regarding Harry Thomason and to conceal documents which demonstrated a predetermined course of action, was not successful in *fully* concealing Mrs. Clinton's role. Mr. Podesta learned of Mrs. Clinton's involvement and interest in the matter when he discovered the May 17, 1993 memo to McLarty from Watkins regarding the firings. The memo includes a notation that it was sent to Mrs. Clinton.[450]

Neither Podesta nor his assistant, Stern, could recall when they first learned of this May 17 memo or who provided it to them.[451] However, it does not appear that Mack McLarty initially made this or other information that he had obtained regarding the Travel Office firings available to Podesta for his Management Review.[452]

Mr. Stern recalled that he first learned definitively of Mrs. Clinton's role on June 8, 1993 when he interviewed World Wide Travel employee, Fan Dozier. Ms. Dozier told Stern about a conversation she had with Harry Thomason on May 16, 1993. Stern's notes recount what Dozier told Stern about her conversation with Harry Thomason.

> HT [Harry Thomason] said "You mean you're not up there working?" HT said he'd call HRC [Hillary Rodham Clinton] and she would be very upset to hear they [the seven Travel Office employees] were still there . . . this was probably Sunday 5/16.[453]

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[444] CGE 7933, May 13 talking points.
[445] *Id.*
[446] Committee deposition of Brian Foucart, May 3, 1996, pp. 64–69. (Watkins asked Foucart to speak with Cornelius a second time, in August 1993, to get her to resign. Foucart refused the request.)
[447] Cerda deposition, pp. 123–125.
[448] Cornelius deposition, p. 143.
[449] WHMR interview of Catherine Cornelius, CGEPR 0161; WHMR interview notes of Clarissa Cerda, CGEPR 0117. (The memo which Cornelius and Cerda co-wrote outlined how the two could more efficiently run the Travel Office without the assistance of the present employees.)
[450] Watkins memorandum to McLarty, May 17, 1993, CGE 17753–54.
[451] Podesta deposition, p. 37; Stern deposition, p. 100.
[452] See depositions of Podesta and Stern.
[453] WHMR notes, June 8, 1993, CGEPR 0208.

Mr. Stern believes he heard vague rumblings about Mrs. Clinton's role prior to this date, however the Dozier interview provided the first concrete information in that regard.[454] It is clear that Mr. Stern was concerned from the earliest days of the Management Review about the possibility that Mrs. Clinton's role would be covered-up: "if you give answers that aren't fully honest (e.g. nothing re HRC) you risk hugely compounding the problem by getting caught in half-truths. You run the risk of turning this into a cover-up."[455]

There was an effort from the beginning, at least on the part of Mrs. Clinton, to blur the facts regarding exactly from whom she had heard rumors of wrongdoing in the Travel Office. In talking points prepared by her staff for the release of the White House Management Review, the summary stated: "Mrs. Clinton heard rumblings about problems in the Travel Office as did most White House staff."[456] In over 75 depositions and interviews, the committee found no basis for the notion that there were "rumblings" known to "most White House staff." Indeed, the opposite is true. When asked directly about rumors, most staff stated that they had heard nothing until the actual firings.

Deputy White House Counsel Foster was reluctant to disclose his contacts with Mrs. Clinton and President Clinton, or, as he referred to them, "the clients." On May 13, while waiting to see McLarty, Foster told Patsy Thomasson that "his clients, meaning President and Mrs. Clinton, were concerned about the White House Travel Office matter."[457] These comments, relayed by Ms. Thomasson, demonstrate that President and Mrs. Clinton's interest in the Travel Office were communicated to Foster by May 13.

When Foster was interviewed in the course of the White House Management Review, he told John Podesta, "I assume many of the conversations I had were privileged."[458] Mr. Foster initially provided all information about the firings, except his contacts with the "the clients." When Foster was asked in his interview if "anyone else" was "involved" he responded, "I think that's all I should say about that."[459]

In Foster's June 3, 1993 meeting with the White House Management Review team he omitted his conversations with Mrs. Clinton about the Travel Office, yet included events as inconsequential as getting a haircut in between Travel Office meetings.[460] David Watkins also carefully omitted the conversation he had with Mrs. Clinton as well as his knowledge of her involvement from the account he provided to Podesta during his interview on June 3, 1993.[461]

Eventually, Foster and Watkins were forced to disclose conversations they had with Mrs. Clinton in later interviews with Podesta, who had learned elsewhere of Mrs. Clinton's involvement.[462] How-

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[454] Stern deposition, pp. 32–33.
[455] Handwritten notes of Todd Stern, May 27, 1993, CGEPR 0683.
[456] CGE 032978.
[457] OPR interview of Patsy Thomasson, September 22, 1993.
[458] WHMR interview of Foster, CGEPR 0248.
[459] WHMR Management interview of Foster, June 3, 1993, CGEPR 0257.
[460] WHMR interview of Foster, June 3, 1993, CGEPR 0249.
[461] WHMR interview of David Watkins, June 2, 1993, CGEPR 487–508.
[462] Podesta deposition, p. 81; WHMR interview of Foster, June 30, 1993, CGEPR 0258. (Harry Thomason also failed to disclose his conversations with the First Lady in his interview with the White House Management Review on May 27, 1993. Thomason refused to cooperate in any additional interviews with Podesta and Stern.)

ever, notes from the June 30 meeting, the same day as Mrs. Clinton's interview with Podesta, show that her role was down-played as much as possible.[463]

Mr. Foster's notebook, which was withheld from investigators for years, detailed a potential defense for Mrs. Clinton's involvement: "Defend management decision, thereby defend HRC role whatever is, was in fact or might have been misperceived to be."[464] This was the line of defense used by the White House. It became essential that the "management decision," firing Dale and others for "cause," be defended. Under this "defend management decision" tactic, it appears Foster thought Mrs. Clinton would be protected whether or not her true role became known. This would also serve the President and is in fact the defense the White House continues to assert.

The real story was kept from the public. With the Clinton ship of state barely afloat after a rocky spring of 1993, the review omitted what would have been damaging admissions, including:

- That despite the President's public denials, he, in fact, knew about the planned Travel Office firings BEFORE they occurred; he was briefed on the firings by Presidential aide Bruce Lindsey; and he knew of Thomason's quest for aviation contracts.
- That the President, himself, approved Harry Thomason's arrival at the White House for an "image" project and that Thomason obtained an official "staff" pass, not a "volunteer" pass.
- Harry Thomason's solicitations were not limited to the Travel Office business, but involved efforts to get a quarter of a million dollar Government contract through an Executive order. President Clinton spoke with Thomason and assisted him in obtaining Government business.
- That Mrs. Clinton pressured high ranking White House officials and was a driving force behind the firing of the entire Travel Office staff on May 19, 1993 and that this pressure came before any Peat Marwick review or FBI guidance.
- That Chief of Staff Mack McLarty, who responded to Mrs. Clinton's pressure, failed to disclose promptly contacts with Mrs. Clinton while McLarty was supervising the Management Review.
- That the rumors passed on by Harry Thomason were denied by the alleged source of those rumors, the President of Miami Air.
- That initially, in the course of the review, senior White House aides Foster, Watkins and McLarty tried to conceal the role of Mrs. Clinton in the firings.

Given these omissions, McLarty was less than honest when he stood at the White House press podium and declared that the report was "thorough" and "candid." The report was a whitewash for the Clinton administration. The report publicly lashed the designated scapegoats, who had only responded to pressure from superiors. As Cornelius explained, " . . . I did everything everyone told

[463] Foster Travel Office notebook, CGE 1047, 1053–1054.
[464] Foster Travel Office notebook, CGE 1047.

me to do."[465] Mr. Watkins was only following orders that he felt were impossible to ignore:

> I think all this makes clear that the Travel Office incident was driven by pressures for action originating outside my Office. If I thought I could have resisted those pressures, undertaken more considered action, and remained in the White House, I certainly would have done so. . . . I was convinced that failure to take immediate action in this case would have been directly contrary to the wishes of the First Lady, something that would not have been tolerated in light of the Secret Service incident earlier in the year.[466]

In the end, the White House Management Review had little to do with the reality behind the firings.

IX. The White House's Failure to Admit Thomason's Baseless "Kickback" Allegations Were False and Led to a Fruitless IRS Investigation

A. Introduction

In a May 20, 1993, news account of the May 19 White House Travel Office firings, the Wall Street Journal[467] reported that the White House and FBI also were investigating possible kickbacks involving the seven fired Travel Office employees and UltrAir. Unnamed "officials privately said" and "those familiar with [the investigation]" indicated that there were improprieties in the Travel Office's business dealings with UltrAir which another anonymous White House source charged "was all done with a wink and a nod."[468] At the time of publication, none of these allegations had been corroborated and, in fact, they subsequently were found to have been baseless. The White House, so quick to broadcast these false allegations, made no effort to retract them and correct the record publicly when it learned, within a month, that they were without merit.

Attorney General Janet Reno later would chastise the White House openly for improperly announcing the FBI investigation of the Travel Office.[469] But the White House's announcement clearly was calculated to "dirty up" the Travel Office employees in order to minimize negative reactions to a bald-faced exercise in political cronyism by which the Clinton administration installed Presidential cousin Catherine Cornelius, Clinton campaign travel agency World Wide Travel, Clinton charter broker Penny Sample and her company, Air Advantage, in the Travel Office while raising the possibility of Travel Office opportunities for Harry Thomason, Darnell Martens and their partnership, Thomason, Richland and Martens,

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[465] Committee deposition of Catherine Cornelius, April 30, 1996, p. 146.
[466] Watkins memo, CGE 12286–12294.
[467] Michael K. Frisby, *Clinton Fires White House Travel Office, FBI is Probing Allegations of Kickbacks,* the Wall Street Journal, May 20, 1993, p. A5.
[468] Id.
[469] OPR Report, pp. 68–69; *see also* "Clinton Staff Bypassed Reno to FBI, White House Gave Bureau 'Guidance' on Travel Statement," Ann Devroy and Michael Isikoff, Washington Post, May 25, 1993, pp. A1, A9.

Inc. (TRM) From the very start, Cornelius and Thomason had been key players in the Travel Office coup.

The White House's world-wide broadcast of uncorroborated, and, in fact, false allegations of criminal conduct against the Travel Office employees and UltrAir would have immediate and ominous consequences not merely for the Travel Office employees but also for UltrAir. Its Smyrna, TN, offices would be raided by IRS agents at 3 p.m. on Friday, May 21, 1993, just 1 day after the false allegations hit newsstands. A former UltrAir executive also found himself the subject of an IRS audit in the wake of these false allegations.

B. ULTRAIR

UltrAir is an airline charter company founded in 1991 which provided press charters to the White House Travel Office starting in June 1992. UltrAir was a successor company to White House press charter carrier Airline of the Americas. Both companies were founded by employees who previously worked for the now-defunct Pan Am when it provided White House press charters.

At 3 p.m. on May 21, 1993, three IRS agents "raided" UltrAir's offices in Smyrna, TN. There, UltrAir chief financial officer Ed Hamblin informed the IRS that the firm's tax records had been transferred to Houston, TX. Mr. Hamblin phoned UltrAir CEO Rick Millinor in Houston. Mr. Millinor, on the advice of his attorney, told the IRS that UltrAir would not surrender its records to IRS. At that time, IRS served UltrAir with an administrative summons for its records. UltrAir subsequently turned over all requested records on June 9, 1993.

Coming within a day of the White House's uncorroborated allegations of criminal wrongdoing against the Travel Office employees and UltrAir, the UltrAir raid raised serious concerns of possible misuse of the IRS. Those concerns led to investigations by the IRS Inspection Service, the Department of Treasury Office of Inspector General and the General Accounting Office, which addressed IRS issues most substantively in its March 1994, draft report on Travel Office operations.

Predictably, the IRS Inspection Service, in its investigation of the matter, found that IRS personnel took no inappropriate actions in the UltrAir matter and concluded that there was no evidence of any White House contact on the matter.[470] The IRS Inspection Service was a strictly internal review, however, and no one outside the IRS was interviewed in the course of its investigation.

The Department of Treasury Office of Inspector General Report, conducted pursuant to the July 14, 1993 request of Congressman Frank Wolf and released on March 31, 1994, also concluded that IRS officials took no inappropriate action and found no evidence of White House contact.[471] It did, however, raise additional questions. The report referred to an August 5, 1993 letter to Congressman Wolf from IRS Commissioner, Peggy Richardson, in which:

[470] Allegations of Inappropriate White House, FBI, and IRS Action Involving UltrAir Company are Unfounded, GAO draft material, contemporaneous with March 19, 1994 draft of White House Travel Office Report, p. 1.

[471] "Inquiry of Alleged Misuse of the IRS RE: the White House Travel Office," Robert P. Cesca, Department of the Treasury, Deputy Inspector General, March 31, 1994.

> [S]he stated that IRS Revenue Agents generally do not issue a summons during an unannounced visit in connection with an examination. Taxpayers are notified of an examination through correspondence or by telephone prior to an agent's arrival.[472]

This suggests that the manner of the IRS raid on UltrAir was, in fact, unusual. Additionally, the report's conclusion that, "Based on our discussions with IRS officials, and corroborating evidence from records of GAO evaluators, we found no evidence that there were any contacts generated from anyone at the White House to the IRS regarding this matter," appears less than categorical.[473] If its discussions were, in fact, limited to IRS officials and GAO evaluators, it is not clear that the investigation exhausted all the available evidence. Such questions are critical in retrospect, given the Clinton White House's now well-established practices of withholding documents and coordinating witness testimony.

The Treasury OIG Report also noted that an FBI official, subsequently identified as Supervisory Special Agent Tom Carl of the FBI Government Fraud Unit:

> . . . contacted an IRS National Office Criminal Investigator to obtain some investigative information, if applicable. The IRS Criminal Investigation did not provide the FBI Official with any material information. (This information was corroborated with the IRS Investigator.) The National FBI Official then contacted a Nashville, Tennessee, FBI agent to make an investigative inquiry with local IRS officials.[474]

Agent Carl, of course, was made aware of the "highest levels" interest in the Travel Office matter by Associate White House Counsel Bill Kennedy.[475] And while Agent Carl made his inquiries in the week following the IRS raid on UltrAir, his involvement with both the White House Counsel's office and the IRS investigation of UltrAir raises concerns that his understanding of "highest levels" interests led to calls to the IRS in Washington and Nashville concerning UltrAir. While the Treasury OIG Report concluded the IRS did not provide any material information to the FBI, it did not say whether the FBI provided material information to IRS.

C. THE ULTRAIR MATTER WAS NOT HANDLED UNDER THE SAME STANDARDS AS OTHER POTENTIAL TAX VIOLATIONS

While the GAO Draft report also suggested that allegations of improper contacts among the White House, FBI and IRS were unfounded, it too raised further questions. A GAO footnote stated, "IRS' policy is that all referrals of potential tax violations are to be handled the same, regardless of the source."[476]

Yet, the UltrAir raid was not handled in the usual fashion of other potential tax violations. The 1-day turnaround between the publication of allegations concerning UltrAir in the Wall Street

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[472] *Id.,* p. 7.
[473] *Id.,* p. 10.
[474] *Id.,* p. 10.
[475] *See* GAO interview of Agent Tom Carl, October 20, 1993.
[476] GAO draft report, White House Travel Office Operations, p. 1.

Journal and the May 21, 1993, raid was highly unusual, if not unprecedented. In a June 7, 1993, article in Tax Notes Today, Lee A. Sheppard reported that several former IRS executives had found the raid on UltrAir highly unusual.[477] She wrote that:

> The usual starting point for an IRS examination is a [tax] return; without a return, there is nothing for agents to talk about.[478]

But UltrAir, which had been founded in 1991, but had not begun operations until mid-1992, had yet to file an income tax return. On March 15, 1993, the company had filed for and received an extension on its 1992 return. It had filed no return for 1991, in which it generated no revenues. Ms. Sheppard added that,

> In a normal audit, the IRS calls first, makes an appointment for an agent to visit, and requests documents that it needs to examine.[479]

Referring to Internal Revenue Manual chapter 4022.3, Sheppard noted that standard IRS practice is to exhaust all other means of obtaining the desired information before issuing an administrative summons. In other words, the taxpayer must resist IRS requests for information; records provided must be thought to be incomplete and/or pertinent details withheld; or the availability of the records must be in doubt. That was not the case with UltrAir. Ms. Sheppard adds, "Aggressive nonfiler procedures, in the sense of physically going after the nonfiler, are usually only invoked in criminal cases."

In her June 28, 1993, follow-up article entitled, "What the IRS Travelgate Report Does and Does Not Say," Sheppard asked:

> Could an excise tax dispute justify sending three agents with an administrative summons on an unannounced visit to the taxpayer? This requires an assumption that UltrAir failed to pay excise taxes, had been notified of that failure, and continued to resist paying. That did not happen.[480]

Ms. Sheppard found other aspects of the IRS raid on UltrAir unusual. Given the fact that the IRS report indicated that UltrAir was not the subject of a criminal investigation, Sheppard wrote:

> If there is no criminal investigation of UltrAir, why was the IRS treating the company like criminals? Why did the IRS send three agents to an airline so small that the agents outnumbered the airplanes? Why did they make an unannounced visit, which is normal procedure for criminals? Why did they resort to an administrative summons, a coercive tool that the Internal Revenue Manual reserves for uncooperative taxpayers?[481]

Not only was the UltrAir case not a criminal matter, the IRS had every reason to believe that the company was an otherwise respon-

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[477] Lee A. Sheppard, *Was the IRS Involved in 'Travelgate'?*; Tax Notes Today, Vol. 59, June 7, 1993, p. 1301.
[478] *Id.*
[479] *Id.*
[480] "What the IRS Report Does and Does Not Say," Lee A. Sheppard, Tax Notes Today, Vol. 59, June 28, 1993, pp. 1743, 1744.
[481] *Id.,* p. 1743.

sible corporate citizen. In fact, in October 1992, UltrAir CFO Hamblin voluntarily approached the IRS with a question concerning excise tax compliance and its White House press charter operations. Mr. Hamblin worked with the IRS on this issue through early 1993, when the IRS tentatively found UltrAir liable for some $220,000 in excise taxes related to the White House press charters.[482] (Because UltrAir had not calculated excise taxes into its press charter billings, the White House eventually paid them. The IRS ultimately would conclude that the Travel Office was responsible for collecting excise taxes from the press corps and paying them to the IRS.)[483]

D. SECURING THE RECORDS

GAO provided some insights into why the IRS issued the highly unusual administrative summons. GAO reported that once the IRS became aware of media stories implicating UltrAir in possible wrongdoing at the Travel Office, it was concerned about maintaining access to UltrAir excise tax records. In particular, it was concerned that if the FBI subpoenaed those documents, it would no longer have access to them. In short, UltrAir was caught up in a turf battle between the IRS and the FBI. IRS' other reported concerns in securing documents, that UltrAir might destroy documents and that it was in the middle of a corporate move to Houston, appear specious. The committee is confident that the IRS had sufficient Houston-based resources to continue any investigation originating in Nashville, TN.

Ironically, IRS personnel advised committee investigative staff in an October 23, 1995 briefing that the IRS would not have known who—or where—UltrAir was had it not been for the fact that CFO Hamblin voluntarily came forward to the IRS some 7 months before with his questions concerning excise taxes. In other words, UltrAir's good faith efforts as a corporate citizen led to its May 21, 1993, mistreatment as a suspected tax criminal.

GAO reports that after an IRS agent in Nashville informed a group manager and branch chief of the UltrAir media accounts, the agents determined that UltrAir had not filed 1991 or 1992 income tax returns.[484] In the former case, UltrAir incorrectly assumed that it need not file a tax return for a year in which it generated no business revenues. In the latter case, UltrAir had filed for an extension on March 15, 1993 but IRS computers lost the record. UltrAir filed returns for both 1991 and 1992 on July 1, 1993.

Based on this information, IRS' Nashville branch chief instructed agents to prepare an administrative summons for UltrAir and visit its offices unannounced. It never made any effort to call first to raise questions and concerns with UltrAir as Sheppard suggested would be the normal procedure.

GAO noted in its report that UltrAir's refusal, on May 21, 1993, to turn over the documents called for in the administrative summons was appropriate given its surprise at the raid and the advice

[482] GAO draft letter to (then) ranking minority members of House and Senate committees (Chms. Clinger and Grassley) [never sent], May 1994, p. 9.
[483] *Id.*, p. 8.
[484] GAO draft report, p. 7.

of its attorneys. UltrAir turned over all requested documents to the IRS on June 9, 1993.[485]

E. KPMG PEAT MARWICK: BOTH SIDES NOW

Importantly, KPMG Peat Marwick's Nashville, TN-based certified public accountants gave UltrAir a clean audit opinion in March 1993, in essence stating that it found no sign of irregularities—such as kickbacks—in UltrAir's financial records. This is noteworthy, given the fact that KPMG Peat Marwick management consultants would be brought into the White House Travel Office 2 months later to look for evidence of kickbacks which could have implicated another Peat Marwick client. KPMG Peat Marwick found no evidence of kickbacks in the White House Travel Office, either.

F. BILL KENNEDY AND THE IRS

In his initial meetings with FBI agents, prior to the Travel Office firings, Associate White House Counsel Bill Kennedy reportedly stated that if the FBI could not assist him, that he would go to another agency, in particular, the IRS.[486] The investigation of UltrAir which immediately ensued prompted investigators to question if Kennedy's stated intentions were acted upon by him or other White House officials. But Kennedy has repeatedly, unequivocally, denied taking action. Specifically, he testified to the GAO that:

> [H]e did not say that he would call the IRS directly, and that he never contacted any IRS official about the White House Travel Office or UltrAir. [Emphasis added] [487]

The preceding remarks appear to contradict the notes of a June 28, 1993, White House Management Review interview of Associate White House Counsels Beth Nolan and Cliff Sloan. These notes read, in part:

> BK [Associate White House Counsel Bill Kennedy] said PR [IRS Commissioner Peggy Richardson] on top of it. She said at party IRS on top of it & some reference to IRS agents aware or something like that.[488]

We believe this contradiction has not been adequately investigated.

G. KICKBACK ALLEGATIONS DISPROVED BY THE WHITE HOUSE

In a June 17, 1993, interview with Ross Fischer of Miami Air, White House Staff Secretary John Podesta, who was in charge of the White House Management Review, learned that Fischer and Miami Air were "never approached for kickback." Mr. Podesta's handwritten note underscores the words "never approached" twice.[489] In his committee deposition, Podesta acknowledged that he found no information to substantiate the kickback allegations.[490] Similarly, no evidence of kickbacks was found by KPMG

[485] GAO draft letter, p. 7.
[486] OPR Report, p. 27.
[487] GAO draft report, p. 11.
[488] WHMR interview of Nolan and Sloan, June 28, 1993, CGEPR 0379.
[489] WHMR interview notes of Ross Fischer, June 17, 1993, CGEPR 0237.
[490] Podesta deposition, pp. 162–163.

Peat Marwick (at the Travel Office or UltrAir), the General Accounting Office, the FBI or the IRS.

Mr. Podesta was aware that the FBI investigation of the Travel Office—and the White House's smear campaign against the fired Travel Office employees and UltrAir—was based in large part on the kickbacks allegation. But Podesta refused to advise the FBI of his discovery. The White House's refusal to inform the FBI, the IRS, and the press of its discovery immediately, needlessly subjected UltrAir, former UltrAir president Charles Caudle and the fired Travel Office employees to the threat of investigations, audits and worse.

In late 1994, the IRS informed UltrAir that it had no additional income tax liability. At approximately the same time, former UltrAir president Charles Caudle received a $4,900 tax refund when the IRS closed his audit. In testimony before the committee in January 1996, Billy Dale and several of his Travel Office colleagues indicated that they faced the threat of IRS audits for well over 2 years, but, again, no violations were found.[491]

H. INTERNAL REVENUE CODE 6103

The committee attempted to determine what precipitated the highly unusual 1-day turnaround from the publication of a news article to a full-blown audit of a company that had not yet filed its first income tax return. However, that attempt was stymied by Internal Revenue Code Section 6103.

For good reason, Section 6103 makes it a crime to disclose tax records and tax return material without the proper authorities. Yet, the president of UltrAir and his attorneys provided several successive 6103 waivers to committee staff precisely because they hoped the committee's investigation would uncover the impetus of the IRS' audit. Each successive 6103 waiver form was completed with scrupulous attention to requirements dictated by various representatives of the IRS and the Treasury Department. In the end, the committee was informed that the IRS was "not comfortable" with releasing the requested information. The committee does not believe "not comfortable" is a legal term of art which justifies the withholding of materials an individual or corporate tax citizen wishes to be released.

Section 6103, at the same time it prevents previous abuses, may shield IRS abuses from proper congressional oversight. Without the ability to review relevant tax records pursuant to UltrAir's own waiver, too many questions still remain unanswered.

In her June 30, 1993, Tax Notes Today article entitled: "What the IRS Travelgate Report Does and Does Not Say," Lee A. Sheppard wrote: "Nothing in the redacted IRS report addresses the exquisite timing of the IRS visit to UltrAir. It seems to be more than coincidental."[492] She concluded:

> As we cannot emphasize too often, the IRS is not a free-ranging, all-purpose investigative agency empowered to

[491] Testimony of Billy R. Dale before the Committee on Government Reform and Oversight, January 24, 1996.

[492] Lee A. Sheppard, *What the IRS Travelgate Report Does and Does Not Say*, Tax Notes Today, Vol. 59, p. 1743.

> root out crimes and misdeeds wherever they may occur. At least four people at the IRS had to think that the rough treatment of UltrAir was warranted.[493]

The committee concurs in these remarks, and believes that the answers to these questions, currently sealed behind IRS Code Section 6103, warrant further attention. Moreover, that executive branch officials were aware of investigations arising from their own false allegations and took no action to inform the investigators, constitutes a reckless abuse of the public trust.

X. VINCENT FOSTER BECAME INCREASINGLY DISTURBED BY THE PROBLEMS GENERATED BY TRAVELGATE—AS DID NUMEROUS HIGH RANKING WHITE HOUSE OFFICIALS

A. DESPITE FOSTER'S INITIAL EFFORTS DURING THE MANAGEMENT REVIEW, HE WAS UNSUCCESSFUL IN CONCEALING "THE CLIENTS'" ROLE IN THE TRAVEL OFFICE FIRINGS

On May 13, 1993, almost a week before the Travel Office firings, Foster disclosed to Patsy Thomasson that "the clients" were interested in this matter. Ms. Thomasson reports that "the clients" was how Foster referred to President and Mrs. Clinton.

John Podesta and Todd Stern testified that Deputy Counsel Vincent Foster did not inform them of his contacts with Mrs. Clinton concerning the Travel Office prior to the firings.[494] However, Podesta and Stern did learn of Mrs. Clinton's involvement from other sources and questioned Foster in a second interview.[495] Mr. Foster raised the issue of privileged conversations in his White House Management Review interview.[496] In the days prior to his death, Foster expressed his serious concerns about getting outside counsel for "the clients."[497]

Independent Counsel Fiske concluded in his report: "Those close to Foster have stated that the single greatest source of his distress was the criticism he and others within the Counsel's Office received following the firing of seven employees from the White House Travel Office."[498] Mrs. Clinton told Independent Counsel Fiske she never talked with Foster about the Travel Office in June or July 1993,[499] and was unaware of his concerns. In his committee deposition, Nussbaum testified that he thought Mrs. Clinton discussed the report or related events with Foster at some time at or around the release of the Management Review.[500]

Mrs. Clinton's role in the Travel Office firings became an issue following the release of the July 2, 1993 Management Review. With the onset of numerous investigations into the firings, the role of

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[493] *Id.*

[494] Committee deposition of John Podesta, June 5, 1996, p. 90; committee deposition of Todd Stern, May 29, 1996, p. 30.

[495] WHMR interview notes of Foster, June 30, 1993, CGEPR 240–259.

[496] *Id.*

[497] OPR Report, p. 90.

[498] Hearings relating to Madison Guaranty S&L and the Whitewater Development Corporation—Washington, DC Phase, Volume I on the Death of Vincent W. Foster, Jr., July 29, 1994, p. 185.

[499] Testimony of Hillary Rodham Clinton before the Office of the Independent Counsel, June 12, 1994 in hearings before the Committee on Banking, Housing and Urban Affairs, U.S. Senate, 103d Congress, 2d Sess., Volume II on "Death of Vincent Foster, Jr.," July 29, 1994, p. 2106.

[500] Committee deposition of Bernard Nussbaum, June 12, 1996, pp. 127–129.

President Clinton and Mrs. Clinton was again a problematic issue in the Counsel's office.

B. THE MANAGEMENT REVIEW'S INCLUSION OF BILL KENNEDY'S REFERENCE TO THE INVOLVEMENT OF "THE HIGHEST LEVELS" OF THE WHITE HOUSE IN THE FIRINGS RAISED PROBLEMS FOR BOTH PRESIDENT CLINTON AND MRS. CLINTON

Mr. Foster reportedly was distraught by reports from FBI agents who said Kennedy informed them the Travel Office matter had the interest of those at "the highest levels" and "*the* highest level" at the White House.[501] Mr. Kennedy also was reported saying that if the FBI didn't respond quickly, he would call the IRS.[502] Mr. Foster strongly opposed including this account in the Management Review.[503] The inclusion of the FBI version of events, in effect, verified the agents' accounts of these discussions. This implicit admission opened the door to consider further both Mrs. Clinton's and President Clinton's involvement in the firings.

Mr. Kennedy denied making these statements to the FBI agents,[504] however, the fact that the Management Review included a reprimand of Kennedy, acknowledges that the word of four FBI agents had been implicitly accepted over that of Kennedy. The committee, having interviewed all four FBI agents and reviewed their sworn statements to OPR, also finds them credible. Mr. Kennedy's statements about whether or not he referred to "the highest levels" of the White House being interested in the Travel Office, are in direct conflict with the testimony of the four FBI agents.

In addition to the sworn testimony of four FBI agents, the committee obtained testimony from an additional witness, Matthew Moore, who was part of Watkins' team of assistants assembled on May 13, 1993 to prepare for the Peat Marwick review the next day. According to Moore, Kennedy told the group, "something to the degree that you know, this goes to the highest level, the concern about this, you know, goes to the highest level."[505]

It is notable that in the course of the White House Management Review, Podesta and Stern re-interviewed the FBI agents to be sure they would uphold their version of events. Messers. Podesta and Stern also gave Kennedy a second chance to change his account.[506] According to numerous White House aides, Foster argued in vain that these comments should not be included in the report and that Kennedy's version of events should be accepted.[507] Mr. Foster also was upset because he felt responsible for Kennedy's involvement, and expressed remorse at not having handled the matter himself.[508] Mr. Foster's close friend, Webb Hubbell, told OPR investigators that, "even after the White House Report was re-

[501] *See e.g.* GAO interview of FBI Agent Howard Apple, October 15, 1993, pp. 1, 4.; OPR Report, pp. 82–83.
[502] OPR Report, p. 27.
[503] OPR Report, p. 84.
[504] Kennedy deposition, p. 91.
[505] Committee deposition of Matthew Moore, March 26, 1996, p. 98.
[506] WHMR interview notes. Agent Howard Apple was interviewed first on June 9, 1993 and then again on June 25, 1993. Agent Wade was interviewed on June 9, 1993 and June 28, 1993; Agent Tom Carl, was interviewed on June 9, 1993 and again on June 25, 1993. William Kennedy was interviewed first on June 8, 1993 and then again on June 30, 1993.
[507] OPR Report, p. 84.
[508] *See* OPR Report, p. 85, discussion of a conversation Foster had with Webb Hubbell about his concerns.

leased . . . Foster continued to be upset that Kennedy had been reprimanded."[509]

If, as FBI agents stated and now have testified under oath to OPR, Kennedy did point to the involvement of "the highest levels" of the White House in the Travel Office firings, then future investigations could pose problems for President and Mrs. Clinton. Would criminal investigators ask Foster or Kennedy about the role of President and Mrs. Clinton?

If there were misuse of Harry Thomason's access to the White House and his status as a special Government employee became an issue, what would Foster have to disclose regarding the knowledge of those at the highest levels? What were the liabilities of the President and First Lady in helping Thomason obtain Government business, including the Travel Office?

Mr. Foster's handwritten notebook detailing the Travel Office saga notes "misuse of FBI" followed by "they deny" and "HR no role."[510] In this context, "HR" appears to refer to "Hillary Rodham." Was Foster worried that Mrs. Clinton might be dragged into the "misuse of the FBI" issue? If so, why?

Following the release of the Management Review, Foster talked with his sister and his brother-in-law, Sheila and Beryl Anthony, on the occasion of a July 9 dinner. He voiced his concerns with the report and his belief that the "FBI lied regarding the Travel Office matter." Sheila Anthony said she thought that Foster's "remarks regarding the FBI concerned the conversations between the White House Counsel's Office and the FBI that had been described in the White House Report."[511] Mr. Anthony said these remarks made a "big impression" on him because Foster was not "subject to exaggeration and never made inflammatory remarks."[512]

Mr. Foster also told his sister that he was considering resigning his position at the White House.[513] While it is possible that Foster believed Kennedy when Kennedy said he made no such statements to the FBI agents, Foster himself, on the same day, informed Patsy Thomasson that "the clients"—the same people who are at "the highest levels"—were concerned. It appears unlikely that Foster would have shared information about the President and Mrs. Clinton's interest in this matter with others such as Ms. Thomasson, but not with Kennedy. Mr. Foster repeatedly told Watkins of Mrs. Clinton's interest.[514] Since Kennedy was the main person Foster had tasked with responding to this matter, it is implausible that he did not inform Kennedy of Mrs. Clinton's interest.

Perhaps what Foster didn't believe is that Kennedy would have been foolish enough to tell outsiders at the FBI of Mrs. Clinton's interest. But the committee has obtained new documentation suggesting Kennedy, indeed, was prone to exerting his influence over outside agencies and engaging in a pattern of intimidation.[515] The

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[509] OPR Report, p. 85.
[510] Foster Travel Office notebook.
[511] OPR Report, p. 87, discussion of comments by Sheila Anthony.
[512] OPR Report, p. 89.
[513] *Id.*
[514] *See* Watkins "soul cleansing" memo, CGE 12286–12294.
[515] The committee is in receipt of a memo from the CIA "Memorandum for the Record, Subject: Halperin Nomination—Conversation with Bill Kennedy, White House Counsel's office". The memo discusses Mr. Kennedy's efforts to keep the Senate Armed Services Committee from ob-

Continued

committee's own experience with Kennedy is consistent with this pattern.[516]

Prior to considering resignation, it is significant that Foster himself was considered for a reprimand for his actions in the Travel Office. Mr. Nussbaum informed the committee that when he heard that Kennedy was to be reprimanded for his actions, he went to McLarty and demanded that he and Foster also be reprimanded in the belief that the Counsel's office should stick together.[517] Mr. Nussbaum says that when he told Foster of his demand that they all be reprimanded, "[Foster] didn't look about it as happy as I did, at that point."[518] However, Nussbaum and Foster were not reprimanded. This would have brought matters closer to "the highest levels" when the White House intended to contain this to mid-level staff. "Low-level" staff are often available to take responsibility for mistakes in the Clinton White House.

But it was not low-level staff who were responsible for this blunder, as claimed by the White House. It was not the "inexperience and ineptitude" of young White House staff who gave Harry Thomason free reign in the White House. It was the arrogance and favor-seeking of President Clinton's friends and family, championed by senior White House aides, responding to President and Mrs. Clinton that caused these problems.

C. FOSTER WAS TROUBLED BY THE PROSPECT OF NUMEROUS CONGRESSIONAL AND CRIMINAL INVESTIGATIONS INTO THE TRAVEL OFFICE FIRINGS

Members of Congress, both from the House and the Senate, called for the immediate appointment of an independent counsel and were getting support from the media by mid-July. On July 2, 1993, the very day that the White House Management Review was released, President Clinton was forced to sign a bill that included a provision providing for a General Accounting Office review of the Travel Office firings.[519] The GAO review provision was inserted by Senator Byrd on an appropriations bill.[520]

The White House already ran into trouble with GAO reviews of the White House purchase of a new phone system and a resume reviewing system in 1993. The thought of GAO investigators examining the "management decision" Foster had vowed "to defend" was another headache for the already overburdened Deputy White

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taining information from the CIA which pertained to Mr. Halperin. Mr. Kennedy was reported to have told the CIA to "abstain from doing any file searches: 'don't hit a lick,' to use his precise words." A CIA official reviewing this memo circled this request and handwrote: "This is an outrage. The WH [White House] staff does *not* control our files." Apparently, Mr. Kennedy had a history of muscling outside agencies. If he would do this to the CIA, the committee, armed with the testimony of four FBI agents, believes he would do the same thing with the FBI. The committee does note that the FBI agents stated they did not feel intimidated by Kennedy's remarks but this does not excuse Mr. Kennedy for making such statements and does not resolve the actual facts behind the statements about the "highest levels."

[516] Kennedy's own indiscretions in failing to report his nanny taxes and not providing this information to the White House raises additional questions about his veracity.

[517] Nussbaum deposition, pp. 138–139.

[518] *Id.,* p. 139.

[519] The Supplemental Appropriations Act of 1993 (P.L. 103–50), signed the same day, required that GAO "conduct a review of the action taken with respect to the White House Travel Office . . . "

[520] Supplemental Appropriations Act of 1993 (P.L. 103–50).

House Counsel who was spending many of his working hours on personal matters for the Clintons.[521]

Senior Democrats in Congress were skeptical about the Management Review and Chairman Jack Brooks was reported to have told Mack McLarty he should have fired people higher up.[522] Chairman Brooks was faced with fending off a "House Resolution of Inquiry" in the Judiciary Committee.

On June 16, 1993, Republican House leaders and then ranking minority member of the Government Operations Committee William Clinger filed a "House Resolution of Inquiry,"[523] which was considered on July 14, 1993. The resolution allowed the House to ask the President to provide certain documents and answer specific questions focusing on the possible misuse of the FBI and the IRS. While the President could not be compelled to respond to a "Sense of Congress" resolution, it would have put Congress on record as demanding responses from the White House.

Clinton administration officials were hard at work to ward off the attempt to open a congressional inquiry. In a July 13, 1993 letter to Chairman Brooks, President Clinton pledged that the Attorney General would have the administration's "full cooperation" in a Department of Justice review of the Management Review.[524] Chairman Brooks and his staff were communicating with the Associate Attorney General Webb Hubbell in the days leading up to the July 14, 1993 consideration of the Resolution of Inquiry[525] and a letter to the committee was received from the Attorney General.[526]

The "House Resolution of Inquiry" required President Clinton to turn over all responsive documents and answer questions concerning FBI and IRS actions related to the firings.[527] During the days and weeks leading up to the Resolution, IRS Commissioner Peggy Richardson made numerous calls to Webb Hubbell.[528] The Resolution was defeated but House rules still allowed for the full House to vote on the inquiry and a plan was in the works for a vote later in the month.

In the weeks following the Management Review, Foster discussed his growing concerns about where the investigations would lead

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[521] In testimony before the Senate Whitewater Committee, White House Counsel secretary, Linda Tripp, testified that Mr. Foster spent most of his time working on personal matters for the Clintons. Since Ms. Tripp had previously worked at the White House under other Counsels, she recognized this was unusual and raised it with Mr. Nussbaum who dismissed her concerns. *Senate Whitewater deposition of Linda Tripp, July 12, 1995, pp. 52–53.*

[522] Michael Isikoff, "Foster Was Shopping for Private Lawyer, Probers Find," Washington Post, August 15, 1993, p. A20.

[523] House Resolution 198, 103d Cong., 1st Sess. (1993).

[524] Letter from President Clinton to Chairman Brooks, July 13, 1993.

[525] Phone logs of Webster Hubbell indicate that Chairman Brooks phoned Hubbell on July 13, 1993 and on July 15, 1993, the day after the Resolution of Inquiry was defeated. Chairman Brooks Counsel, Jon Yarowsky called Hubbell on behalf of Brooks and left the message that Brooks extended his thanks "for all your help." Yarowsky is now a White House Associate Counsel who has been one of the key White House lawyers handling the Travelgate investigation.

[526] Letter from Attorney General Reno to Honorable Jack Brooks, July 14, 1993.

[527] House Resolution of Inquiry, H.Res. 198, voted down in the Judiciary Committee, 20–15, July 14, 1993.

[528] Webb Hubbell phone logs reflect phone calls from Peggy Richardson to Webb Hubbell on June 17, 1993—the day after the House Resolution of Inquiry was introduced. Richardson calls Hubbell again on June 23 and June 25 (with message she will be out of town for 2 weeks and will call). The House Resolution of Inquiry was scheduled for a vote on July 14, 1993. Richardson calls Hubbell on July 12, July 13 and July 14. Richardson cancelled meetings with Rep. Frank Wolf regarding IRS/Travel Office matters on both July 14 and July 15, 1993. In reviewing over 15 months of Hubbell's phone logs, there are only one or two other phone messages from Commissioner Richardson in the entire 15 months Hubbell served at the Justice Department.

with a number of people inside and outside the White House.[529] Both Podesta and Stern, co-authors of the Management Review, recall talking with Foster after the report was completed. They were tasked with responding to congressional efforts in the "House Resolution of Inquiry." Podesta discussed one such conversation in his committee deposition:

> *Question.* Can you describe the discussions you had with him about congressional inquiries?
>
> Answer. I think that he was—I specifically recall driving him home one evening, obviously prior to July 20th, in which he expressed concern about the Hill and what was going on and what was happening on the Resolution of Inquiry, et cetera.
>
> *Question.* So you place this discussion sometime prior to the House Resolution of Inquiry, or thereabouts?
>
> Answer. I would place it between July 2nd and July 20th. I think it was before our briefing of the House committee, so it would have been probably the week of the 4th or something.
>
> *Question.* Do you recall having any discussion with him after you briefed the committee, telling him what went on with the committee or after the vote?
>
> Answer. After the vote of the committee?
>
> *Question.* Yes.
>
> Answer. I don't know whether I discussed it with him. I might have. I generally thought that his concern was serious enough that I needed to let him know what was going on.[530]

The timing of a call that Foster made to Jim Lyons is consistent with concerns that he had about the Resolution of Inquiry. Mr. Lyons reported that Foster called him in a panic approximately a week before his death and wanted Lyons to come to Washington as soon as possible to assist him in the Travel Office matter.[531] By the next day, Foster had called back to inform him that the situation was not as urgent. Mr. Lyons planned to travel to Washington, DC the following week and he and Foster made plans to get together to discuss the Travel Office and other matters.[532] This was also the week in which Foster spoke with Susan Thomases and Jim Hamilton about Travel Office matters.[533]

Mr. Foster's notes also indicate that he was preparing for defending these issues in various forums, including congressional investigations, the GAO review, and the Department of Justice. In his handwritten notes, he did a detailed analysis of "opponents theories" and wrote, "avoid forcing DOJ."[534] In preparing for hearings or litigation, Foster identified numerous problems for himself and other White House lawyers and staff such as: "5. communications by joint defense . . . application to Bernie speaking for WH . . ., 6. Witnesses by virtue of participation in mgment review . . . 9.

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[529] OPR Report, pp. 82–92.
[530] Deposition of John Podesta, pp. 187–188.
[531] OPR Report, p. 91.
[532] *Id.*
[533] *Id.,* fn. 97.
[534] Foster Travel Office notebook, CGE 1045, 1047.

Accumulation of add'l evidence, e.g. HT [Harry Thomason] tapes,[535] nexis tvl office, news file . . . 13. Does everyone who edited report become a witness . . . existence of drafts . . . 14. Difficulty of operating prep w/ 3–4 ws [witnesses] in office.." One item he noted: "Communications w/top 2" apparently referring to President and Mrs. Clinton.[536]

On July 15, 1993, the day after the Resolution of Inquiry was defeated, then Deputy Attorney General Phil Heymann directed the Office of Professional Responsibility to investigate the FBI's response to the White House in investigating the firings. The Public Integrity Section of the Justice Department already had a criminal investigation underway concerning the Travel Office operations and allegations of wrongdoing by the White House. Clearly many White House witnesses, including Foster and others at "the highest levels" would be called upon to testify—and under oath.

While there were numerous other matters arising with respect to Whitewater—the Clintons' taxes and other potential problems for the White House that Foster would be dealing with, it appears that the Travel Office and the future problems it threatened, weighed particularly heavily on Mr. Foster.

D. FOSTER WAS IN THE MIDDLE OF PROBLEMS RELATED TO HARRY THOMASON, WHICH WERE STARTING TO GATHER STEAM

Mr. Foster's general anxiety about the burgeoning Travel Office problems included concerns about Harry Thomason. The issue of whether Harry Thomason was a special Government employee and whether his actions constituted a conflict of interest was going to be reviewed by both Congress and criminal investigators and was generating considerable press attention.[537] Mr. Foster in turn tasked White House Associate Counsels Beth Nolan and Cliff Sloan with reviewing Thomason's status as a special Government employee.

During the Management Review, Podesta requested Nolan and Sloan to review conflicts of interest and standards of conduct issues. Ms. Nolan concluded that Penny Sample of Air Advantage was a special Government employee and that it was possible that Harry Thomason was a special Government employee.[538] Mr. Foster held several meetings with Nolan and Sloan on July 7 and 8, 1993 about these issues. These meetings are reflected in Foster's handwritten Travel Office notebook where potential defenses to these issues are mapped out.[539]

On July 7, 1993, Foster's notes reflect a discussion of Harry Thomason as an "SGE who violated ethics rules (criminal?) re promoting his company . . . at least in getting goodwill (—by promot-

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[535] The committee has subpoenaed all documents related to Harry Thomason including tapes. Committee staff has particularly asked about Harry Thomason tapes and asked for all tapes he may have produced or provided. The only tape the committee has received to date is "The Man from Hope."

[536] Foster Travel Office notebook, CGE 1048.

[537] A July 9, 1993 Washington Times editorial by columnist Tony Snow was forwarded to Foster by Mack McLarty's senior counselor Bill Burton and found in Foster's long withheld Travel Office file. The column details the legal problems that Harry Thomason might face in the conflicts area and potential problems for other White House officials, including the First Lady.

[538] Memorandum for John Podesta and Todd Stern from Beth Nolan, Re: Questions from Travel Office Report re Harry Thomason, July 1993, CGE 43223.

[539] Foster Travel Office notebook, CGE 000965.

ing process by which there would be competitive bidding?)"[540] On this same day, Foster's notes read: "Need for coordinating litigator."[541]

Again on July 8, 1993, Foster's notes indicate a meeting with Beth Nolan and Cliff Sloan in which they discussed the status of Harry Thomason and in which Foster accurately comments, "cannot evade 'appointed'" and points out the 18 U.S.C. 202 definition of SGE as "retained . . . to perform formal duties."[542] Learning the law that applies to special Government employees, Foster recognized there were potential problems.

On July 8, 1993, Peat Marwick auditors brought Foster more bad news. The auditors strongly disagreed with the conclusions of the Management Review.[543] The seams of the cover-up were beginning to fray. How would they "defend the management decision" if they had to worry about Peat Marwick? Would Thomason's role become more of a problem if they didn't have the Peat Marwick report as an excuse for the firings?

The information regarding Peat Marwick auditors "disagreeing," which is reflected in Foster's notebook, appears to have been relayed to him by David Watkins. The notes also appear to discuss Watkins' response to the Management Review with Watkins arguing that most managers would make the same decision.[544] Mr. Foster's notes of July 8 reflect sentiments similar to those in Watkins' "soul cleansing memo." In that memorandum, Watkins' writes, "I . . . explained my decision to terminate them; I explained that from a management perspective, in this case it was best to relieve them all immediately from their jobs and provide them an additional two weeks in pay. . . . I explained that in light of the mismanagement, it was best to dismiss the entire office."[545]

By this time, Justice Department lawyers were trying to get an interview with Harry Thomason and Darnell Martens for the ongoing criminal investigation into the Travel Office to no avail. On July 8, 1993, Thomason's lawyers contacted the Counsel's office and spoke with Cliff Sloan and requested a copy of the notes from the interview in which Thomason participated with Podesta and Stern during the Management Review and informed him the Justice Department had requested an interview of Thomason.[546] Sloan did not initially provide the notes, but was later instructed by Nussbaum to read the notes verbatim over the phone to Thomason's lawyer.[547]

Both Mack McLarty and Rahm Emanuel contacted Harry Thomason on July 8, 1993.[548]

On July 9, 1993, there were several news items that directly related to Harry Thomason. The Washington Post carried an analysis in Al Kamen's column of Harry Thomason's status as a special

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[540] Foster Travel Office notebook, CGE 000965.
[541] Foster Travel Office notebook, CGE 000966.
[542] Foster Travel Office notebook, CGE 1052.
[543] Foster Travel Office notebook, CGE 00967.
[544] Foster Travel Office notebook, CGE 0967.
[545] Watkins "soul cleansing memo," CGE 012288.
[546] Phone records of Cliff Sloan, July 8, 1993, CGE 37130.
[547] Committee deposition of Cliff Sloan, June 28, 1996, p. 48.
[548] Phone logs of Harry Thomason, Thomason document production, Bates Stamp No. 000820. Thomason had called McLarty on July 6, 1993 and his attorney contacted Cliff Sloan on July 7, 1993.

Government employee. The article noted that Thomason had a "special assignment" at the White House and was one of the "couple handfuls" of Clinton pals with "the ultimate power symbols in Washington: a permanent White House pass that allows free access to much of the compound. . . ."[549] Two other people with White House passes were Harold Ickes[550] and Susan Thomases. Ickes and Thomases were exchanging phone calls with Thomason during this time.[551] Harry Thomason called Harold Ickes at 3:50 p.m. on the afternoon of July 9, 1993.[552]

Harold Ickes and Susan Thomases, two powerful New York attorneys, were regularly working at the White House throughout the spring without the benefit of any conflicts of interest analysis or review of their status. Clearly they could be open to many of the same problems as Thomason.

The Washington Post article also stated that, when asked if the White House examined this issue, "a senior official there said the lawyer in charge of ethics, Beth Nolan, looked into it and concluded Thomason was not covered by the law."[553] However, Nolan's phone logs from the same day show that she had a "telephone conference with Vince Foster," which notes that she left a message with Ricki Seidman, then Communications Director for McLarty, talked with Podesta and Stern, and planned to call Arthur Jones, a White House press spokesman. Nolan also had notes which contradict this statement: "not clear HT [Harry Thomason] had no official status (Got it from Mack)."[554] Furthermore, the committee is in receipt of numerous analyses in which Nolan did indicate Harry Thomason could be viewed as a special Government employee.[555]

The Washington Times also had an article on July 9, 1993, which discussed the fact that Republican leaders were investigating whether Thomason "used his quasi-federal officer status to steer White House travel business to his company in violation of federal law."[556] In this article, White House spokesman Arthur Jones claimed Thomason never held any official status at the White House . . . "He's not a federal employee . . . He's just a friend."[557] A hard hitting column in the Detroit News also highlighted the conflicts of interest problems of Harry Thomason and the role of high ranking White House officials as well as Mrs. Clinton.[558] This

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[549] "White House May Clamp Down on Passes," the Washington Post, July 9, 1993.

[550] Harold Ickes is currently the Deputy Chief of Staff. His major responsibilities however include handling the damage control matters related to various Clinton scandals from Whitewater to Travelgate to the various Independent Counsels investigating Clinton officials. Special Counsel Jane Sherburne testified in her committee deposition that she reports to Harold Ickes.

[551] "Ickes, Clinton Insider and Puerto Rico Advocate, Shows Not All Who Lobby Must Wait in the Hall," Jeffrey Birnbaum, Wall Street Journal, September 21, 1993, p. A24; "Ickes Has His Special Pass to the White House Pulled," Wall Street Journal, September 29, 1993.

[552] Thomason phone logs.

[553] "White House May Clamp Down on Passes," the Washington Post, July 9, 1993.

[554] Beth Nolan phone logs for July 9, 1993, Nolan document production, Bates Stamp No. B00059.

[555] Memorandum from Nolan to John Podesta and Todd Stern, dated July 1993, Subject: *Questions from Travel Office Report re Harry Thomason,* CGE 43223–43234; July 10, 1993 draft of above memorandum, CGE 43235–43246; memorandum from Nolan to Cliff Sloan, July 13, 1993, *Preliminary Thoughts on Travel Office Report re Harry Thomason,* CGE 43266–43275; memorandum from Nolan to Sloan, June 20, 1993, Subject: *Response to Questions from Republican Leadership* (includes analysis of Thomason as SGE), CGE 043210–43213.

[556] "GOP says Thomason may have broken law," the Washington Times, July 9, 1993.

[557] "GOP says Thomason may have broken law," the Washington Times, July 9, 1993.

[558] "Travelgate Far From Over," the Detroit News, Gannett News Service, July 9, 1993.

column was forwarded to Foster's attention from Mack McLarty's Chief of Staff, Bill Burton.

Mr. Thomason made phone calls to New York lawyer and First Lady confidante Susan Thomases as well as, Harold Ickes on a number of occasions in July 1993.[559] Susan Thomases, in turn, testified that she talked with Foster about the Travel Office on July 14. Ms. Thomases came to Washington, visited Nussbaum at the White House, and told him she was worried about Foster.[560] Harold Ickes has a July 14, 1993 message from Susan Thomases which reads, "1) Alan Barnes—more 2) Vince Foster." [561]

On July 14, 1993, Harry Thomason's attorney was again checked with Cliff Sloan about obtaining documents related to the White House Management Review. Mr. Sloan noted that Carl Rauh, one of Thomason's attorneys, "called and talked to him—suggested that we could discuss matter but I didn't want to turn over docs. He agreed." [562]

On July 15, 1993, the day after Susan Thomases' visit with Foster, she called Harry Thomason. Harry Thomason later placed a call to Thomases at 3:40 p.m. on July 15, 1993.[563] At 5:20 p.m. that evening, Harold Ickes called Thomason.[564] At 6:53 that evening, Foster's brother-in-law, Beryl Anthony, faxed the names of six attorneys, as was requested by Foster earlier that month.[565] Consistent with the lack of recall among senior officials close to the Clintons, neither Harry Thomason, nor Harold Ickes, could remember anything about these phone calls or ever talking about any concerns about Foster prior to his death.[566] Ms. Thomases' recollections are hazy.[567]

The next day, Friday, July 16, started out with another flurry of calls back and forth. Harry Thomason called Harold Ickes at 9:14 a.m. and Susan Thomases at 9:17 a.m. Harold Ickes had a 12:30 p.m. message from Susan Thomases who also called Harry Thomason that day. On Sunday, July 18, 1993, two calls were placed to the White House from Harry Thomason's California residence—one to Mrs. Clinton's office and the other to the main White House number.[568] Again, no one recalls any details of these conversations. However, from the timing of the calls, the events which were going on at the time, and the disclosures by Ms. Thomases that she did speak with Foster about his grave concerns over the

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[559] Both Harry Thomason and Harold Ickes share the same lawyer—Bob Bennett. Mr. Bennett is also representing the President in the Paula Jones sexual harassment lawsuit.

[560] Thomases' Senate testimony regarding this evening meeting with Foster was inconsistent with previous testimony she had provided to Independent Counsel Fiske on June 14, 1994 in which she had recounted that she had lunch with Foster and some other people on the Wednesday or Thursday before his death and "she noted no change in his demeanor or physical appearance but was aware that he was working very hard and was under considerable pressure." "Hearings related to Madison Guaranty S&L and the Whitewater Development Corporation—Washington, DC Phase," 103d Congress, Volume II, July 29, 1994, pp. 1777–78.

[561] Harold Ickes phone logs, Ickes document production, Bates Stamp No. HR–0036.

[562] Cliff Sloan phone logs, CGE 037130. Cliff Sloan did eventually read over the phone to Thomason's attorney the White House Management Review interview notes from Thomason's interview with Podesta and Sloan. Committee deposition of Cliff Sloan, June 28, 1996, pp. 49, 54–56

[563] Harry Thomason phone logs, Thomason document production, Bates Stamp No. 0822.

[564] *Id.*

[565] CGE 2649–2654.

[566] Committee deposition of Harold Ickes, June 14, 1996, p. 90; Thomason deposition, p. 205.

[567] *See* hearing on Investigation into the Whitewater Development Corp. and Related Matters, May 14, 1996.

[568] Harry Thomason phone billing records.

Travel Office, it is very probable these individuals at least addressed matters related to the Travel Office or Mr. Foster's concerns and depression.

In the days leading up to July 20, 1993, Mrs. Clinton was staying with the Thomasons at their home in California. Therefore, some of the phone calls that involved Mr. Thomason also could have included Mrs. Clinton. There may have been discussions about these matters between or among Thomason, Susan Thomases, Harold Ickes and Mrs. Clinton.

Over the weekend, Friday, July 16—Sunday, July 18, 1993, Foster decided to go on a weekend trip to the Maryland shore with his wife. He was joined by Webb and Suzie Hubbell and Michael and Carolyn Cardozo. Mr. Hubbell testified that he never discussed the Travel Office with Foster over this weekend, "even though you may find that hard to believe." [569] Mr. Hubbell also claims he and Foster never had any conversations about the Travel Office prior to the firings, and only a few very general conversations after the firings. Since Foster was such a close friend of Hubbell's it is difficult to believe that Hubbell didn't have any conversations about the Travel Office with Foster over that weekend since he had been talking with so many other people about this topic at that time.[570] Mr. Hubbell also has maintained that he never spoke with Foster about the Travel Office prior to the firings.[571]

But there appears to be a cryptic, but logical, reference in Foster's Travel Office notebook to a conversation that Foster had with Hubbell on May 13, 1993; a critical day in the Travelgate saga. In a section where Foster lays out a detailed chronology, on Thursday, May 13 after he has met with the FBI agents in the afternoon, he has the reference, "WH & I, he agrees." [572] The context of the notes and the timing of these comments suggest that Foster may have called Webb Hubbell after the FBI agents left that afternoon. Mr. Foster said he had to check with "higher ups" to see if they wanted to have the FBI present for the Peat Marwick review. Later in the evening of May 13, the FBI agents were informed that they should not plan on attending the "audit." [573]

Mr. Hubbell maintains that he never discussed the matters with his close friend, Mr. Foster, even though they were together at the height of the controversy. Mr. Hubbell, at least, acknowledged that Foster had expressed some general concerns about the Travel Office and his concerns with the workload in the Counsel's office prior to this weekend.[574] Mr. Hubbell informed the committee that Foster was generally anxious, even paranoid, during this time. Mr. Hubbell attributed this to Foster's "illness." But it also appears there were *real* reasons for his concerns about the Travel Office and that they led directly to White House officials at "the highest levels."

On the evening of Foster's death, Mrs. Clinton was travelling to Little Rock from California. Upon learning of Mr. Foster's death,

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[569] Committee interview of Webster Hubbell, June 16, 1995.

[570] The OPR Report notes that Foster spoke with Jim Lyons, Jim Hamilton, Susan Thomases, Bruce Lindsey and others at the White House about his concerns. OPR Report, p. 91, fn. 97.

[571] Informal committee interview, June 16, 1993.

[572] Foster Travel Office notebook, CGE 001050.

[573] OPR Report, p. 33.

[574] OPR Report, p. 85; committee interview of Hubbell, June 16, 1995.

Harry Thomason—who met Foster for the first time in May 1993—was the second person Mrs. Clinton called. The first person Mrs. Clinton called was her Chief of Staff, Maggie Williams. Upon concluding her call with Harry Thomason, Mrs. Clinton called Susan Thomases.[575]

E. FOSTER STRONGLY ARGUED FOR PRIVATE ATTORNEYS TO ASSIST THE WHITE HOUSE IN HANDLING THE COMING INVESTIGATIONS BUT NUSSBAUM REBUFFED HIM. FOSTER DISCUSSED THE ISSUES WITH OUTSIDE ATTORNEYS AND FRIENDS

On July 9, 1993, the day after Thomason received a call from McLarty and Thomason's lawyers informed the White House of the Justice Department's request for an interview with Thomason, Foster was seeking outside attorneys to assist White House staff in anticipation of future problems. Foster spoke with his brother-in-law, Beryl Anthony, asking for names of attorneys.[576] Mr. Anthony explained that Foster's concerns "might stem from the fact that some White House staff may have reported information to Foster that had not been made public but that he would be asked to testify about."[577]

Mr. Foster spoke with Jim Lyons about the need for outside counsel in this matter. Mr. Lyons is the Denver attorney who did the "Lyons report" on the Whitewater investments during the 1992 campaign. Foster and Lyons got to know each other through working together on the campaign and throughout the transition.

Mr. Lyons reported that Foster was:

> concerned that he was so involved in the Travel Office matter that it had affected of his objectivity in advising 'his clients,' the Clintons, on how to handle the matter. Foster thought it might be necessary for them to have independent/outside counsel to advise them on this matter.[578]

Mr. Lyons also reported that Foster claimed there was something in the report which concerned him, and he sent the report to Lyons to see if Lyons could find the source of Foster's concern.[579] Lyons told Foster that while he saw no apparent problems in the report, he would be happy to discuss it with him further.[580] They spoke again on the evening of Sunday, July 18, 1993 to plan a meeting later in the week. Lyons was going to meet with Foster on Wednesday, July 21, 1993.

Mr. Foster repeatedly suggested to Nussbaum that President and Mrs. Clinton needed outside counsel in this matter. These were not the rantings of a man losing touch with reality. In fact, it appears that, despite his depression, Vince Foster was one of the few White House officials who saw matters clearly.

Mr. Lyons said that Foster discussed the issue of outside counsel for the *President* concerning the Travel Office matter with Lyons,

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[575] See Final Report of the Special Committee to Investigate Whitewater Development Corporation and Related Matters, June 17, 1996, p. 46.
[576] OPR Report, p. 90.
[577] OPR Report, p. 90.
[578] OPR Report, p. 90.
[579] OPR Report, p. 90.
[580] OPR Report, p. 91.

Lindsey, Susan Thomases and Washington attorney James Hamilton.[581] Clearly, matters were heating up and talented lawyers were being sought. Now the White House had to cover-up the cover-up.

XI. Foster's Death Generated Another Layer of a Cover-up Over a Cover-up

A. Foster's death shattered a white house just recovering from an abysmal first 6 months of administration

The President's popularity polls were just inching over 40 percent when Vincent Foster's death shattered the White House. President Clinton's 36 percent approval rating in May 1993 was the lowest for any Postwar-President at that point in his administration. The urgency for the need to cover up must be viewed in the context of a time when the media driven Clinton administration was facing the worst first year of any administration in recent history. In 1993, President Clinton had fallen fast and the dreams of a Camelot reprise were vanishing.

For the same reasons that the White House had to keep the lid on the true Travel Office story and related events, the curtains had to be drawn around the death of Vincent Foster. If it were learned that Foster despaired over an out-of-control cover-up of the Travel Office matter, those at the "highest levels" would not only have to shoulder the weight of a Travel Office scandal but the responsibility for contributing to Foster's despair. After Foster's death, President Clinton strangely and calmly declared, "no one can ever know why this happened . . . what happened was a mystery about something inside him."[582]

Sadly for the Foster family, efforts to protect the Clinton political family exposed them to countless and continued investigations into Mr. Foster's death that have gone on far longer than they would have if the President had offered any modicum of cooperation from the start. What was in Foster's office that the President wanted to keep hidden? As the years have passed, we have learned there was a lot to hide: a lot about Whitewater; a lot about the Clintons personal taxes; and a lot about the Travel Office. What we do not know is what may be missing. We do, however, have some ideas about who had the now missing documents. We also have reasons as to why those documents remain "missing."

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[581] OPR Report, p. 91, footnote 97. Mr. Hamilton has always been represented as the attorney for Mr. Foster and the Foster family and the impression has been given that Foster had gone to Hamilton for his own personal legal concerns. But Foster was not seeking Hamilton out as a personal lawyer but as a lawyer to represent the White House and/or President and Mrs. Clinton. Mr. Hubbell hired Jim Hamilton on the evening of Foster's death as the family's attorney. Initial press reports acknowledged that Foster was looking out "for the interests of the entire White House counsel's office" and was not seeking his own attorney. "Foster was shopping for private lawyer, probers find," the Washington Post, August 15, 1993, p. A20.

[582] "Excerpts of Remarks in a Meeting with White House Staff on the Death of Deputy White House Counsel Vincent Foster, Jr.," July 21, 1993, 29 Wkly Comp. Pres. Docs 1351, 1411.

B. AT THE TIME OF FOSTER'S DEATH ON JULY 20, 1993, HIS OFFICE CONTAINED DAMAGING EVIDENCE ABOUT THE TRAVELGATE MATTER AND RELATED EVENTS. INDIVIDUALS WITH A REASON TO HIDE OR COVER-UP DOCUMENTS WERE AT OR AROUND FOSTER'S OFFICE PRIOR TO THE OFFICE BEING SEALED

Mr. Foster was a key attorney involved in the Travel Office matter and, as it turned out, he kept a detailed notebook describing the events that led to the firings and what occurred in the aftermath of the firings.[583] Since it took almost a year before White House Counsel Bernard Nussbaum revealed the existence of this document to any law enforcement authority,[584] we will never be able to know if the records are complete. Certainly, the White House has shown itself capable of misplacing and losing records.[585]

The facts surrounding Mr. Foster's death and the handling of his office and papers have been addressed at length by the Senate Whitewater Committee.[586] Regarding the facts relevant to the Travel Office, it is particularly interesting that on the evening of Foster's death, all three of the individuals who were in his office before it was sealed had a Travelgate connection:

- **White House Counsel Bernard Nussbaum**—his office oversaw the initial requests to the FBI to investigate the Travel Office. Messers. Nussbaum, Foster and Kennedy also sat in on the meeting where the FBI Public Affairs spokesman was asked to revise a statement meet the liking of the White House. In the days before his death, Foster had urged Nussbaum to get outside counsel for President and Mrs. Clinton and others at the White House.
- **Mrs. Clinton's Chief of Staff Maggie Williams**—Ms. Williams had received a copy of the May 17, 1993 memo from David Watkins, which was "cc'd" to Mrs. Clinton, and helped prepare talking points with Mrs. Clinton when the Management Report was released. Mrs. Clinton's role in the firings had become a key issue following the issuance of the Management Review.
- **Patsy Thomasson**—Ms. Thomasson was the assistant to David Watkins and had worked on the Travel Office review by Peat Marwick. Ms. Thomasson attempted to coerce Catherine Cornelius and Clarissa Cerda to misrepresent Watkins' knowledge of their memo proposing a takeover of the Travel Office. Foster had told Thomasson about "the clients'" interest in the Travel Office.

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[583] Foster Travel Office notebook, CGE 894–1240.

[584] It appears that Mr. Nussbaum first disclosed the existence of the Foster Travel Office notebook during a Grand Jury appearance in May 1994. White House Counsel's Office notes which were initially withheld from the committee under a claim of executive privilege indicated that Nussbaum called Eggleston after his Grand Jury appearance.

[585] This investigation has been hindered by numerous "lost" documents. For example: The notes of an interview with the First Lady in preparation for her answers to the GAO inquiries taken by White House Associate Counsel Neil Eggleston are missing. Mr. Eggleston said he left them at the White House with Special Counsel Jane Sherburne who heads up document production. Ms. Sherburne could not locate the documents left in her custody. An approximately 10 page memo which described allegations against the Travel Office is also missing as is a memo from Mack McLarty to senior staff describing Harry Thomason's job while at the White House. The "missing" billing records which turned up in the White House residence are another example of the migrating records in this White House.

[586] *See generally The Final Report* of the Senate Special Committee to Investigate the Whitewater Development Corporation and Related Matters. July 17, 1996.

It is clear that Foster's office was never properly sealed following his death; that an inappropriate search of his office was conducted by Patsy Thomasson, Maggie Williams and Bernard Nussbaum on the evening of his death; that files may have been removed from his office, and that Bernard Nussbaum changed the ground rules for the review of Foster's office after frantic phone calls to, from, between and among, Mrs. Clinton, Susan Thomases, Maggie Williams, Bernard Nussbaum and perhaps others in the Chief of Staff's office and the Counsel's office prior to the July 22, 1993 search of Foster's office.[587]

Park Police Detective Sgt. Cheryl Braun testified she clearly remembered asking White House Administrator David Watkins to seal the office on the evening of Foster's death.[588] Sergeant Braun met with Watkins because she and her partner were requested to pick up Watkins "to allow him and his wife to assist us with the notification to the Foster family."[589] When Watkins introduced himself he provided Braun with his business card. Braun unequivocally testified that she asked Watkins to seal Foster's office that evening. This did not occur.[590]

When Sergeant Braun requested Watkins to seal the office, Watkins was well aware that his assistant Patsy Thomasson was on her way to the White House to go into Foster's office, ostensibly looking for a note. Mr. Watkins, however, never informed Braun of this information. Again, the roles of Watkins and Thomasson in the Travel Office debacle raise questions. Had Watkins provided any documents to Foster that he wanted to retrieve? In Foster's Travel Office notebook there is a reference to a July 8, 1993 meeting which appears to be with David Watkins. The notes appear to discuss Watkins' complaints about the Management Review.[591]

The purpose behind Sergeant Braun's request, with which Watkins agreed to comply, was essentially being violated at the very same time. In response to this assertion, Watkins claims, "I did not hear such a request . . . If I had been asked, I would have acted. That was my job."[592] Additional testimony indicated that other White House officials had claimed to have taken responsibility for securing the office, however, nobody did.[593]

By failing to seal Foster's office that evening and by instead sending in Patsy Thomasson to rifle through the office, Watkins and other senior White House officials irreparably harmed any legitimate review process.

One of the key records in Foster's office at the time of his death was a Travel Office file which addressed the Travel Office firings

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[587] See *The Final Report* of the Senate Special Committee to Investigate Whitewater Development Corporation and Related Matters, July 17, 1996.

[588] Senate Whitewater Final Report, pp. 44–46.

[589] Senate testimony of Detective Sgt. Cheryl Braun on July 20, 1995, the Washington Times, July 21, 1995, p. A12.

[590] Testimony of Detective Sgt. Cheryl Braun, the Washington Times, July 21, 1995, p. A21.

[591] Foster Travel Office notebook, CGE967.

[592] "Justice was wary of Foster probe," the Washington Times, July 26, 1995, p. A1.

[593] "Investigation of Whitewater Development Corporation and Related Matters," Final Report of the Special Committee to Investigate Whitewater Development Corporation and Related Matters, June 17, 1996, p. 55. Mr. Hubbell said he had been told by Mack McLarty's Chief of Staff Bill Burton that McLarty took care of sealing the office. Mr. Burton claimed not to recall this even though he had contemporaneous notes that were consistent with this information. In addition Major Hines of the Park Police also testified that he requested Burton on the night of July 20 seal the office. In a 10 a.m. meeting on the morning of July 21, White House officials assured Chief Langston that the room had been sealed the night before even though it was not.

and related issues—particularly issues related to potential conflicts of interest problems for Harry Thomason. Mr. Foster's records also contained a file on a "White House Project"—another one of Harry Thomason's efforts at the White House.

From the information the committee has to date, it is not clear where the Foster Travel Office notebook was at the time of Foster's death although it does appear likely it was in Foster's office at that time. Whether it stayed there until July 22, 1993 is another question because the White House "chain of custody" on the file only accounts for July 22, 1993 forward.[594] The "White House Project" file was one of the 24 files placed in a closet in the White House residence on July 22, 1993—following Nussbaum's sham review of the documents.[595]

The committee has met with a great deal of White House reluctance in explaining the "chain of custody" of the Foster Travel Office file as well as other files. By July 1995, the White House Counsel's office had carefully detailed a "chain of custody" analysis of the Foster Travel Office notebook, yet when the committee made requests for this explanation, it took the White House almost 2 months to produce information that was clearly available to them in July 1995.[596]

In a July 25, 1995 letter to the chairman, former Clinton White House Counsel, Judge Mikva wrote: "The actual documents in Mr. Foster's Travel Office file remained in the custody of the Counsel's Office from the time of his death on July 20, 1993 until they were provided to Independent Counsel Kenneth Starr." No information was provided at this time about all of the people who had learned of the file and how they had come to learn about it. That information was not provided until the committee received additional letters on August 30, 1995 and September 15, 1995.[597]

It is worth noting that the White House Counsel's office appears to have been in close contact with Mr. Nussbaum's attorneys throughout the summer of 1995.[598] This was a time when Mr. Nussbaum was also explaining the withholding of this file to the Senate during Whitewater hearings. This is just one of many examples where the White House Counsel's office intentionally withheld

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[594] Letter to Chairman Clinger from then-Counsel to the President, Abner Mikva, August 30, 1995. Judge Mikva claimed that the Foster file was first found on July 22, 1993, despite the fact that Nussbaum, Maggie Williams, Patsy Thomasson and perhaps others had entered Foster's office on July 20, and July 21, ostensibly to search for a suicide note. Moreover, Nussbaum's claims that he described the file to investigators and staff present on July 22 are not credible, as no investigation has found a witness to corroborate his account.

[595] Letter to committee Investigative Counsel Barbara Comstock from the Clintons' personal attorney David Kendall, September 5, 1995. Mr. Kendall explains that there was a file folder labelled "White House Project" which was empty except for an envelope in it which was addressed to Foster from David Watkins. The envelope was a Brookings Institution envelope. Mr. Kendall represented that the firm received the file empty on July 27, 1993, when Mr. Barnett had obtained the files from the White House.

[596] The White House first released the Foster Travel Office notebook to the press in early July 1995 prior to the Whitewater hearings. This document was responsive to a June 14, 1995 document request that the White House had failed to comply with at that time because the committee would not provide armed security guards and a special room in which to place the Travelgate documents. On July 13, 1995, the chairman requested a copy of the Foster Travel Office file that the White House had provided to the press. The committee received the file on July 19, 1995, and then requested a chain of custody explanation on July 20, 1995.

[597] Letter to Chairman Clinger from Judge Mikva, Counsel to the President, August 30, 1995; letter to Barbara Bracher, chief investigative counsel from Jane Sherburne, September 15, 1995.

[598] *See* memorandum to Jane Sherburne, "Foster Travel Office File: Custody and Disclosure Issues," July 9, 1995, DF 780008–18.

information from this investigation and provided it with their own timetables and press strategy.

The documents the committee eventually obtained dealing with the chain of custody of the Foster Travel Office file were among those withheld from the investigation until August 1996 due to the President's claim of executive privilege. These documents demonstrate how the Counsel's office worked with Mr. Nussbaum to craft his explanations for withholding this document.

According to the White House, at least at the time Mr. Nussbaum conducted the search of Foster's office on July 22, 1993, the Vince Foster Travel Office notebook was in Foster's briefcase: "The documents were located in Mr. Foster's briefcase on July 22, 1993 by Mr. Nussbaum . . . "[599] The White House has made no representations as to where the documents were before that time: "We have no knowledge of how or where Mr. Foster maintained this material prior to this date."[600]

Since Mr. Foster obviously did not maintain "this material" between the time of his death on July 20 and July 22, 1993, when Mr. Nussbaum reviewed the material, there is an unaccounted for lapse of approximately 2 days in the chain of custody for the file. Did anyone remove this file on the evening of Foster's death? Secret Service Agent Henry O'Neill did report seeing Mrs. Clinton's Chief of Staff removing documents from Foster's office on the evening of July 20th.[601] Ms. Williams denies removing any documents from Foster's office that evening. Yet why was Nussbaum so secretive with this document that he refused to tell his own staff—staff who were working on Travelgate document requests and documents related to Foster's death?

When the committee asked for a "chain of custody" explanation for the file, *after* the Counsel had thoroughly analyzed this issue, the White House responded with a cryptic and nonresponsive answer. The committee had to write several more letters before obtaining the appropriate information.[602] It is this kind of "hide the ball" tactic pursued by the White House Counsel's Office, which has made this committee question the candor and cooperation of the President.

C. WHITE HOUSE COUNSEL BERNARD NUSSBAUM OBSTRUCTED NUMEROUS INVESTIGATIONS INTO THE TRAVEL OFFICE AND THE DEATH OF VINCE FOSTER, BY WITHHOLDING THE VINCE FOSTER TRAVEL OFFICE NOTEBOOK

The withholding of the Vince Foster Travel Office notebook by White House Counsel Bernard Nussbaum is one of the most blatantly obstructionist actions taken by the White House Counsel's Office given both the numerous investigations into the Travel Of-

[599] Letter to Chairman Clinger from White House Counsel Abner J. Mikva, August 30, 1995.
[600] *Id.*
[601] Final Report of the Special Committee to Investigate Whitewater Development Corporation and Related Matters, June 17, 1996, pp. 53–55.
[602] Letter from Abner Mikva to Chairman Clinger, July 25, 1995; letter from Abner Mikva to Chairman Clinger, August 30, 1995; letter from Abner Mikva to Chairman Clinger, September 18, 1995.

fice and the intersection of this matter with the various investigations into Mr. Foster's death.[603]

There were numerous investigations underway into the Travel Office at the time of Foster's death: 1) the GAO investigation that was initiated by law on July 2, 1993; 2) the Office of Professional Responsibility investigation which was initiated by Deputy Attorney General on July 15, 1993; and 3) the Public Integrity investigation of the Travel Office which included both allegations of wrongdoing against the Travel Office employees, as well as, allegations of conflicts of interest violations of law by Harry Thomason.

Mr. Nussbaum was clearly aware of all of these investigations. A July 1995 memo to Special Counsel Jane Sherburne, indicates that "Nussbaum says he took the file because it concerned an *active* matter for which he would be responsible."[604] The fact that he recognized it was "active" indicates that he knew this file was responsive, yet he kept it from numerous investigations.

Following the death of Vince Foster there were additional investigations including: 1) an FBI investigation into the delay in finding the Foster "suicide" note; and 2) Park Police and FBI investigations into Foster's death. By January 1994, Independent Counsel Fiske's investigation was added to this list. As discussed above, investigating the delay in turning over the Foster "suicide" note is the first investigation for which the Foster Travel Office file would have been relevant. Nonetheless, Nussbaum very deliberately withheld this vital information from the law enforcement officials who interviewed him just days after the finding of the Foster Travel Office file and the Foster "suicide" note.[605]

In July 1995, Nussbaum's lawyers told the White House Counsel's office a curious story. They claimed that Nussbaum did not recall any of the document requests but that he did not believe the Foster Travel Office file was responsive to any of the requests, he couldn't remember![606] Both Cliff Sloan and Neil Eggleston, Associate Counsels who worked on the Travelgate investigations while in the Counsel's office, testified that Nussbaum had not informed them of the existence of this document.[607]

When Nussbaum called Eggleston in May 1994 to inform him of the existence of the document, Eggleston asked Nussbaum why he did not know about it before. Nussbaum did not answer.[608] Mr. Eggleston said, "why am I just now hearing about this . . . how could I just now be learning about this. . . .?"[609] Mr. Eggleston

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[603] The discussions between and among White House and Justice Department officials about the review of Vince Foster's office following his death have been extensively reviewed in the course of the Senate Whitewater investigation and will not be re-examined here.

See "Investigation of Whitewater Development Corporation and Related Matters," the final report of the Special Committee to Investigate Whitewater Development Corporation and Related Matters, June 17, 1996, "The Foster Phase," pp. 1–134.

[604] Memorandum to Jane Sherburne, "Foster Travel Office File: Custody and Disclosure Issues," July 9, 1995, DF 780008–18.

[605] FBI interview of Bernard Nussbaum by SA Charles K. Dorsey and SA Scott Salter, July 30, 1993, WMFO 175B–WF–187743.

[606] Memorandum to Jane Sherburne, "Foster Travel Office File: Custody and Disclosure Issues," draft, July 9, 1995, DF 780011.

[607] Committee deposition of Cliff Sloan, June 28, 1996, pp. 72–78; committee deposition of Neil Eggleston, June 3, 1996, pp. 94–95.

[608] Eggleston deposition, p. 95.

[609] Eggleston deposition, p. 97.

agreed that Nussbaum was "well aware of the type and nature of documents that were being requested."[610]

While Mr. Nussbaum has recently suggested that Cliff Sloan knew about the Foster Travel Office file, and would remember it because he has a "photographic memory,"[611] Sloan clearly stated that he did not have any knowledge of this file and had never seen it until his committee deposition.[612]

Furthermore, Nussbaum's suggestion that Sloan knew about the file does not explain why Nussbaum would have to call Neil Eggleston to inquire about it. In May 1994 when Nussbaum made his call to Eggleston, Sloan still worked at the White House. Mr. Sloan, who initially had worked on the Travelgate document requests had passed his duties on to Eggleston. If Mr. Sloan had known of the file as Nussbaum suggests, he certainly would have informed Eggleston by this time. Why then did Nussbaum consider it necessary to inform the White House about the document? The answer is that, most likely no one knew it was there and Nussbaum knew that. Representations made to the committee by the Foster family attorney, indicate that Nussbaum did not even tell Mr. Hamilton about this file even though it had been marked "attorney client privileged in anticipation of litigation."[613]

And where was this mystery document in May 1994 when Nussbaum finally informed someone of its existence? Mr. Eggleston testified that it was filed under the general files in the secretarys' suite under "T for Travel"![614] Mr. Nussbaum had kept the file in his office during his tenure. When he left the White House in March 1994 he apparently placed it in the general alphabetical files without telling anyone.[615]

Mr. Eggleston testified he had daily meetings with Nussbaum from September 1993, when he first joined the White House, through April 1994 when Nussbaum left.[616] Mr. Eggleston would "discuss with him regularly document requests from GAO and what we were doing to respond."[617] Mr. Eggleston, a top law school graduate and Supreme Court clerk, testified about his job as an Associate Counsel under Nussbaum: "I was a grunt working on this. Mr. Nussbaum was the decision maker."[618] Mr. Nussbaum made the decision to keep this highly relevant document under wraps and away from investigators.

According to a White House analysis, even the White House Counsel's office had a hard time explaining this blatant action of obstruction.[619] The White House Counsel's Office analysis of Nussbaum's actions shows that the Foster Travel Office file was responsive to at least five requests from GAO[620] yet it was never turned over. More surprisingly, there was never even any discussion about the document. The committee has no doubt that the Foster Travel

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[610] Eggleston deposition, p. 96.
[611] Nussbaum deposition, p. 123.
[612] Sloan deposition, p. 72.
[613] Foster Travel Office notebook, CGE 894–1240.
[614] Eggleston deposition, p. 99. Mr. Eggleston testified that he rarely utilized these files.
[615] Eggleston deposition, p. 94.
[616] Eggleston deposition, p. 95.
[617] Eggleston deposition, p. 96.
[618] Eggleston deposition, pp. 132–133.
[619] Memorandum to Jane Sherburne, "Foster Travel Office File: Custody and Disclosure Issues," draft July 9, 1995, DF 780008–18.
[620] *Id.,* 780013.

Office file was responsive to GAO requests and GAO confirmed this in the committee's October 1995 hearing.[621]

The Foster Travel Office file was also responsive to an OPR request in August 1993. In July 1995, when OPR Counsel Michael Shaheen learned of the Foster Travel Office file in the same manner in which the committee learned about it—reading about it in Newsweek—he wrote a memo in which he complained:

> We were stunned to learn of the existence of this document since it so obviously bears directly upon the inquiry we were directed to undertake in late July and August 1993, by then DAG Philip Heymann . . . the White House was less than fully cooperative and forthcoming. The fact that we have just now learned of the existence of obviously relevant notes written by Mr. Foster on the subject of the FBI Report is yet another example of the lack of cooperation and candor we received from the White House throughout the inquiry.[622]

Mr. Shaheen also testified before the committee in October 1995, that the lack of cooperation and candor from the White House in this matter was "unprecedented" in his over 20 year career in Government.[623]

The White House Counsel's Office had provided the White House Management Review interview notes of Mr. Foster to OPR based on the fact that Foster was not available as a witness.[624] If notes of an interview with Mr. Foster were relevant clearly his own notes of events would have been even more pertinent. The White House was also keenly aware of OPR's mandate to investigate the meaning of Foster's suicide note which addressed many Travel Office issues. At the outset of the OPR inquiry, Philip Heymann wrote to Nussbaum and McLarty requesting that the White House assist in arranging interviews of relevant witnesses in the matter.[625]

OPR requested that Nussbaum provide notes taken during the White House Management Review. Mr. Shaheen stated, "the White House declined to provide the notes and failed to mention the existence of any handwritten notes by Mr. Foster on the subject."[626] OPR investigators also carefully explained to each witness the purpose of the inquiry and asked for any information they were aware of—"through conversations with Mr. Foster or otherwise"—that might shed light on Foster's "suicide" note.[627] The Foster note read as follows:

> I made mistakes from ignorance, inexperience and overwork
>
> I did not knowingly violate any law or standard of conduct

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[621] Testimony of Nancy Kingsbury before the Committee on Government Reform and Oversight on October 24, 1995.

[622] Memorandum to David Margolis, Associate Deputy Attorney General, from Michael E. Shaheen, Jr., Counsel, OPR, subject: Undisclosed Foster notebook re the White House Travel Office Matter, July 24, 1995.

[623] Testimony of Michael Shaheen before the Committee on Government Reform and Oversight, October 24, 1995.

[624] Eggleston deposition, p. 99.

[625] Shaheen memo, July 24, 1995.

[626] *Id.*

[627] *Id.*

> No one in the White House, to my knowledge, violated any law or standard of conduct, including any action in the travel office. There was no intent to benefit any individual or any group.
>
> The FBI lied in their report to the AG
>
> The press is covering up the illegal benefits they received from the travel staff
>
> The GOP has lied and misrepresented its knowledge and role and covered up a prior investigation
>
> The Ushers Office plotted to have excessive costs incurred, taking advantage of Kaki and HRC
>
> The public will never believe the innocence of the Clintons and their [loyal or legal] staff.[628]

Foster's Travel Office notebook clearly detailed most of the issues outlined in this note. The notebook would have been the single most instructive record in explaining the meaning of Foster's note. Shaheen concluded:

> . . . we believe that our repeated requests to White House personnel and counsel for any information that could shed light on Mr. Foster's statement regarding the FBI clearly covered the notebook, and that even a minimum level of cooperation by the White House should have resulted in its disclosure to us at the outset of our investigation.[629]

Furthermore, the note had been found in Foster's briefcase, exactly where the Foster Travel Office notebook was found. The note may very well have been part of the notebook—in fact it was in many ways a summary of the notebook. In trying to justify withholding this notebook, Nussbaum's only defense to date for his apparent obstruction, is that everyone in the room on July 22, 1993, when Foster's documents were reviewed knew about this particular document. As is set out extensively in the Whitewater report, no one else in the room on that day has any recollection of this document.[630]

Mr. Nussbaum is directly responsible for obstructing the GAO and OPR investigations. Along with others who had relevant information about the Foster "suicide" note, Nussbaum also obstructed the FBI investigation into why there was a delay in turning over the Foster note after it was found on July 26, 1993. (See discussion below.)

Finally, the DOJ Public Integrity criminal investigation had an interest in obtaining all documents that related to Harry Thomason and the work he was doing at the White House. Beginning in the summer of 1993, Public Integrity began to investigate the issue of whether Harry Thomason was a special Government employee and whether or not he had any criminal conflicts of interest problems. Mr. Foster had been keenly aware of this problem as is evidenced throughout his Travel Office notebook. There had been a flurry of phone calls between and among various parties to these concerns

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[628] OPR Report, tab A.

[629] *Id.*

[630] See Final Report of Special Committee on Whitewater Development Corporation and Related Matters, June 17, 1996, "The Foster Phase."

as discussed in a previous section. That Nussbaum withheld these documents from a criminal investigation, is the most clearly obstructionist act of all.

The consistent pattern of withholding information about the existence of this file—even from his own staff—demonstrates a clear intent on Nussbaum's part to keep this file away from investigators. This report has already discussed at length the highly relevant information in this file, particularly regarding the role of Mrs. Clinton and the activities of Harry Thomason in connection with the Travel Office firings. These facts were highly relevant to numerous ongoing investigations of which Nussbaum was well aware.

That Nussbaum never discussed this document with anyone indicates that it was a record that he did not dare discuss even with his colleagues. After the sham search of Foster's office on July 22, 1993, then Deputy Attorney General Phil Heymann asked Bernard Nussbaum: "Bernie, are you hiding something?"[631] The answer was then and remains today: YES.

D. NEIL EGGLESTON WITHHELD THE FOSTER TRAVEL OFFICE FILE FROM RELEVANT INVESTIGATIONS EVEN AFTER IT WAS BELATEDLY DISCLOSED TO HIM BY BERNARD NUSSBAUM

In May 1994, when Eggleston was belatedly informed about the Foster Travel Office file by Nussbaum, he proceeded to review the file for an outstanding document request from Independent Counsel Fiske and decided it was not responsive.[632] Despite an outstanding document request from the Public Integrity investigation for all documents related to Harry Thomason, Eggleston ignored this request entirely. Mr. Eggleston testified that after he reviewed the Foster Travel Office file, he determined it was not responsive and placed it back in the "T for Travel" file.[633]

Mr. Eggleston, who had been involved with narrowing the Fiske subpoena claims he never discussed the Foster Travel Office file with any of his colleagues before dismissing it as nonresponsive to the Fiske subpoena in May 1994.[634]

Mr. Eggleston's actions in withholding the Foster Travel Office from Independent Counsel Fiske cannot be viewed in isolation. By the spring of 1994 Eggleston had spent months either delaying or denying sensitive records regarding Harry Thomason to investigators. Mr. Eggleston was in charge of document production on Travelgate matters beginning in September 1993 throughout his tenure which ended on September 1994. (The discussion in Section XII of this report extensively details the delays and dilatory tactics engaged in by Mr. Eggleston under the direction of Nussbaum.)

Mr. Nussbaum had directed Eggleston not to turn over documents related to Harry Thomason's attempts to get GSA/ICAP contracts over to the GAO investigation.[635] In an April 11, 1994 memo to the then new White House Counsel Lloyd Cutler and John Pode-

[631] Final Report of the Whitewater Committee, p. 8.
[632] Memorandum for Lloyd Cutler from W. Neil Eggleston, Re: Foster File, July 10, 1994, CGE 005909–5918.
[633] Eggleston deposition, p. 102.
[634] Eggleston deposition, pp. 102–103.
[635] Committee deposition of Neil Eggleston, June 3, 1996.

sta, Eggleston noted the White House had not addressed "the effort by Martens to get a contract to conduct an accounting of the federal aircraft fleet" in responding to GAO.[636] The White House did not end up providing the GSA/ICAP documents to GAO even though they would have been responsive to GAO's requests.

When Independent Counsel Fiske published his report on the death of Vince Foster in June 1994, it focused on Foster's concerns about the Travel Office. Mr. Eggleston was asked about Foster's Travel Office files by Lloyd Cutler. It was at that time that Eggleston says he realized that the Foster Travel Office file was possibly responsive to other document requests.[637]

Mr. Eggleston then wrote what can best be described as a "CYA" memo, explaining why he had not previously disclosed the Foster Travel Office file to all of the various Travel Office investigations.[638] Even though the July 10, 1994 memo clearly indicated that the Foster Travel Office file should be provided to Public Integrity, it was not turned over for another month. Even at that time, only portions of the Travel Office file were turned over to Public Integrity. When the Justice Department asked for an explanation for the delay, Eggleston claimed it was his fault. He resigned shortly thereafter. Mr. Eggleston under the supervision of two White House Counsels engaged in dilatory delaying tactics in turning over the Foster Travel Office file. There was a concerted effort at the White House to keep this document from being public. Even after Eggleston left and a subpoena was issued for all documents relating to Harry Thomason, relevant documents such as the Watkins memo was withheld. The pattern of obfuscation continued.

E. CRAIG LIVINGSTONE PROVIDED TESTIMONY ABOUT HIS ACTIVITIES ON THE MORNING AFTER FOSTER'S DEATH WHICH IS INCONSISTENT WITH LAW ENFORCEMENT OFFICIALS AND NEW WHITE HOUSE DOCUMENTS WHICH WERE WITHHELD UNDER A CLAIM OF EXECUTIVE PRIVILEGE UNTIL AUGUST 1996

Craig Livingstone went with Bill Kennedy to identify Foster's body at Fairfax Hospital on the evening of July 20, 1993 upon learning of Foster's death from the Secret Service at approximately 9 p.m.[639] That evening upon leaving the hospital, Livingstone and Kennedy went to the Foster home.[640] Mr. Livingstone arrived at his home late that evening after returning Mr. Kennedy to his home.

The next morning, Livingstone awoke early and made the decision—he claims unprompted—to go over to the Foster home and watch for any press presence at the home. Mr. Livingstone has testified that he believes he arrived at the White House at 8:14 a.m. based on the Secret Service logs of when he clocked in to the White House.[641]

Exactly when Livingstone arrived at the White House has become an issue in both the general investigation of Foster's death

[636] CGE 7719.
[637] See deposition of Neil Eggleston, June 3, 1996.
[638] July 10, 1994 memorandum for Lloyd Cutler from Neil Eggleston, re: Foster file, CGE 005910–5918.
[639] Senate Whitewater deposition of Craig Livingstone, July 10, 1995, p. 46.
[640] Livingstone Senate deposition, p. 53.
[641] Livingstone Senate deposition, p. 68.

and the issue of whether any documents were removed from Foster's office. The latter is significant because a Secret Service agent testified that he saw Livingstone the morning after Foster's death (July 21) coming down from the area of the Counsel's office with records.[642] Secret Service Agent Bruce Abbott testified that he saw Livingstone passing his post at the West Wing basement entrance approximately four times that morning. Mr. Abbott estimates the time when he saw Livingstone at or around 7 or 8 a.m.

On one occasion Abbott saw Livingstone carrying a briefcase accompanied by a man in his 20s carrying an open box with binders on the top. Mr. Abbott then spoke to his supervisor, Agent Dennis Martin, relaying this information about Livingstone.

Mr. Abbott also informed Detective Markland of the U.S. Park Police about Livingstone. Detective Markland confronted Livingstone and asked him whether or not he had taken boxes down from area of the Counsel's office. Mr. Livingstone did not deny that he had done so but did deny removing any documents from Foster's office.[643] In testimony before this committee Livingstone stated that he does not recall ever carrying boxes out of the West Wing.

Mr. Livingstone has reported that he arrived at the White House at 8:14 a.m. the morning of July 21, 1993 on numerous occasions throughout his Whitewater deposition:

> *Question.* . . . What's the next thing you recall, Mr. Livingstone, in connection with Mr. Foster's death?
>
> Answer. Getting up a couple hours, a few hours later, and doing my best effort to get to his house around what time I would have thought the morning news shows would be, which I seem to remember being around maybe a little before.
>
> *Question.* Your chronology says "on Wednesday July 21st I drove by the house at 6:30 a.m. and stayed until 8:00 a.m. There was no press activity." Is that your recollection today?
>
> Answer. Yes, I can't recall if there was or wasn't.[644]
>
> *Question.* . . . what time did you arrive at the White House that morning?
>
> Answer. I believe that I arrived at the White House at around 8:14, something like that, because the Secret Service said that that's when my pass showed me as entering the White House. And I don't believe that I entered the White House at any other time; therefore, I believe that's an accurate accounting of my arrival at the White House.[645]
>
> *Question.* Did you ask them [the Secret Service] to search their records and see what time you arrived that morning?
>
> Answer. I did I asked if it was possible.
>
> *Question.* Who did you ask that?
>
> Answer. Arnold Cole, the Secret Service agent.
>
> *Question.* Why did you ask Mr. Cole to do that?

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[642] Senate Whitewater deposition of Bruce Abbott, June 23, 1995, p. 42.
[643] Senate Whitewater deposition of Peter Markland, June 28, 1995, pp. 85–88.
[644] Livingstone Senate deposition, pp. 64–65.
[645] Livingstone Senate deposition, p. 68.

Answer. Because I could not specifically remember exactly when I arrived, and I knew that I had only come in once, and I wanted to know when I arrived?[646]

Question. Okay. Whatever the reason, your best recollection today is you arrived at the White House around 8:14?

Answer. Whatever the report says, I feel comfortable that that's right. I think give or take a minute or two. I don't remember the exact time they said.[647]

Question. How many times were you in the White House counsel's reception area before the meeting that began at approximately 11:00 a.m. that morning?

Answer. I don't recall specifically. I think—for sure once, maybe twice.

Answer. I work with these people. I mean, particularly Ms. Pond I knew. It's my office. Just to visit.

Question. When you say it's your office, what do you mean?

Answer. It's the office I report to, that I work under.[648]

However, a new White House document—1 of the 2,000 over which the President had claimed executive privilege until August 15, 1996—indicates that Livingstone arrived at the White House that morning between 7:15 and 7:20—not 8:14 a.m. as Livingstone has contended.[649] Thus, the White House had information that was consistent with the account of the Secret Service agent—not the account of Craig Livingstone. Nonetheless, throughout the past 3 years the White House has bolstered Livingstone's position and given him a 40 percent raise in the process.[650]

Given Livingstone's highly suspect role in the FBI Files matter, the committee is skeptical of Livingstone. For example, Livingstone testified before this committee that he was not Anthony Marceca's supervisor. Mr. Marceca was a political operative who helped gather FBI files with Livingstone in 1993.

Mr. Livingstone's history as a former bar bouncer and political operative who boasted of such accomplishments as "deploying Chicken George" at President Bush campaign events made him a highly dubious choice for heading up the White House Office of

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[646] *Id.,* pp. 68–69.

[647] *Id.,* p. 71.

[648] *Id.,* pp. 73–74.

[649] Memorandum to the file from Jane Sherburne, subject: Senate deposition of Craig Livingstone (a debriefing of Livingstone's deposition from his attorney, Randy Turk) attached to a one page summary, "Livingstone Deposition." DF781649–50 and a Draft "Privileged and Confidential" Chronology on Foster, dated May 15, 1996 [note: this date may be inaccurate and be the date of the print of the document rather than when it was written] DF781054–95.

[650] Memorandum from Livingstone to William Kennedy, "Re: Extension of Nancy Gemmell's employment", May 10, 1993. "I would like to bring on my receptionist . . . salary would be $17,000. On August 1, 1993, my salary would increase to $50,000 from $45,000 based on the reduction of salary for the receptionist." CGE 47884.

Memorandum from Livingstone to Abner Mikva, "Subject: *Follow-up to pay adjustment request*", May 30, 1995. "I am well deserving of a pay increase to 65K . . . I have done my best to be a good soldier. I am facing living pay-check-to-pay-check." CGE 48059.

Memorandum from Livingstone to Abner Mikva, "Subject: *Personal Security office issues*", August 28, 1995. "I hope to increase the present payroll by $14K the bulk of which $12.5k, would be used to adjust my salary to $70K. The remaining $1.5k would bring my exec. assistant up to 30K." CGE 48058.

Memorandum from Jodie R. Torkelson to Kelli McLure, "Subject: *Counsel Office $*", May 14, 1996. "Livingstone's at it again. He's submitted paperwork for signature giving himself a raise and saying that he was promised the money by Ab. It's to go to $70,000. . . . Thanks much. I'd like to kill this before I leave." CGE 53840.

Personnel Security. The extensive documents the committee has obtained about Craig Livingstone raise serious questions: Why was he able to demand substantial raises in the face of so little experience and a checkered background? What prevented the White House from firing Livingstone?

Linda Tripp, a secretary in the Counsel's suite provided testimony that Livingstone was not a regular presence in their office but "became more a presence thereafter than prior. Bernie used to call him 'Cliff'."[651] Mr. Livingstone reported directly to Bill Kennedy not Vince Foster or Bernard Nussbaum. Mr. Kennedy's office was in the Old Executive Office Building, not the West Wing as were the offices of Foster and Nussbaum.[652] Why did Livingstone become more of a presence in the Counsel's office after Foster's death? Why did Bernie Nussbaum "promise" him a raise that subsequent counsels felt compelled to pay? Why couldn't anyone fire Craig Livingstone?

The committee believes there is far more to the Craig Livingstone story than anyone has disclosed to date.

F. EVIDENCE OF MRS. CLINTON'S INVOLVEMENT IN THE RESPONSE TO THE FINDING OF FOSTER'S "SUICIDE" NOTE. HER DIRECTION NOT TO TELL THE PRESIDENT ABOUT THE NOTE, ON JULY 26, 1993, WAS WITHHELD FROM INVESTIGATORS

On the afternoon of July 26, 1993—6 days after Foster's death, and 4 days after the search of his office—Associate Counsel Steve Neuwirth while searching Foster's briefcase, found a writing by Foster which was torn up into 28 pieces. Shortly after finding the note, Mr. Neuwirth was joined by Nussbaum, Bill Burton (from the Chief of Staff's office) and Mrs. Clinton. They all viewed the note and Nussbaum placed a call to Mack McLarty who was travelling with the President in Chicago.[653] It took another 30 hours before the note was turned over to the proper law enforcement authorities on the evening of July 27, 1993.

The "public," sanitized White House version of this story to date has been that Mrs. Clinton was in the room only briefly, became upset about the note and quickly left the room. What had not been revealed to date was that Mrs. Clinton had weighed heavily in on how to substantively handle this document.

A new and disturbing revelation about omissions in the testimony of Nussbaum, McLarty, Gergen, Burton and Neuwirth has emerged in light of the committee obtaining the 2000 pages of documents over which President Clinton had claimed executive privilege until August 15, 1996.

A White House Counsel's office document indicates that these same individuals who initially failed to tell the FBI of Mrs. Clinton's being present upon the finding of the note also failed to point out that one of the reasons for the delay in turning over the "suicide" note—the main reason—was because Mrs. Clinton instructed Chief of Staff Mack McLarty not to tell the President about it on

[651] Whitewater deposition of Linda Tripp, July 12, 1995, p. 74.
[652] White House directory.
[653] Senate Whitewater deposition of McLarty, July 6, 1995, p. 65.

July 26, 1993.[654] White House notes indicate that former Chief of Staff Mack McLarty said that Mrs. Clinton wanted to delay breaking the news of the Foster "suicide" note to President Clinton.[655] In a debriefing conducted of Gergen's attorney, he told Ms. Nemetz:

> Giuffra [Robert Giuffra, Counsel to the Whitewater Committee] did not elicit testimony regarding a second conversation Gergen had with McLarty. According to Burt Rein, in the later conversation, McLarty said he had decided to wait until the next day to decide whether to turn over the note. McLarty said that the First Lady was very upset and believed the matter required further thought and that the President not yet be told. She said they should have a coherent position and should have decided what to do before they told the President.[656]

But the testimony of David Gergen, as well as others privy to this information, suggests that they were asked questions which should have elicited this information if the witnesses had been at all forthcoming. In Gergen's deposition he was asked:

> *Question.* Do you have any reason to believe that he [the President] was advised of the note's existence prior to 6:00 o'clock on the 27th?
>
> Answer. I have no reason to believe either way. He did not say in the meetings I attended that he already knew about it to the best of my knowledge.
>
> *Question.* I believe you've testified that as far as you know, Mr. McLarty first advised the President of the discovery of the note at 6:00 o'clock on the 27th?
>
> Answer. So far as I know. Mr. McLarty did not tell me one way or the other that he may have told him about it prior to that time.

Surely, the fact that McLarty had informed him that Mrs. Clinton did not want President Clinton to be told about the note gave Gergen a reason "to believe either way" about whether the President was informed prior to this time. In McLarty's deposition of July 6, 1995, he is similarly "vague and protective":

> *Question.* Did you tell the President on Monday night that something had been found?
>
> Answer. No I did not.
>
> *Question.* Why not?
>
> Answer. For the reasons, really, that I've already suggested. I wanted to see the note, and I wanted to have all of this in reasonably good order when it was related to the President. And it just didn't seem to me that we had this matter in good order to give him half information about what the note was and so forth.

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[654] Memorandum for the file from White House Counsel Miriam Nemetz, July 13, 1995. This was a White House debriefing of David Gergen's attorney. This document was 1 of 2,000 over which President Clinton claimed executive privilege. DF 781220.

[655] Memorandum for the file from Miriam Nemetz, July 13, 1995, Re: Gergen deposition. The debriefing took place 1 day after Mr. Gergen's July 12, 1995 deposition with the Whitewater Committee. DF 781220

[656] *Id.*

The White House story over the past 3 years has been that the reason the Foster "suicide" note was not turned over to law enforcement authorities for almost 30 hours was because of the need to contact Mrs. Foster and to inform the President. Yet on the day the note was discovered neither Mrs. Foster nor President Clinton were informed.[657] The operative phrase in this communication appears to be: "McLarty said he had decided to wait until the next day to decide *whether* to turn over the note."

Senior White House officials, including McLarty, have always indicated that there was never any question but that this document was going to be turned over to authorities. These notes indicate otherwise.

Senior White House officials, as well as Mrs. Clinton, also have insisted that Mrs. Clinton had no role in the handling of Foster documents. These notes clearly indicate otherwise.

It also should be noted that the White House has always claimed that the President could not be informed about the note until late the next day because his schedule was so full. However, the schedule produced for the FBI report, addressing why there was a delay in turning over the note, indicates that the President had a fairly open schedule that afternoon.[658]

In light of this new information, a scheduled meeting the next day—July 27th at 2:30 p.m.—with Mrs. Clinton, Bernard Nussbaum and Steven Neuwirth takes on new significance. Mr. Nussbaum had instructed Neuwirth to research the executive privilege issues regarding the note. Were executive privilege issues regarding the note discussed in this meeting? July 27th is the day when there is an almost universal lack of recall among the individuals who had any contact with Mrs. Clinton on this day.

On July 28, 1993, the day after the Foster "suicide" note was turned over to law enforcement authorities, then Deputy Attorney General Philip Heymann instructed Associate Deputy Attorney General David Margolis to ask the FBI to conduct a thorough and aggressive investigation into the discovery of the note.[659] This investigation was undertaken both because of the failure to find the note in the course of the July 22 search of Foster's office, and because of the 30 hour delay in turning it over to law enforcement authorities.

It is significant, that on July 30, 1993 when Nussbaum was interviewed about the delay in turning over the note, FBI officials report that he was aware of "no other notes or messages left by Vincent Foster which would be relevant to the investigation of his death."[660] Mr. Nussbaum never told Agent Salter, the FBI agent in charge of the investigation, or anyone else about the Travel Office file, yet he claims to have informed them in his Whitewater

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[657] No attempts were made to contact Mrs. Foster on July 26th and Mrs. Clinton specifically instructed McLarty not to inform the President about the note.

[658] Investigation by Special Agent Scott M. Salter, Title of Case: Vincent Foster, Jr.; Deputy White House Counsel to the President—Victim; 7/20/93; investigative period 7/29/93–8/9/93, CZ 000753–000754.

[659] *See* Final Report of the Special Committee To Investigate Whitewater Development Corporation and Related Matters, June 1996.

[660] Investigation by Special Agent Scott M. Salter, Title of Case: Vincent Foster, Jr.; Deputy White House Counsel to the President—Victim; 7/20/93; investigative period 7/29/93–8/9/93, interview of Bernard Nussbaum conducted on 7/30/93, CZ00707.

testimony.[661] There has been no testimony from any Justice Department official which supports Nussbaum.[662]

Mr. Nussbaum and his colleagues who were involved in the review of Foster's note omitted the fact that Mrs. Clinton had reviewed the note on the afternoon of July 26, 1993. This information was finally obtained last summer in the course of a deposition of Bill Burton during the Whitewater hearings. The information about Mrs. Clinton weighing in on the Foster note was disclosed only to the Counsel's office and was studiously withheld from all investigations.

The FBI interviewed Bill Burton, David Gergen, Mack McLarty, and Steven Neuwirth about the circumstances surrounding the discovery of the note. These interviews were just days after the finding of the note[663] so these witnesses had no reason to universally forget information about Mrs. Clinton unless it was by design. None of the reports of these interviews included the fact that Mrs. Clinton had been brought in to review the note even though all of the above individuals were aware of that fact. Mr. Neuwirth, in testimony before the Whitewater Committee attempted to claim that he did in fact tell the FBI that Mrs. Clinton had been made aware of the note but neither the typed account or the FBI agent's handwritten notes recorded this information.

Withholding the Foster Travel Office notebook and the information about Mrs. Clinton's reviewing Foster's note have one thing in common: protection of Mrs. Clinton and avoidance of full disclosure of her role in these matters.

When the note was finally turned over, David Gergen noted that "Reno questioned the group as to why the note had not been turned over sooner and she was advised that the only reason that the note was not turned over sooner was that it had been decided to notify President Clinton prior to turning over the note and that the first opportunity to meet with President Clinton occurred at approximately 6 p.m., on July 27, 1993. It was explained that the contents of the note had potential implications regarding executive privilege. In addition it was explained to the AG that it had been decided to meet with Lisa Foster prior to the note being disclosed."[664] Notes from Mark Gearan regarding the finding of the note indicate that Attorney General Reno was displeased with the delay. Mr. Gearan's notes indicated that Reno was "worried" about the "lateness" in finding the Foster note and the "length of time" the White House took in disclosing the fact of its existence to any law enforcement officials.[665] Cynthia Monaco, an assistant to Deputy Attorney General Philip Heymann, also confirmed that both Reno and Heymann were annoyed that the note had not been turned over sooner. Ms. Monaco noted that Heymann told her he was "proud"

[661] Senate Whitewater deposition of Bernard Nussbaum, July 17, 1995.
[662] See Final Report of the Senate Whitewater Committee, June 17, 1996, "The Foster Phase."
[663] FBI Report of SA Scott Salter, August 9, 1993. Investigative period 7/29/93–8/9/93.
[664] Senate Whitewater deposition of David Gergen, July 12, 1995, p. 145.
[665] "Justice war wary of Foster probe," the Washington Times, July 26, 1995, p. A1.

of Reno for taking the White House to task on the tardiness of disclosing this relevant information.[666]

CONCLUSION

Following the death of Vincent Foster, Jr., the White House deliberately and immediately set upon a pattern of concealment and obstruction concerning Foster's documents. That pattern exists to this day. Senior White House aides implicated in the Travelgate affair were involved with improper searches of the office on the evening of July 20, 1993 as well as the sham "official" search of July 22, 1993. Mrs. Clinton also played a role in trying to avoid "unfettered access" to Foster's office and now we know she also weighed in on discussions regarding the turning over of the Foster note. Significantly, Foster's office contained a large Travel Office file in his briefcase which was withheld from numerous investigations for years.

XII. The White House Has Stonewalled all Previous Investigations and Engaged in an Unprecedented Damage Control Operation run out of the White House Counsel's Office

For more than 3 years, the Republican members of the committee—both as minority members and majority members—have attempted to get to the bottom of this matter and faced a White House intent on withholding key documents and obscuring the truth. By subpoenaing documents from both the White House and the individuals involved and by piecing together the documentary record, it is clear that the White House's initial "mea culpa" regarding the Travel Office was a whitewash—a "limited, modified hangout" that was misleading at best.

A. HEARINGS WERE REQUESTED IN 1993 ON THIS MATTER

Providing oversight of 1600 Pennsylvania Avenue entails unique challenges. More than 3 years ago, Chairman Clinger requested Travel Office hearings after the White House's investigation was led by the Chief of Staff who approved the firings in the first place. Far from standing the test of time, the White House Management Review's credibility did not even survive its first news cycle.

B. WHITE HOUSE HISTORY OF STONEWALLING

The White House response to the various investigations into the White House Travel Office matter has been a history of 3 years of stonewalling. Despite a GAO investigation which was mandated by law—a law which President Clinton himself signed—and an OPR investigation conducted by the President's own political appointee, and a criminal investigation conducted by the Justice Department, the White House has continued to withhold documents relating to Travelgate. An abbreviated history of the stonewalling follows.

[666] Committee staff interview with Cynthia Monaco, summer 1995. The committee notes that Ms. Monaco appears to be one of the rare Clinton appointees who had a semblance of a memory about these events. Ms. Monaco's testimony was a rare exercise in candor and completeness.

1. GAO Investigation

On July 2, 1993, a law was signed by the President which included a provision mandating the GAO review of the Travel Office.[667] The report originally was to be completed by September 30, 1993, but due in part to numerous White House delays, interviews were not completed until March 1994. Furthermore, the White House repeatedly delayed productions of records critical to the congressionally mandated investigation. In some cases, GAO never was informed of the existence of key documents responsive to its requests. In the committee's October 24, 1995, hearing, a GAO representative testified that the measure of cooperation received from the White House was less than optimal and that all documents requested were not produced.

The following is an overview of White House delays and denials in dealing with the investigation of the General Accounting Office's congressionally mandated review of the White House Travel Office matter.

- *July 2, 1993:* President Clinton signs into law, P.L. 103–50, Fiscal Year 1993 Supplemental Appropriations Act, which, among other things, mandates a GAO investigation of the White House Travel Office matter. The report is due to be completed on September 30, 1993.
- *August 11, 1993:* GAO held an opening meeting with the White House to explain the statutory requirements and scope of its investigation. White House Deputy Chief of Staff Roy Neel arrived 1 hour late, asked what GAO would do if the White House refused to provide documents and whether Congress would have access to GAO work papers, including material Neel said, "could be explosive." Mr. Neel said he considered GAO's work a "nuisance" he wanted done as soon as possible.
- *August 17, 1993:* GAO's Director of Federal Human Resource Management Issues Nancy R. Kingsbury writes Associate White House Counsel Clifford M. Sloan GAO's first document request covering 20 categories of records concerning Travel Office operations before and after the firings; White House Management Review records; White House press releases, personnel and performance records; records concerning Harry Thomason and Darnell Martens, among others. A list of 17 White House staff to be interviewed also is attached.
- *August 26, 1993:* White House (Mr. Sloan) writes GAO (Ms. Kingsbury) in response to August 17 letter promising to do "our best to respond expeditiously" but provides no documents. Also agrees to address the timing of any interviews during the week of August 30, 1993.
- *September 14, 1993:* GAO Assistant Director John S. Baldwin, Sr., writes White House (Mr. Sloan) with four additional records requests, including a list of Presidential trips and, trip files, and procedural and computer manuals relating to the new Travel Office's management system.

[667] P.L. 103–50.

• *September 15, 1993:* White House (Mr. Sloan) cover letter provides GAO (Ms. Kingsbury) documents related to the new Travel Office management system.
• *September 23, 1993:* Matt Moore meets with Cliff Sloan about GAO records at 2 p.m. in the White House. [White House Travel Office Chronology, prepared by Government Reform and Oversight Majority Staff.]
• *September 23, 1993:* GAO (Ms. Kingsbury) writes White House (Mr. Sloan) with additional request for Travel Office's bank and financial records. Reiterates the need to promptly review documents.
• *September 24, 1993:* White House (Mr. Sloan) writes GAO (Ms. Kingsbury) with a document responsive to GAO's August 17, 1993, letter's request #3.
• *September 27, 1993:* White House (Mr. Sloan) writes GAO (Ms. Kingsbury) four separate letters. Two provide a total of 12 trip files for Presidential trips taking place between April 1992 and April 1993. The other two letters provide documents related to the Travel Office's Riggs National Bank account.
• *September 29, 1993:* White House (Mr. Sloan) advises GAO (Ms. Kingsbury)—in response to GAO's September 14, 1993, request—that it is seeking "an audit report done in 1981 or 1982" from Reagan and Bush Presidential archives.
• *September 30, 1993:* GAO Interim Report on the White House Travel Office matter was due to the House and the Senate. The report noted the problems GAO was having with the White House in getting access to documents.
• *October 1, 1993:* White House (Mr. Sloan) advises GAO (Ms. Kingsbury) that it is making available White House canceled checks for May through October 1992.
• *October 7, 1993:* GAO (Ms. Kingsbury) writes White House (Associate Counsel W. Neil Eggleston) a 10-page letter reviewing, "the status of our requests for documents and interviews from the White House." This letter states that: 16 of 20 requests made in its August 17, 1993, letter were not provided or were only partially provided; 2 of 3 requests made in its September 14, 1993, letter were incomplete; 7 of 10 requests made in its September 23, 1993, letter were not provided or only partially provided. **This letter indicates that the White House has yet to provide any documents pertaining to Harry Thomason.**
• *October 8, 1993:* White House (Mr. Eggleston) writes GAO (Ms. Kingsbury) providing copies of an anonymous 1988 complaint against Travel Office employees and documents relating to a 1981 Travel Office internal review.
• *October 14, 1993:* White House (Peter C. Pappas) writes GAO (Ms. Kingsbury) two letters, attaching financial disclosure filings of three White House staff and various documents related to Air Advantage.
• *October 14, 1993:* White House (Mr. Eggleston) writes GAO (Ms. Kingsbury) a letter providing additional documents relevant to a 1981 Travel Office internal review and the 1988 anonymous complaint.

• *October 15, 1993:* White House (Mr. Eggleston) writes GAO (Ms. Kingsbury) two separate letters. The first states that the White House is continuing "in as expeditious a manner as possible" to photocopy Travel Office trip files but notes that the White House's understanding of GAO's statutory authority limits GAO's trip files request to trips from January 1992 through May 1993, and refers to redactions of material the White House considers privileged, relevant to Presidential security, or not germane. The second letter states that the White House has been unable to locate any Travel Office petty cash journals.
• *October 19, 1993:* White House (Mr. Pappas) sends GAO (Ms. Kingsbury) four letters concerning: 9 trip files; President Clinton's Travel Office remarks on May 21, 1993, and George Stephanopoulos' Travel Office responses in a May 20, 1993, press briefing; a Bush administration document on "Prohibited Contacts with Agencies," and "In the spirit of cooperation," an August 6, 1993, copy of a Travel Office Policies and Procedures Review prepared by GSA.
• *October 20, 1993:* White House (Mr. Eggleston) writes GAO (Ms. Kingsbury) two letters. Letter requests "narrow and specific requests for the time period after May 19" which the White House will consider in light of the statutory definition of GAO's scope. The second declines to provide a copy of the White House telephone directory and states that interviews with various White House staffers have completed the White House response to Paragraph 7 of GAO's October 7, 1993, letter.
• *October 22, 1993:* White House (Mr. Pappas) writes GAO (Ms. Kingsbury) letter with four additional trip files.
• *October 26, 1993:* White House (Mr. Pappas) writes GAO (Ms. Kingsbury) letter with the trip file for President Bush's October 25–November 4, 1992, "campaign swing."
• *October 28, 1993.* White House (Mr. Eggleston) writes GAO (Ms. Kingsbury) letter with enclosures it contends complete Paragraph 28 of GAO's October 7, 1993, request.
• *November 2, 1993.* White House (Mr. Pappas) writes GAO (Ms. Kingsbury) letter with five additional Travel Office trip files dated September through November 1992.
• *November 3, 1993:* White House (Mr. Pappas) writes GAO (Ms. Kingsbury) letter with four additional Travel Office trip files dating from December 1991, through October 1992.
• *November 4, 1993:* White House (Mr. Pappas) writes GAO (Ms. Kingsbury) letter with airline ticket reports for 1992 and travel agent coupons for periods from December 1991, through June 1992.
• *November 5, 1993:* White House (Mr. Pappas) writes GAO (Ms. Kingsbury) letter with six additional trip files from February and March 1992.
• *November 10, 1993:* White House (Mr. Pappas) writes GAO (Ms. Kingsbury) letter with copies of travel agent coupons for various time periods from February 1992, through March 1993.
• *November 10, 1993:* GAO (Mr. Homan) facsimiles White House (Mr. Eggleston) handwritten memo stating that GAO is available for interviews "on Friday between 8 a.m.–12 noon

and 2–4 p.m." Still to be interviewed: Jeff Eller, Mark Gearan, John Podesta, Todd Stern, Chris Vein, Jack Kelly (6 of the original 17 requested interviewees).

• *November 12, 1993:* White House (Mr. Pappas) writes GAO (Ms. Kingsbury) letter with five further trip files for January and February 1992.

• *November 15, 1993:* White House (Mr. Pappas) writes GAO (Ms. Kingsbury) letter with two additional trip files from January and September 1992. Attached to this document are three letters addressed to the Internal Revenue Service attaching trip files.

• *November 18, 1993:* White House (Mr. Pappas) writes GAO (Ms. Kingsbury) three letters with: additional copies of travel agent coupons for March/April 1993; and documents relevant to Paragraph 2 of GAO's October 7, 1993, request.

• *November 23, 1993:* White House (Mr. Pappas) writes GAO (Ms. Kingsbury) two letters with: eight further trip files from June through August 1992, and Travel Office itineraries for January 1992.

• *November 29, 1993:* White House (Mr. Pappas) writes GAO (Ms. Kingsbury) two letters with: Travel Office itineraries for February 1992, and a copy of a newspaper article attached to Catherine Cornelius' and Clarissa Cerda's February 15, 1993, Travel Office reorganization memo.

• *November 30, 1993:* White House (Mr. Pappas) writes GAO (Ms. Kingsbury) two letters: one includes additional trip files; the second includes a 1987 study of White House Facilities and Operating Units.

• *November 30, 1993:* White House (Mr. Eggleston) writes GAO (Ms. Kingsbury) letter confirming GAO's withdrawal of a request to interview a representative of the Vice President's National Performance Review (NPR) "setting forth the relationship between the Review and the actions taken with respect to the Travel Office."

• *December 1, 1993:* White House (Mr. Pappas) forwards Travel Office itineraries for March 1992, to GAO (Ms. Kingsbury).

• *December 2, 1993:* White House (Mr. Pappas) sends GAO (Ms. Kingsbury) two additional letters. One encloses Travel Office itineraries for April 1992. The second enclosed five additional trip files.

• *December 3, 1993:* GAO (Ms. Kingsbury) writes White House (Mr. Eggleston) a 15-page letter updating the status of GAO's work, White House document productions and interviews. It reviews some **27 of 36 document requests not yet provided** or only partially provided by the White House as of that date—5 months into the investigation. It further notes that 4 White House staffers and 1 GSA staffer have yet to be interviewed: Gearan, Eller, Podesta, Stern and Kelly (GSA). It closes with: "If the White House does not intend to arrange these interviews, or does not possess or intend to provide any of the documents requested, we respectfully request that you explain the circumstances or reasons in writing to us by January 10, 1994."

• **December 4, 1993: Neil Eggleston meets with Bernie Nussbaum, John Podesta, Cliff Sloan and Todd Stern concerning how to deal with GAO. Among those issues discussed was whether GAO should be provided access to White House Management Review documents. Mr. Nussbaum decided, "No." Mr. Eggleston notes dated December 4, 1993, discuss Travel Office issues including ICAP, say not to provide GAO the Management Review interview notes.**

• *December 6, 1993:* White House (Mr. Eggleston) writes GAO (Ms. Kingsbury) contending that GAO's "December 3, 1993, Request Compilation unnecessarily introduces a measure of confusion into the process of requesting documents and interviews and responding to such requests" and that it "undermines our effort to cooperate in this matter." It suggests that GAO has "chosen to alter the requests and the completeness of the responses" and requests that GAO redraft the December 3, 1993, letter.

• *December 7, 1993:* White House (Mr. Pappas) writes GAO (Ms. Kingsbury) with eight additional trip files.

• *December 7, 1993:* GAO (Ms. Kingsbury) writes White House (Mr. Eggleston) a 16-page letter superseding its December 3, 1993, letter updating the status of document requests and separating new requests from outstanding requests. This letter indicates that the White House still has provided no Harry Thomason documents to GAO.

• *December 8, 1993:* White House (Mr. Pappas) writes GAO (Ms. Kingsbury) two letters with: six further Travel Office trip files and Travel Office itineraries for May through August 1992, respectively.

• **December 9, 1993: David Watkins is interviewed by GAO with Watkins' attorney Ty Cobb and Associate White House Counsel Neil Eggleston in attendance. It is at this interview that GAO learns of First Lady Hillary Rodham Clinton's involvement in the White House Travel Office matter.**

• *December 14, 1993:* White House (Mr. Pappas) writes GAO (Ms. Kingsbury) with five further trip files.

• *December 14, 1993:* White House (Mr. Eggleston) writes GAO (Ms. Kingsbury) four letters regarding, respectively, December 7, 1993, Paragraphs 5 ("fully complied with"), 7 ("fully complied with"), 37 ("decline to provide a briefing about the general procedures for the granting of access passes" . . . but agree to provide a witness to explain how the procedures applied to Messrs. Thomason and Martens) and 41 (declining to respond to a request for current legal conclusions).

• **December 15, 1993: Neil Eggleston writes a memo for the White House's GAO/Travel Office file outlining, "GAO Themes in Questioning." Several of the themes deal with Mrs. Clinton, including: "Mrs. Clinton—the Management Report omits earlier involvement by her in the matter and fails to report her conversation with David Watkins on the night of Friday, May 14th." Also notes, "The authors of the Management Review were**

pressured to omit embarrassing details about Mrs. Clinton or the Administration from the Report."

• *December 15, 1993:* White House (Mr. Eggleston) writes GAO (Ms. Kingsbury) two letters. In one, the White House claims to have complied with Paragraph 6 of GAO's December 7, 1993, letter, "to the extent that we believe the request is relevant to the GAO inquiry" and declining further response without GAO's establishing the relevance of materials withheld. This request involved resumes, applications, appointment documents and financial disclosure filings of Kennedy, Watkins, Cornelius, Cerda and Eller. In the second, it claims to have provided what was requested of Paragraph 32 of the December 7, 1993, letter, the article attached to Cornelius' and Cerda's February 15, 1993, memo.

• *December 16, 1993:* White House (Mr. Pappas) writes GAO (Ms. Kingsbury) two letters enclosing Travel Office itineraries for September through November 1992, and providing additional trip files.

• *December 16, 1993:* GAO (Ms. Kingsbury) writes White House (Mr. Eggleston) clarifying outstanding requests and adding others arising from the GAO's interview of David Watkins, including a request that Mr. Eggleston arrange for GAO to interview Mrs. Clinton, whose name came up in the Watkins interview. **GAO noted it only asked whether or not the White House had made a determination. GAO adds that its "normal procedures . . . when someone reports to us that another party made certain statements, we arrange an interview . . . " The letter notes that the White House has refused to provide information on whether or not the White House had determined Harry Thomason and Darnell Martens' status as Special Government Employees.**

• *December 19, 1993:* White House (Mr. Pappas) writes GAO (Ms. Kingsbury) letter with December 1992, Travel Office itineraries.

• *December 21, 1993:* White House (Mr. Pappas) writes GAO (Ms. Kingsbury) letter with further Travel Office trip files.

• *December 29, 1993:* White House (Mr. Eggleston) writes GAO (Ms. Kingsbury) six separate letters claiming to complete its responses to Paragraphs 1, 9, 11, 14, 17, 31. Per Paragraph 1, Eggleston claims that GAO's failure to address a White House letter dated October 20, 1993, leaves the White House unable to comply with this request concerning White House Travel Office management since May 19, 1993, and interviews with Foucart and Riewerts. Responding to a GAO inquiry concerning lower charter costs under new Travel Office management, two Brian Foucart memos dated May 27 and May 31, 1993. The other five letters claim prior completion or completion based on attached documentation.

• *December 30, 1993:* White House (Mr. Eggleston) writes GAO (Ms. Kingsbury) two letters. One declines to produce the White House phone book and the second claims to complete the White House response to Paragraph 50. attaches a memorandum from Matthew Moore to David Watkins circa February 15,

1993. This includes a chart that identifies Billy Dale and his staff as "Bush Person[s]".

• *January 3, 1994:* White House (Mr. Pappas) forwards GAO (Ms. Kingsbury) additional Travel Office itineraries for January and February 1993.

• *January 4, 1994:* White House (Mr. Pappas) writes GAO (Ms. Kingsbury) two letters including the March 1993, Travel Office itineraries and additional trip files, respectively.

• *January 7, 1994:* White House (Mr. Pappas) writes GAO (Ms. Kingsbury) letter enclosing miscellaneous travel data and binders.

• *January 8, 1994:* White House (Mr. Pappas) writes GAO (Ms. Kingsbury) letter enclosing miscellaneous travel binders.

• *January 13, 1994:* White House (Mr. Eggleston) writes GAO (Ms. Kingsbury) two letters making more Travel Office worksheets, binders and trip files.

• *January 18, 1994:* White House (Mr. Eggleston) writes GAO (Ms. Kingsbury) letter responding to a request on Page 15 of GAO's December 7, 1993, request compilation for information concerning the Vice President's National Performance Review (NPR) and the review of the White House Travel Office. Attached to this letter is a memo to Ms. Kingsbury from Todd J. Campbell, Counsel to the Vice President, stating that there was no connection between them.

• *February 3, 1994:* White House (Special Hearings Counsel Matthew Moore) writes GAO (Ms. Kingsbury) letter providing a list of Presidential trips from May 22 through December 31, 1993.

• *February 9, 1994:* White House (Mr. Eggleston) writes GAO (Ms. Kingsbury) letter enclosing copies of the cover and title page of a book on bookkeeping for small business.

• *February 14, 1994:* GAO (Ms. Kingsbury) writes White House (Mr. Eggleston) two letters concerning "a compulsively complete list" of what GAO still needs to complete its work by the end of the month. Some 21 items, identified as "A" through "V," are attached.

• *February 14, 1994:* White House (Mr. Eggleston) writes GAO (Ms. Kingsbury) two letters. One challenges the relevance of request "M" from GAO's February 14, 1994, letter. This referred to several people identified on several passenger lists as Travel Office staff and requests they be identified as civilian or military personnel and that the White House arrange interviews with them. Mr. Eggleston requests that GAO indicate how the request "would contribute to the statutorily defined scope of the GAO review." The second encloses information concerning checks and deposit slips missing from a previous production.

• *February 17, 1994:* White House (Mr. Eggleston) writes GAO (Ms. Kingsbury) nine separate letters responding to various of February 14, 1994's compiled requests. These letters: 1) seek to limit Paragraphs "A" and "B" [respectively: post-May 19 trip files and operations records; and all records pertaining to the decision to bring World Wide Travel and Penny Sample into the White House] per issues of GAO's "scope"; 2) note that the

White House has provided all relevant documents it could locate for item "C" [documents describing policies and procedures in place before May 1993, including all financial management records]; 3) enclose White House's KPMG Peat Marwick payment documentation per "G"; 4) confirm that Travel Office records in FBI custody do not include complete copies of press billings from March 1992 through May 1993; 5) ask that GAO provide copies of its documents to assist the White House in fulfilling a request; 6) names the five fired non-supervisory Travel Office employees and their new Federal employers; 7) clarify a request concerning relevant and irrelevant documents in a Gary Wright briefcase; 8) address 9 World Wide Travel file folders; and, 9) make limited production of documents from a "Presidential and Vice Presidential Visit Manual."

• *February 18, 1994:* White House (Mr. Eggleston) writes GAO (Ms. Kingsbury) six letters responding to various of February 14, 1994's compiled requests. They include: 1) "Trust Travel Fund Reconciliation;" 2) press information; 3) travel guidelines; 4) billing for various trips; 5) refund log; and, 6) bus contacts and master call-out list with phone numbers.

• *February 23, 1994:* White House (Mr. Eggleston) writes GAO (Ms. Kingsbury) two letters explaining that it cannot comply with two separate requests because: 1) Travel Office documents [documentation of who paid for new ticketing equipment installed in May 1993, before American Express entered the Travel Office] "were not kept in the form reflected in the inventory and are no longer identifiable"; and, 2) the 15 to 20-year-old documents requested are "far beyond the scope of GAO's original request."

• *March 4, 1994:* Bernard Nussbaum resigns as White House Counsel.

• *March 9, 1994:* White House (Mr. Eggleston) writes GAO (Ms. Kingsbury) letter attaching Harry Thomason and Darnell Martens White House pass applications.

• *March 14, 1994:* GAO (Ms. Kingsbury) writes White House (Mr. Eggleston) three letters. They request: 1) "copies of processing documents used" to further its understanding of Travel Office financial management"; 2) authorization to ask Riggs National Bank questions concerning the Travel Office Press Fund, whether Travel Office payments are subject to the Prompt Pay Act and State and local tax issues; and, 3) copies of trip files for the new Travel Office management.

• *March 16, 1994:* GAO (Ms. Kingsbury) writes White House (Mr. Eggleston) letter with questions to be asked of **First Lady Hillary Rodham Clinton,** Leon Panetta, Patsy Thomasson and Margaret Williams. She requests that the written responses to these questions be provided to GAO by March 25, 1994.

• *March 19, 1994:* GAO's Ms. Kingsbury completes a draft of the Travel Office report. [White House Travel Office Chronology, prepared by Government Reform and Oversight Committee majority staff.]

• *March 25, 1994:* White House (Mr. Eggleston) writes GAO (Ms. Kingsbury) to state that it "anticipates" being able to respond to requests due that day the following week.
• *March 25, 1994:* GAO (Ms. Kingsbury) writes White House (Mr. Eggleston) letter beginning, "I understand that you are busy these days, but I am concerned that we have not been able to be in contact at least by telephone . . . " and adding, "Finally, I must express serious concern about our recent experiences with obtaining clearance for staff on this assignment."
• *March 25, 1994:* White House (Mr. Eggleston) responds to GAO (Ms. Kingsbury) letter on access.
• *March 30, 1994:* White House (Mr. Eggleston) writes GAO (Ms. Kingsbury) four letters which respectively: 1) request that someone call Matt Moore for William Kennedy's notes of his conversations with FBI agents prior to the Travel Office firings; 2) direct GAO to seek drafts of KPMG Peat Marwick from Peat Marwick itself; 3) state that a briefing paper referenced in paragraph 6 of GAO's mid-March document request cannot be located; and, 4) responds to GAO written questions directed to Watkins and McLarty on their behalf. States that Watkins recalled, "his conversation with Mrs. Clinton on this issue was on the evening of May 14, 1993;" and that McLarty recalled meeting with the First Lady on May 13, 1993.
• *March 31, 1994:* White House (Mr. Eggleston) writes GAO (Ms. Kingsbury) regarding a June 3, 1993, memo from Vince Foster to David Watkins regarding 14 C.F.R. 121.
• *April 1, 1994:* White House (Mr. Moore) facsimile transmittal cover sheet to GAO (Nancy Kingsbury) regarding "Letters in Response to Travel Office Review Requests. Attached is an April 1, 1994, White House memo (Mr. Eggleston) to GAO (Ms. Kingsbury) regarding Paragraph E of GAO's February 14, 1994, request (granting White House passes in general and Thomason/Martens White House passes in particular) which he said were forwarded to GAO on March 9.
• *April 4, 1994:* Neil Eggleston writes a memo to White House Counsel Lloyd Cutler, Joel Klein, John Podesta and Todd Stern regarding Travel Office issues involving IRS. Mr. Eggleston discusses the issue of IRS taking the position that the White House is obligated to pay excise taxes on Travel Office press charters. Attached to this memo is a draft copy of the GAO Travel Office Report on the IRS.
• *April 11, 1994:* Neil Eggleston writes a memo to White House Counsel Lloyd Cutler and John Podesta concerning the GAO Travel Office document requests, noting that the White House had not addressed "the effort by Martens to get a contract to conduct an accounting of the federal aircraft fleet . . ." because it previously had decided that the documents were not responsive.
• *April 12, 1994:* GAO representatives Nancy Kingsbury, David Clark, and others meet with White House staffers Neil Eggleston, Patsy Thomasson, Brian Foucart, Steve Riewerts, Kim Johnson and Matt Moore to discuss completion of the GAO report and outstanding issues.

• *April 13, 1994:* White House (Mr. Moore) facsimile transmittal cover sheet to GAO (Nancy Kingsbury) followed by White House (Mr. Eggleston) letter to GAO (Ms. Kingsbury) listing individuals responsible for baggage security.
• *April 13, 1994:* GAO (Ms. Kingsbury) writes White House (Mr. Eggleston) letter stating GAO's need to "verify that the copies of documents we have received are authentic," and "survey the universe of documents to determine if any classes of records were withheld." The letter includes a listing of documents to be verified.
• *April 16, 1994:* White House (Mr. Eggleston) writes GAO (Ms. Kingsbury) letter responsive to Paragraph D of GAO's February 14, 1994, request compilation, with attached memorandum to Harry Thomason and Markie Post concerning their meetings at the White House on April 30 and May 1, 1993, and the White House Project. These documents were withheld for almost 10 months from GAO even though they were available immediately.
• *April 22, 1994:* White House (Mr. Eggleston) writes GAO (Ms. Kingsbury) two letters. One breaks down administrative leave costs of the five fired non-supervisory White House Travel Office employees. The second addresses the status of a Department of Agriculture detailee to the Travel Office.
• *April 23, 1994:* White House (Mr. Eggleston) writes GAO (Ms. Kingsbury) letter confirming that "GAO has not requested documents prepared in connection with the White House Management Review," and adding that the White House did not provide attorney notes and analysis prepared after the events in the Travel Office. GAO had been told by Podesta and Stern that they only took a **"thimblefull of notes"** in the course of their review.
• *May 2, 1994:* GAO issues its final Travel Office Report.
• *May 3, 1994:* David Watkins writes a letter to Mrs. Clinton: "Hillary—The GAO erred in stating that I said that you urged me to replace members of the travel office with 'our people.' 'Urge' is not a word I commonly use. Additionally, as I know you have experienced many times, the statement was reported out of context without my complete response to their questions being reported. Obviously, I regret any and all press references and their innuendoes as it related to your involvement in this affair. I have always known who my 'client' is."
• *July 10, 1994:* Neil Eggleston writes a memo to the file regarding the Vince Foster Travel Office file and how it may or may not be responsive to numerous investigations including GAO, OPR, Public Integrity and Independent Counsel Fiske. He subsequently decides it is responsive to Public Integrity but only portions are provided 1 month later. Mr. Eggleston says that there is no need to tell GAO and OPR because they have completed their reports.
• *September 7, 1994:* Neil Eggleston writes a memo to Patsy Thomasson and Jodie Torkelson about Travel Office issues and the status of GAO documents, IRS audit and FBI investigations into Billy Dale, Harry Thomason and Darnell Martens. This memo is copied to White House Counsel Lloyd Cutler,

Joel Klein and Chris Cerf. A day later, Eggleston writes a letter to Stuart Goldberg at Public Integrity announcing his resignation, effective immediately. A clear pattern emerges in the course of this document production: documents that were potentially damaging to Billy Dale were the first out the door, while those that deal with Harry Thomason or "high level" White House officials were deliberately and extensively delayed. Documents re: Harry Thomason clearly were requested in the first GAO request on August 17, 1993. Yet no Harry Thomason documents were produced until March 9, 1994, several days after Independent Counsel Fiske subpoenaed records from the White House and several days after the resignation of Bernard Nussbaum. The withholding of documents re: Harry Thomason and Darnell Martens and their business ventures was deliberate and consistent with attempts to withhold these documents from all other investigations.

2. OPR investigation

Following the issuance of the White House Management Review, the Attorney General committed to reviewing the report and following up on any aspects necessary.[668] By July 15, 1993, then Deputy Attorney General Heymann tasked the Office of Professional Responsibility to conduct a review of "the conduct of the FBI in connection with its contacts with the White House on the Travel Office matter and to report its findings and recommendations. The report was completed on March 18, 1994 but never released by the Justice Department.

Initially the Justice Department was requested to delay the release of the report due to the Independent Counsel investigations—both by Independent Counsel Fiske and Independent Counsel Starr. By the summer of 1995, OPR realized it, too, had been stonewalled for 2 years by its own White House, which refused to provide access to Vince Foster's Travel Office notebook. The Foster notebook was concealed from all previous investigations for 2 years.

In a scathing July 24, 1995, Justice Department internal memo, OPR Counsel Michael Shaheen wrote:

> [W]e were stunned to learn of the existence of this document since it so obviously bears directly upon the inquiry we were directed to undertake in late July and August 1993 . . . we believe that our repeated requests to White House personnel and counsel for any information that could shed light on Mr. Foster's statement regarding the FBI clearly covered the notebook and that even a minimum level of cooperation by the White House should have resulted in its disclosure to us at the outset of the investigation.

In fact, as early as December 1993, OPR considered approaching Attorney General Reno to request a full Travel Office investigation because "very dangerous signals" suggested possible obstruction of its investigation.

[668] July 14, 1993, letter from Attorney General Janet Reno to the Honorable Jack Brooks.

• *July 15, 1993:* Then-Deputy Attorney General Philip Heymann decided to call on the Justice Department's Office of Professional Responsibility to conduct a review of the FBI's role in the Travel Office firings. Later, after Vincent Foster's death and the discovery of his "suicide note," Mr. Heymann added to the investigation a review of the comments in Vincent Foster's note about the "FBI lied."

• *July 28, 1993:* Then Deputy Attorney General Heymann publicly announced a review of the FBI's role in the Travel Office firings and included a review of the comments in Vincent Foster's note about the "FBI lied." The FBI had also been tasked on this date with investigating the delay in the turning over of the Foster "suicide" note.

• *August 1993:* First letter to Nussbaum requesting documents.

• *Summer 1993:* White House failed to provide the Vince Foster Travel Office file. OPR Counsel Michael Shaheen wrote a scathing memo in July 1995 about not receiving this document for OPR's investigation. Mr. Shaheen wrote: "we were stunned to learn of the existence of this document since it so obviously bears directly upon the inquiry we were directed to undertake in late July and August 1993 . . ."

• The White House only provided the White House Management Review notes from the interview with Vincent Foster to OPR. OPR had asked for all of the interview notes. Mr. Shaheen wrote: "The White House declined to provide the notes and failed to mention the existence of any handwritten notes by Mr. Foster on the subject."

• Mr. Shaheen also stated in his memo: "we believe that our repeated requests to White House personnel and counsel for any information that could shed light on Mr. Foster's statement regarding the FBI clearly covered the notebook [the Vince Foster Travel Office notebook] and that even a minimum level of cooperation by the White House should have resulted in its disclosure to us at the outset of our investigation."

• Shaheen noted that the Vince Foster Travel Office notebook also had been withheld from the Independent Counsel.

• Mr. Shaheen and members of his staff informed committee Counsel in an interview in August 1995 that by December 1993, OPR was considering going to the Attorney General to request a full investigation into the Travel Office matter because of the "very dangerous signals" sent to the investigators which indicated possible obstruction of its investigation. Shaheen and his investigators noted that the memories of White House witnesses were very vague and this was only several months after the events in question. Mr. Shaheen's investigation was cut short by the appointment of the Independent Counsel.

JUSTICE DEPARTMENT, PUBLIC INTEGRITY SECTION

While the Clinton White House cooperated fully with the Public Integrity Section's investigation of Billy R. Dale, its refusal to provide documents relevant to Public Integrity's investigation of Harry Thomason and Darnell Martens for more than a year was so egre-

gious that the Chief of Public Integrity, Lee Radek, concluded on September 8, 1994:

> At this point, we are not confident that the White House has produced to us all the documents in its possession relating to the Thomason allegations. . . . [T]he White House's incomplete production greatly concerns us because the integrity of our review is entirely dependent upon securing all relevant documents.

The following week, the Clinton administration's own Public Integrity Section was forced by these concerns to subpoena all documents responsive to its investigation of Thomason and Martens. Even then, the Clinton administration refused to produce some 120 responsive documents. Due to White House obstruction, Public Integrity had prosecuted—and lost—the Dale case before it even had received all documents relevant to its investigation of Thomason and Martens.

- *May 1993:* Public Integrity began a criminal investigation into the Travel Office matter and shortly thereafter began an investigation into the roles of Harry Thomason and Darnell Martens at the White House.
- *July 1993:* The Department of Justice began trying to get an interview with Harry Thomason while Thomason's lawyer began trying to get access to the White House Management Review interview notes of Harry Thomason.
- *Summer 1993:* Public Integrity began seeking documents from the White House in the summer of 1993 but received little information. As of September 30, 1993, Prosecutor Goldberg wrote to the White House "to confirm that the White House had only located two documents related to Harry Thomason."
- *October 12, 1993:* White House Counsel sent an agreement which would allow Public Integrity Prosecutor Goldberg to "view" the two Harry Thomason memos.
- *November 12, 1993:* Goldberg signed an agreement to view two Harry Thomason "White House project" memos but not take any notes or make copies. At this point, almost 6 months after the firings and 6 months after the initiation of an investigation into Travel Office related matters, no one at the White House appears to have mentioned the GSA/ICAP contracts Harry Thomason and Darnell Martens generated while seeking business for their company, TRM.
- *January 1994—Spring 1994:* Public Integrity continued to seek documents about Harry Thomason's activities at the White House and received its first ICAP/GSA contract documents regarding efforts by Harry Thomason and Darnell Martens to seek Government contracts.
- *March 14, 1994:* Public Integrity wrote to White House Counsel Eggleston asking for confirmation in writing that the White House had searched for all Harry Thomason files.
- *April 5, 1994:* Neil Eggleston distributed a memo to gather all Harry Thomason and Darnell Martens documents by April 7, 1994. It requires a signed certification stating: "I have searched my files and I have no documents responsive to the requests set forth in this memorandum."

• *April 5, 1994:* An FBI e-mail on this date titled: "WHTO Update" states: "there has been some problem in obtaining records from the White House regarding Thomason's duties and responsibilities. Goldberg is considering issuing a subpoena . . ."
• *Spring 1994:* Production of Harry Thomason documents to Public Integrity continues. Matt Moore and Neil Eggleston were involved in document production. (Matt Moore possessed copies of the Watkins memos that were never turned over.)
• *May 11, 1994:* Neil Eggleston, Joel Klein and Marvin Krislov (all in the White House Counsel's office) wrote a letter to the Independent Counsel addressing how the White House would comply with the Independent Counsel's grand jury subpoena. (Their letter narrowed the scope of the Independent Counsel's initial request.)
• *May 1994:* Neil Eggleston reviews the Foster Travel Office file to determine if it is responsive to the Fiske subpoena. He decides that it is not. Eggleston apparently ignores the fact that the Foster Travel Office file, which mentions Harry Thomason and Darnell Martens throughout, *is* responsive to the Public Integrity document requests.
• *June 24, 1993:* Neil Eggleston writes a letter to Stuart Goldberg informing him that Public Integrity has all of the Harry Thomason documents as of this date. (Vince Foster Travel Office file is *not* included.)
• *July 10, 1994:* Neil Eggleston writes a memo to Lloyd Cutler about the Vince Foster Travel Office file and why it wasn't produced to any investigation to date. Eggleston recommends producing only portions of the Foster notebook to Public Integrity by that Tuesday (July 12, 1994). Those portions are not provided until 1 month later.
• *August 30, 1994:* Neil Eggleston provides the additional documents from Foster's Travel Office notebook to Public Integrity (approximately 20 pages of the 100-plus page document are provided.).
• *August 30, 1994:* Public Integrity prosecutor Goldberg writes the White House to ask why Harry Thomason documents were withheld and asks for an explanation by September 8, 1994.
• *September 8, 1994:* Neil Eggleston writes Goldberg explaining why he failed to turn over all of the Harry Thomason documents saying "I sincerely apologize for the oversight and hope that the delay in production of these documents has not caused you any inconvenience . . . please be advised that I have resigned effective September 8, 1994."
• *September 8, 1994:* Public Integrity Chief Lee Radek writes a memo to Jack Keeney stating: "At this point we are not confident that the White House has produced to us all documents in its possession relating to the Thomason allegations . . . the White House's incomplete production greatly concerns us because the integrity of our review is entirely dependent upon securing all relevant documents."
• *September 13, 1994:* A Grand Jury subpoena for documents from the White House relating to Harry Thomason and Darnell

Martens is served on the White House with a September 30, 1994, due date.

• *September 30, 1994:* All Harry Thomason and Darnell Martens pursuant to the September 13, 1994, subpoena are due to the Grand Jury. The White House produced a "PRIVILEGE LOG" which identifies more than 120 documents that the White House refuses to turn over to its own Justice Department in the course of a criminal investigation involving activities at the White House.

• *July 6, 1995:* White House provides complete Vince Foster Travel Office file to the press.

• *July 28, 1995:* White House, in responding to Public Integrity Prosecutor Goldberg, sends more pages of Vince Foster Travel Office notebook.

• *August 17, 1995:* Public Integrity prosecutor Goldberg reviews more Vince Foster documents at the White House with White House Associate Counsel Natalie Williams.

• *November 4, 1995:* In the midst of the Billy Dale trial, a White House Associate Counsel faxes a memo on the Travel Office files that is dated 5/21/93. The memo was from a member of the White House Records Management staff who expressed concerns about the handling of the documents in the Travel Office after the firings. The memo had not been provided previously to Public Integrity or to defendant Billy Dale, whose criminal trial was under way.

• *November 6, 1995:* The White House sends additional unknown documents to Public Integrity Prosecutor Goldberg.

In summary, nearly 6 months had passed before the White House allowed Public Integrity prosecutors to see any documents related to Harry Thomason and nearly a year to provide most of the ICAP/GSA documents. The White House refused to provide the Vince Foster Travel Office file in its entirety until July 1995, after it released the file to the press. Portions of the file had been provided to Public Integrity in August 1994. A September 1994, subpoena failed to produce this document in its entirety.

The White House also failed to provide the Watkins "soul cleansing memo" which was in Patsy Thomasson's files despite numerous document requests and the September 1994, subpoena. At the very least, David Watkins, Matt Moore and Patsy Thomasson were aware of the existence of this document throughout the course of document requests.

Even after the September 1994, subpoena from Public Integrity, the White House produced a privilege log of 120-plus documents it refused to provide to its own Justice Department in the course of a criminal investigation. White House production of documents to Public Integrity continued throughout the course of the Billy Dale trial in October-November 1995. Since these documents belatedly were provided to Public Integrity, they also belatedly were provided to the defendant during his trial instead of before the trial began.

Public Integrity does not appear to have sought documents directly from Harry Thomason until after the Billy Dale trial ended and after both the Committee on Government Reform and Oversight and the Independent Counsel had sought documents from Thomason and Martens. New documents regarding efforts by

Thomason and Martens to seek business for TRM were included in these productions to the Justice Department after Billy Dale's trial.

Public Integrity's tolerance of White House foot-dragging was in stark contrast to the aggressive pursuit of Billy Dale and his family throughout the course of the criminal investigation of Mr. Dale.

The contrast is stark between Public Integrity Section's prosecution of Billy Dale and its utter passivity while the White House stonewalled its investigation of Thomason and Martens. Its criminal investigation of Billy Dale was compromised from the beginning. The FBI relied on uncorroborated—and false—allegations of kickbacks against the Travel Office employees in launching a criminal investigation. But for nearly a month, it ceded control over Travel Office documents to a White House that pledged to secure them while allowing numerous individuals with and without White House passes free reign to review and destroy documents critical to its investigation.

In the midst of the Dale investigation, FBI Supervisory Special Agent Bowie was unaware the White House ordered a "Management Review" of the Travel Office matter which provided a "heads-up" of sort. The Management Review provided political cover to the Clinton administration while forewarning the White House of potentially embarrassing discoveries and "explosive documents" in the words of Deputy Chief of Staff Neel. The Management Review's discovery that the kickback allegations against the Travel Office employees were baseless is a prime example: the White House refused to inform the FBI or Public Integrity of this fact.

In Dale's case, an FBI e-mail stated that Justice inexplicably intended to indict "before the November elections." In addition, prosecutor Stuart Goldberg was well-aware that Travel Office records it was obligated to secure had been lost. As Goldberg himself informed IRS agents: "Records that were there at one time are now missing and they don't know who took them. Mr. Goldberg stated that it may have been Catherine Cornelius." Even so, Justice prevented Dale from using this information at trial in his own defense.

Yet in its investigation of Thomason and Martens, even after Justice attempted to end the White House's year-long stonewall with a grand jury subpoena, it passively acceded to a White House privilege log of 120 withheld documents.

Public Integrity's experience with the Clinton White House offered further evidence of administration obstruction while providing critical insights into its own tale of two very different investigations.

XIII. Stonewalling This Committee's Investigation

A. History of Seeking Travelgate Documents from the White House

1. Chairman Clinger's efforts to investigate while in the minority

Chairman Clinger began the investigation into the Travel Office matter while he was the ranking minority member of the committee. Ranking Member Clinger's efforts in the minority from 1993–94 included:

- *June 16, 1993:* Chairman Clinger joins Republican leadership in requesting documents and responses to questions re-

garding the Travel Office. (No substantive response ever was provided.)

• *August 6, 1993:* Chairman Clinger joins Republican leadership in requesting information on the IRS investigation and other Travel Office questions. (No substantive response ever was provided.)

• *October 15, 1993:* Chairman Clinger writes Bernard Nussbaum concerning the status of Harry Thomason as a special Government employee. (No substantive response ever was provided.)

• *September 13, 1994:* Chairman Clinger requests that the White House provide access to GAO documents maintained at the White House. (Access never provided—later memo shows White House Counsel Neil Eggleston recommended denying the request after the Appropriations bill for the White House had passed.)

• *September 20, 1994:* Chairman Clinger again requests access to GAO documents at the White House.

• *October 1994:* Chairman Clinger issues a report analyzing the GAO report on the Travel Office and calling for hearings on the discrepancies found in the GAO work papers versus the final report, and other outstanding issues.

2. Committee efforts in the 104th Congress

In the beginning of the 104th Congress, Chairman Clinger committed to a full investigation into the Travel Office matter and began making inquiries of the White House in the spring of 1995. The White House initially would not even provide the GAO working papers which Roy Neel had described as "explosive," and recommended against congressional review.[669]

The committee initiated document requests on the Travel Office matter beginning in June 1995. Initially, the White House conditioned its compliance on the provision of armed security guards to protect the "explosive" documents. The foot-dragging that followed is outlined below.

• *June 14, 1995:* Committee makes first document request to White House focusing on White House Management Review documents and documents related to Harry Thomason's activities at the White House.

White House Response:

• *Throughout June and July 1995,* White House fails to produce any documents and requests that the committee hire security guards to protect any documents provided to the committee.

• *July 18, 1995:* White House produces the Vince Foster Travel Office file several weeks after providing it to the press.

• *August 2, 1995:* White House produces documents, 90 percent of which have been previously made publicly available (i.e. White House Management Review copies, GAO report copies, press conference transcripts).

[669] GAO notes on meeting with Roy Neel, August 1993.

- *August 9, 1995:* White House produces more copies of the Management Review from various files and several miscellaneous documents.
- *August 28, 1995:* White House produces miscellaneous handwritten notes by White House employees.
- *September 5, 1995:* White House produces a privilege log identifying 900 pages of documents from the White House Management Review.
- *September 13, 1995:* After negative press reaction to White House privilege log, the White House produces approximately 400 pages of interview notes from the 900 pages of Management Review documents.
- *September 18, 1995:* White House produces Bruce Lindsey documents regarding efforts by Harry Thomason and Darnell Martens to obtain GSA consulting contracts for their business, TRM. These documents had not been identified previously as documents that were being withheld in the privilege log. (On this same day, Harry Thomason cancels a previously scheduled interview with committee staff.)

- *September 18, 1995:* Committee makes second document request to White House requesting all White House Travel Office documents from all of the various investigations.

White House Response:

- *September 25, 1995:* White House produces more notes from the White House Management Review.
- *September 28, 1995:* White House produces more documents from Bruce Lindsey's office, Counsel's office and Office of Administration.
- *October 4, 1995:* White House produces additional White House Management Review documents.
- *October 5, 1995:* White House produces documents from Neil Eggleston and Bill Kennedy.
- *October 13, 1995:* White House produces documents from Counsel's office, Office of Administration and Records Management.
- *October 17, 1995:* White House produces documents from Cliff Sloan, Neil Eggleston and various White House Management Review files.
- *October 24, 1995:* Committee holds first hearing on the Travel Office matter.
- *October 26, 1995:* Billy Dale embezzlement trial begins.
- *November 14, 1995:* White House produces more White House Management Review documents, including lengthy chronologies and drafts, but still does not provide the legal analysis done by Beth Nolan about Harry Thomason's status as a special Government employee.
- *November 16, 1995:* Billy Dale acquitted.
- *December 19, 1995:* White House Counsel sends out memo to all staff in response to committee document requests.
- *December 22, 1995:* White House produces more documents from Joel Klein, Office of Records Management, Cliff Sloan, Patsy Thomasson and Counsel's office.

- *December 29, 1995:* Watkins memo "found" at the White House.
- *January 3, 1996:* White House produces more documents from various White House offices. Watkins memo is produced.

- *January 5, 1996:* Committee issues personal subpoenas to David Watkins and Harry Thomason for all Travel Office documents.
- *January 11, 1996:* Committee issues subpoenas to White House for all outstanding documents and to six individuals at White House (due on January 22, 1996).

White House Response:

- *January 22, 1996:* White House produces documents from Counsel's office, Chief of Staff's office, Office of Administration and other offices.
- *January 29, 1996:* White House produces documents from miscellaneous files including those of Patsy Thomasson and Catherine Cornelius.
- *February 1, 1996:* White House Counsel sends out memo to all staff requesting all documents responsive to the January 11, 1996 subpoena due on January 22, 1996.
- *February 14, 1996:* White House produces documents from various individual files.

- *February 7, 1996:* Committee sends individual subpoenas to more than 25 present and former White House staff (due February 26, 1996).
- *February 15, 1996:* Committee issues interrogatories to Mrs. Clinton due on February 29, 1996. (Subsequent request for an additional 3 weeks to respond is granted.)

- *February 15, 1996:* White House distributes a memo to present and former staff, volunteers and others who received personal subpoenas requesting that they turn over their documents to the White House and stating that the White House in turn will produce relevant documents to the committee.
- *February 22, 1996:* White House produces documents from various White House offices, including notes taken by a White House intern monitoring the Billy Dale trial and documents related to Billy Dale trial. White House represents that responsive documents have been produced and this should complete production but that there are documents they believe are subject to privilege which they are withholding. No privilege log is provided.
- *March 4, 1996:* White House produces additional documents.
- *March 8, 1996:* White House produces documents from Cliff Sloan, Todd Stern, Matt Moore, Dee Dee Myers, Natalie Williams and Counsel's office.
- *March 15, 1996:* White House produces a small number of documents including a never before produced letter to Mrs. Clinton from David Watkins dated May 3, 1994—the day after the GAO Travel Office Report was issued.
- *March 21, 1996:* First Lady provides responses to committee's interrogatories regarding the Travel Office.

• *April 1, 1996:* White House produces additional documents including the first e-mail produced by the White House.

• *April 2, 1996:* White House produces additional documents from Cliff Sloan's records and Office of Personal Correspondence.

• *April 18, 1996:* White House produces documents from Dee Dee Myers that were left out of earlier productions (documents are notes from May 1993, concerning the Travel Office).

• *April 24, 1996:* White House produces several pages of additional documents from Tom Castleton, David Watkins and Information & Systems Technology.

• *May 9, 1996:* The committee held White House Counsel Jack Quinn and White House aides David Watkins and Matthew Moore in contempt for failing to turn over documents.

• *May 9, 1996.*—White House Counsel writes Chairman Clinger a letter claiming blanket executive privilege on behalf of President Clinton over 3,000 pages of documents being withheld from the committee. Attached is a letter to the President from Attorney General Reno endorsing that claim. The Attorney General had not reviewed any documents at that time. The committee votes to hold Messrs. Quinn, Watkins and Moore in contempt of Congress.

• *May 30, 1996:* The White House delivers to the committee 1,000 of the 3,000 pages over which it previously had claimed executive privilege and a privilege log for the remaining documents. The committee postpones a scheduled contempt vote on the floor of the House against White House Counsel Quinn in order to review the documents and log. Included in these documents was a December 20, 1993 request for Billy Dale's FBI file.

• *June 5, 1996:*—In light of the committee's discovery of the White House's December 20, 1993, request of Mr. Billy Dale's confidential FBI background file, Chairman Clinger writes President Clinton to request that the remaining 2,000 pages of documents over which he has claimed executive privilege be produced.

• *June 10, 1996.*—White House Counsel advises Chairman Clinger that the 2,000 pages still withheld under a claim of executive privilege are "unquestionably within the scope of this privilege."

• *June 18, 1996.*—Chairman Clinger writes a letter to Ranking Member Cardiss Collins, who has agreed to act as an intermediary to the White House concerning the 2,000 pages. This letter lists documents the committee deems essential to obtain from the remaining 2,000 pages and asks the White House to certify that no other documents remain outstanding.

• *June 25, 1996.*—White House Counsel Quinn agrees to Chairman Clinger's proposal as contained in the chairman's letter of June 18, 1996, to Ranking Member Cardiss Collins.

• *June 27, 1996.*—Chairman Clinger and committee staff begin review of remaining 2,000 pages of documents at

committee offices in the presence of White House personnel.

• *June 28, 1996.*—Chairman Clinger writes White House Counsel Quinn, raising the issue of White House redactions and insufficient detail in the White House privilege log as it relates to the review of the 2,000 pages.

• *July 10, 1996.*—White House Counsel Quinn writes Chairman Clinger suggesting protocols for deposing White House lawyers, and recommends confirming White House redactions with the assistance of a neutral third party.

• *July 12, 1996.*—White House Counsel Quinn writes Chairman Clinger a letter memorializing his interpretation of an agreement to interview White House attorneys. It suggests that Chairman Clinger has agreed to provide White House lawyers, in advance, with notification of subjects that will or will not be covered.

• *July 18, 1996.*—White House Counsel Quinn writes Chairman Clinger concerning the reviewing of redacted documents accompanied by one majority staff member, Ranking Member Collins or her designee and one minority staff member. This letter also acknowledges that Chairman Clinger has reserved the right to request any material relating to Mr. Craig Livingstone.

• *July 24, 1996.*—Chairman Clinger clarifies White House Counsel Quinn's misinterpretation of agreements outlined in Counsel Quinn's July 12, 1996, letter, suggesting that White House lawyers be advised in advance of subject matters to be covered or excluded in depositions. Under separate cover, Chairman Clinger writes Counsel Quinn a letter indicating more than 200 pages of documents unidentified in the White House privilege log.

• *July 31, 1996.*—Chairman Clinger writes White House Counsel Quinn, after personally having spent 6 hours reviewing redacted White House documents, requesting that the White House produce all responsive documents in three categories: 1) communications with outside attorneys relating to interviews, depositions or Grand Jury appearances; 2) briefing materials and questions prepared for Congress; and, 3) the review of Mr. Foster's office.

• *August 15, 1996.*—White House produces 1,400 of the 2,000 pages of documents it had withheld under claims of executive privilege.

The above chronology demonstrates the dramatic lengths to which the committee had to go to assure that the White House would provide all responsive documents. Even after 3 years of effort, we know there are still missing documents that are relevant to this inquiry that have been "lost" at the White House or by outside parties.

B. WHITE HOUSE PROTECTION EFFORTS WERE PARTICULARLY KEYED TO WITHHOLDING DOCUMENTS POTENTIALLY DAMAGING AND SHIELDING KEY PLAYERS

1. Harry Thomason Role

Time and again, the committee has been denied critical documents responsive to the investigation. Sometimes, we were told documents did not exist only to later have those documents appear when we subpoenaed the right people. This happened with two critical documents: a January 29, 1993 memo from Darnell Martens to his partner Harry Thomason and a March 5, 1993 memo. These documents establish that the idea of seeking Government business, including that of the Travel Office, for their company, TRM, was explored by the two.[670] Harry Thomason finally turned over this document under threat of a subpoena in December 1995. The March 5 memo to Harry Thomason discussed Martens' efforts to gather incriminating information on the Travel Office employees while promoting TRM for a plan to take over the Travel Office.[671]

These documents suggest that long before Harry Thomason promoted rumors of wrongdoing in the Travel Office, he was seeking Government business for TRM. This information was shielded from the public for the past several years by Thomason's White House allies.

The President withheld notes by Special Counsel Jane Sherburne concerning how the White House responded to various requests for Harry Thomason documents. Ms. Sherburne noted:

> Only DOJ knows this . . . not GAO or Hill. Relevance is if SGE, wld [would] be conflict. Route to their indictment is from here—which wasn't part of Mgmt Review. Problem: allegations that GAO didn't get it and we not disclose.[672]

Mr. Thomason used his access to the White House to discuss opportunities for Federal Government contracts with the President in February. President Clinton forwarded Harry Thomason's business proposal to McLarty, Gearan and Watkins after writing "these guys are sharp."[673] The "ICAP" documents which discussed this proposal were the records that were withheld from GAO and Congress.

Curiously, the documents the committee obtained from Harry Thomason were never even requested by the Justice Department, which was charged with investigating Thomason's activities at the White House. Only after the committee obtained these and many other documents regarding Harry Thomason, Darnell Martens and TRM did the Justice Department in turn seek to obtain documents this committee already had received. Had the Justice Department been conducting a thorough investigation, it would have sought documents from Harry Thomason.

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[670] The committee had been repeatedly informed by the White House Counsel that the January 29, 1993 memo simply didn't exist.

[671] March 5, 1993 memo to Harry Thomason from Darnell Martens with attached memo on the Travel Office.

[672] Handwritten notes of Jane Sherburne, undated, discussing Travel Office issues and Harry Thomason liability, DF 781903.

[673] February 11, 1993 memo seeking Federal Government contracts, CGE 2223.

2. Notes of Interview with Mrs. Clinton—Missing

The committee also learned that documents that once existed now supposedly are among the missing. Also missing are notes taken by Neil Eggleston of his interview with Mrs. Clinton in response to GAO questions about Mrs. Clinton's role in the firings of the Travel Office employees.[674] The White House has informed us it had not been able to locate these critical notes. Mr. Eggleston testified that he probably did take such notes and that he left all of his notes in the custody of Special Counsel Jane Sherburne.[675] Who had access to this critical evidence in addition to Sherburne and why has it disappeared?

3. Missing Memo in Kennedy's office which was reviewed by FBI agents

The committee also has identified another key missing Travel Office memo identified by two FBI agents who said it was shown to them by Bill Kennedy when he summoned them to the White House to initiate the FBI investigation of the Travel Office employees. According to the FBI agents, Kennedy told them that a friend of the President's was unsuccessfully trying to get business.[676] Mr. Kennedy pulled out a memo that detailed alleged wrongdoing by Travel Office employees—kickbacks, lavish lifestyles and the like.[677] This approximately 10 page memo was shown to the agents, but they were not provided with a copy. These same agents were told of "highest levels" interest in the White House.

That same morning, Harry Thomason was scheduled to meet with President Clinton.[678] Harry Thomason had been in touch with Mrs. Clinton prior to his meeting with the President according to documentary evidence the committee has obtained.[679] Mr. McLarty and Susan Thomases also were on Thomason's White House schedule in this timeframe.[680]

The White House claims the missing 10 page document allegedly shown to FBI agents doesn't exist—another mystery document that the White House and Kennedy claimed to know nothing about.[681] The White House asks that the committee take Kennedy's word over that of two FBI agents after he left the White House under an ethical cloud. This is yet another situation in which the White House contradicts the recollections of career public officials who have no reason to provide incorrect information.

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[674] Mr. Eggleston believes it is most likely that he did take notes and says he left them at the White House with Special Counsel Jane Sherburne who has headed up the document production for the White House in response to the committee's requests and subpoenas. See committee deposition of Neil Eggleston, June 3, 1996.

[675] Committee deposition of Neil Eggleston, June 3, 1996.

[676] OPR interview of Howard Apple and Patrick Foran.

[677] OPR interview of Howard Apple and Patrick Foran.

[678] Harry Thomason's phone logs.

[679] Handwritten notes of David Watkins, May 31, 1993, PM 00169.

[680] Harry Thomason phone logs.

[681] See Chairman Clinger letter of December 14, 1995, to White House Counsel Jack Quinn and response from Counsel Quinn to Chairman Clinger on December 20, 1995, in *Correspondence between the White House and Congress in the Proceedings Against John M. Quinn, David Watkins and Matthew Moore.*

4. Missing Mack McLarty Memo

Another "missing" document is a document that first was identified by Jennifer O'Connor in the summer of 1993.[682] Ms. O'Connor recalled a memo that Mack McLarty had sent to senior staff explaining what Harry Thomason would do at the White House.[683] A directive from the Chief of Staff explaining the purpose of Thomason's efforts would be logical since Harry Thomason made requests of dozens of staffers to meet with him on "the White House Project." The McLarty memo, as described, would explain Thomason's official role at the White House.

C. WHITE HOUSE RESPONSE ON MATTERS RELATED TO MRS. CLINTON

Particularly as regards the role of Mrs. Clinton, Watkins was not alone in being "vague and protective." Mrs. Clinton herself could remember little of substance about communications regarding the Travel Office, except for derogatory information about its fired employees.[684]

Mrs. Clinton recalled derogatory information with a specificity altogether lacking in her other recollections. She had no clear recollection who provided her with this information. Under oath, however, she acknowledged, "I became aware from Vincent Foster or Harry Thomason of concerns about financial mismanagement in the White House Travel Office."[685] Since Mr. Foster's notes seem to indicate that he first learned of this matter from Mrs. Clinton, not the other way around, it appears that only leaves Harry Thomason as the likely source of Mrs. Clinton's information.[686]

When it comes to the role of Mrs. Clinton, the hazy memories of the various players in the Travelgate saga exhibit a striking pattern of obfuscation and obstruction. This has been the case in each successive investigation, from the White House itself to congressional committees and the GAO to the Independent Counsel.

The following are just some of the instances where White House staff airbrushed Mrs. Clinton out of the Travel Office picture and related events:

- When Podesta and Stern were initially tasked with conducting the White House Management Review, notes from the authors indicate that Chief of Staff Mack McLarty did not immediately disclose conversations he had with Mrs. Clinton in which she had urged action on the Travel Office matter. Nor did McLarty immediately provide them with the May 17 memo regarding the firings which was "cc'd" to Mrs. Clinton and which discussed Harry Thomason bringing the allegations to light.[687]
- On May 27, 1993, just a week or so after the firings, Harry Thomason in an interview for the White House Management Review failed to discuss any of the conversations he had with Mrs. Clinton about the Travel Office.[688] (Mrs. Clinton has

[682] Public Integrity interview of Jennifer O'Connor, August 1993.
[683] *Id.*
[684] Response to committee interrogatories for Mrs. Clinton, March 21, 1996.
[685] *Id.*
[686] Foster Travel Office file, CGE 1003.
[687] See committee depositions of John Podesta, June 5, 1996, and Todd Stern, May 29, 1996.
[688] WHMR interview of Harry Thomason, May 27, 1993, CGEPR 451–465.

made public statements that she did not think it was Harry Thomason who brought the Travel Office issue to her attention. But notes in the 2,000 pages indicate that Thomason's attorneys acknowledged he did have conversations with Mrs. Clinton: Document DF 780464 reads, "Harry → conversations with her in passing → 1 or 2 in passing → he recalls being in office abt Little Rock/Inauguration. Travel Office comes up → Status report. Told her abt things he believed were wrong. They should be replaced disloyalty → —remembers telling DW should be replaced, and that FC shares his view.—could → did this during the campaign → could do the job →→ probably told her about plans."[689] And under oath in answers to interrogatories submitted to the committee, Mrs. Clinton acknowledged that Harry Thomason or Vincent Foster brought the matter to her attention.[690])

• On June 2, 1993, in Vince Foster's White House Management Review interview,[691] he made no mention of his numerous conversations with Mrs. Clinton about the Travel Office. But he did note that he considered some of his conversations to be privileged. He later relayed contacts in a June 30, 1993 meeting but downplayed them.[692] At this time or sometime shortly thereafter, Foster started keeping a detailed notebook in which he outlined the conversations he had with Mrs. Clinton about the Travel Office. This notebook was kept from investigators for years. Notes in the 2,000 pages of withheld documents refer to entries in the notebook which could be used to suggest Mrs. Clinton urged hasty action by Watkins and others.

• On June 2, 1993, in Watkins' White House Management Review interview, Watkins made no mention of his conversations with Mrs. Clinton about the Travel Office.[693] Indeed in his "soul cleansing" memo, Watkins noted he had been "vague and protective" and that there would be "hell to pay" if things were not done as Mrs. Clinton wanted.[694]

• In a March 21, 1994, GAO interview, McLarty recounted one meeting that he had with Mrs. Clinton on May 13, 1993, about the Travel Office. Mrs. Clinton says she "stopped by McLarty's office to say that she had heard about inefficiencies in the Travel Office and asked him to look into it."[695] Mr. McLarty did not discuss a later May 16th encounter with Mrs. Clinton which was explained in his copy of a Travel Office chronology as "HRC pressure" and which McLarty has now acknowledged.[696]

• On July 26, 1993, the Foster "suicide" note was found.[697] In FBI interviews several days later, the three attorneys—Bernard Nussbaum, Bill Burton and Steve Neuwirth—who had been present when Mrs. Clinton viewed Foster's note failed to

[689] Handwritten notes of Natalie Williams, DF 780464–780465.
[690] Responses to committee interrogatories for Mrs. Clinton, March 21, 1996.
[691] WHMR interview of Vincent Foster, June 3, 1993, CGEPR 240–259.
[692] WHMR interview of Vincent Foster, June 30, 1993, CGEPR 258–259.
[693] WHMR interview of David Watkins, June 3, 1993, CGEPR 487–508.
[694] Watkins memorandum, CGE 12286–12294.
[695] GAO interview of Mack McLarty, March 24, 1994.
[696] "Chronology of Travel Office firings," May 25, 1993, CGEPR 563–564.
[697] Final Report of the Special Committee on Whitewater, pp. 83–90.

acknowledge that Mrs. Clinton had been present shortly after the discovery of the note.[698] In a pattern emanating from the White House of late, associate counsel Steve Neuwirth, one of those present when Mrs. Clinton looked at Foster's note, said the FBI agent took bad notes and claimed he told about Mrs. Clinton's presence when they reviewed the Foster note.[699] In the interview of Bill Burton, there was also no mention of Mrs. Clinton being present in the room.[700]

• On July 26, 1996 David Gergen had a conversation with McLarty in which McLarty said that Mrs. Clinton was very upset, believed the matter [the "suicide note"] required further thought and that the President should not yet be told.[701] She said they should have a coherent position and should have decided what to do before they told the President. (DF781222) Gergen DID NOT relay this conversation in questioning under oath in the Whitewater Committee, nor did he relate this conversation in his informal interview with the Committee on Government Reform and Oversight.[702] This conversation was relayed in one of the debriefings that White House Counsel did of Gergen's attorney.[703] If this was relevant enough to tell the White House, why was this information withheld from the Whitewater Committee?

• On July 27, 1993—the day after Foster's suicide note was found and the day the Clintons' personal files were turned over to the law firm of Williams and Connolly—virtually no one who was recorded as being in the White House residence that day has a memory of discussing anything about documents or the Foster suicide note with Mrs. Clinton even though records show Mrs. Clinton never left the residence all day. White House records show that Bernard Nussbaum, Bob Barnett, Susan Thomases, Webb Hubbell, Steve Neuwirth, and Maggie Williams were in the residence that day.[704] Interestingly, the so-called personal documents turned over to Williams and Connolly on this day included documents relating to Harry Thomason and the White House Project.[705] Mr. Foster's suicide note contained numerous references to the Travel Office.

The apparent efforts to "airbrush" out Mrs. Clinton's role in this matter or her presence on certain occasions has been a consistent theme throughout this investigation as well as other investigations. This even was apparent in the production of a White House privilege log in which the White House mischaracterized documents directly related to or mentioning Mrs. Clinton.

For example, a document identified on its face as "Foster conversations with HRC re: Travel Office" was characterized in the privilege log provided to the committee prior to the document re-

[698] FBI interview of Special Agent Scott Salter, August 9, 1994.
[699] Final Report of the Special Committee on Whitewater, p. 89.
[700] FBI interview of SA Scott Salter.
[701] Memo to the file from Miriam Nemetz re: Gergen deposition, July 13, 1995, DF 781222.
[702] Informal interview of David Gergen, September 13, 1995.
[703] Memorandum for the file from Miriam Nemetz re: Gergen deposition, July 13, 1995. DF 781222.
[704] White House residence logs, July 27, 1993.
[705] White House residence logs, July 27, 1993.

view as "Memorandum analyzing Foster communications re: Travel Office." [706]

Why did the Counsel's Office misrepresent this document in a log of documents over which the President was claiming executive privilege? Was this done with the President's knowledge or approval? Under the Reagan executive privilege memorandum, the President must personally assert the privilege, but only over a very limited universe of documents such as those involving the national security, not debriefings of witnesses appearing before the House or Senate committees or Independent Counsels, for example.

Another document entitled on its face "HRC Travel Office Chronology" was labeled in the privilege log as "chronological analysis of Travel Office events." [707] Still another document entitled "HRC Role" which outlined what various reviews and investigations said about Mrs. Clinton's role in the Travel Office firings was identified by the White House as: "Draft chart analysis and comparison of various Travel Office investigations." [708]

Why, even when producing a privilege log, did the Counsel's office continue to engage in such obfuscation? Who is the White House Counsel's office responding to when it takes such actions? Did the President know of these misrepresentations?

In what apparently must have been off-message scripts, several Democrat members of the committee noted Mrs. Clinton's role. Rep. Waxman stated, "the First Lady said something or other to the effect that the administration ought to put its own people in or ought to make some change, presumably. What is wrong with that?" [709] Rep. Kanjorski offered that "we did probably have a sensitive First Lady" who remembered his investigation of the Bush White House into travel matters. Rep. Kanjorski explained Mrs. Clinton's involvement as "a normal interest of a protective wife." [710]

D. PATTERN OF OBSTRUCTION

1. Delays in document production

As in any other investigation, the committee depended on White House cooperation to obtain access to documents and witnesses to ascertain what led to the Travel Office firings and the actions which followed. Unfortunately, the Clinton administration proved singularly uncooperative on both fronts just as it had—the committee learned—with all previous investigations of the Travel Office matter. The White House claimed as recently as September 1995, that all relevant documents had been produced.

When it surfaced 3 months later, the Watkins "soul cleansing memo" belied those claims and led the committee to issue bipartisan subpoenas for all remaining documents relevant to the Travel Office investigation. Even after the subpoenas were issued, however, the White House delayed the production of responsive documents for months, claiming executive privilege and leading the committee to vote White House Counsel Jack Quinn in contempt of

[706] September 5, 1995, letter to Barbara Comstock from David Kendall producing documents from the Clinton's "personal" files that related to Harry Thomason or the White House project.
[707] DF 780050–780051.
[708] DF 780086–780092.
[709] DF 780712–780717.
[710] Committee on Government Reform and Oversight hearing, January 17, 1996, p. 16.

Congress. Of 3,000 documents over which the White House had claimed executive privilege, 1,000 were produced to the committee in late May 1996, on the very day that the committee's contempt resolution against White House Counsel Quinn headed to the House floor for a vote. Following months of negotiations, the White House produced 1,400 additional pages to the committee on August 15, 1996.

The committee believes that the Clinton administration's time-honored strategy of delaying and obfuscating legitimate investigations of possible administration misconduct—very likely intended to avoid responsibility and accountability for its actions—in fact has compounded the difficulties it faces today.

The events leading up to the Travel Office firings, reflective of cronyism, self-interest and bad faith among Clinton administration appointees and volunteers, are disturbing in themselves. But the administration's determined efforts to obstruct investigations by the GAO, Justice Department, this committee and others invites justifiable criticism and corrective action.

The committee's decision to continue its Travel Office investigation followed its finding in its first Travel Office hearing on October 24, 1995, that the Clinton administration in fact had not cooperated with any of the previous independent investigations of the Travel Office. In fact, the administration clearly limited the scope of its own White House Management Review—refusing it access to such key documents as the Vince Foster Travel Office diary (and even the very knowledge of its existence).

2. Reluctant Witnesses

In its efforts to complete the work of the previous investigations and learn once and for all exactly what had happened at the Travel Office, witness interviews were a necessary complement to the committee's review of contemporaneous White House documents.

When the committee sought to conduct witness interviews, however, the White House proved no more cooperative than it had in document production. It sought, unsuccessfully, to have representatives of the White House Counsel's office sit in on committee interviews as it had done with GAO Travel Office and OPR interviews and even criminal FBI interviews.[711] The White House in fact interfered with interviews scheduled by the committee with former White House staffers, leading at least one to cancel an interview already scheduled with the committee.[712]

Key witnesses such as David Watkins and Patsy Thomasson also refused to appear before the committee voluntarily and it became apparent that the committee would not be able to complete the investigation without requiring individuals to testify under oath.

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[711] Committee on Government Reform and Oversight hearing, January 17, 1996.

[712] White House Counsel was in contact with former White House staffer Janet Greene in August 1995. Ms. Greene had agreed to meet with committee staff and cancelled her interview with the committee after the Counsel's office objected to the interview because they were not allowed to attend. Ms. Greene's phone logs indicate numerous phone calls from both White House Counsel and minority staff of the committee in August 1995.

E. COMMITTEE MOVED TO DEPOSITIONS UNDER OATH

In March 1996, the House of Representatives voted to provide the committee with limited deposition authority for the purpose of completing its Travel Office investigation. Since that time, committee staff has taken sworn depositions from more than 70 witnesses.

1. "I don't recall . . ."

Even under oath, however, many witnesses have proved less than forthcoming. Many of the key players in the Travel Office case appear to have suffered massive, if specific, memory losses regarding their role in the matter. Unfortunately, this repeats a long-established pattern among senior White House officials and outside advisors to President and Mrs. Clinton. Whether in testimony before Senate or House subcommittees, countless senior advisers acclaimed for their intelligence have no "specific"—or general—recollection of any matter under review at any given time by the Congress. This is a most troubling pattern which has prevented the Congress from fulfilling its constitutional obligation to oversee the executive branch.

The extent to which many key witnesses in the committee's depositions did not recall, did not know, did not remember and/or did not recollect critical events in which they participated and/or documents which they created or reviewed sufficiently concerned the committee that it calculated the incidence of memory lapses and outright loss among all the witnesses who testified before it. This was accomplished by searching each deposition for such key phrases as: "I don't recall," "I don't know," "I don't remember" and "I have no recollection." Slight variations of these phrases also were counted into the totals for each witness. Examples of these include: "Not that I recall," "Not to my recollection," "I have no specific recollection," and so forth.

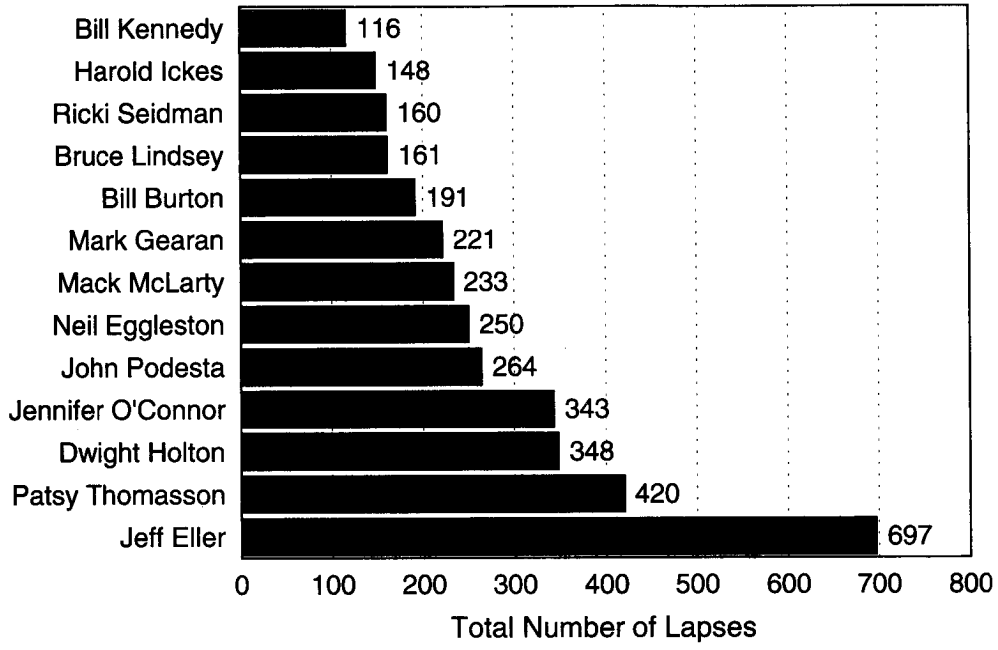
The committee understands it is possible that, over the course of 3½ years, witnesses in fact would forget some details surrounding their involvement in the White House Travel Office matter. However, senior administration officials of the Clinton White House who participated in the Travel Office firings and subsequent cover-up would still have the benefit of personal and White House records to refresh their memories in advance of committee depositions and the obligation to fully and accurately respond to committee inquiries to the best of their abilities.

2. Who couldn't "recall"

Not surprisingly, the worst memory losses were incurred by those nearest to and most responsible for the Travel Office firings and investigation, those who presumably would have the best recollections and greatest access to documents which might refresh their recollections. The best memories were reserved for those not in authority in the White House or elsewhere who may have observed or participated only tangentially in the White House Travel Office matter. These include longstanding Federal employees whose service predates the arrival of the Clinton administration.

[The information referred to follows:]

Witnesses' Memory Lapses During Committee Depositions



In an effort to further explore this pattern, the committee categorized witnesses who were deposed under oath in categories according to offices in which they worked/volunteered or with which they were affiliated in some way, as follows:

—White House Travel Office—those who participated most directly in the Travel Office firings and aftermath;

—White House Management Review—those who conducted the review of the Travel Office matter which was released on July 2, 1993, and described as a "stealthy, evasive confession" by the New York Times in a July 11, 1993, editorial;

—White House Counsel's Office—those who have worked on the Travel Office (and other) investigations in any capacity;

—White House—those not known to be directly involved in the decisionmaking in the Travel Office firings, Management Review, Counsel's office or FBI files matter but who otherwise played advisory or other roles in it;

—Miscellaneous—three individuals not affiliated with the White House but who testified to their respective roles in the Travel Office and/or FBI files investigations.

White House Travel Office

White House Media Director Jeff Eller proved the most forgetful of all of his former colleagues who were deposed by the committee, and perhaps not without reason. As a boyfriend of Catherine Cornelius, Eller was aware of her plans to head a reorganized White House Travel Office and was among those who advocated early action on the firings of seven long-time Travel Office employees.[713]

Mr. Eller could not recall talking points that several of his colleagues ascribed to him.[714] In the course of the White House Management Review, it was learned that Eller threw away his Travel Office notes.[715] Most ironically given the extraordinary level of his forgetfulness, Eller told the committee under oath that he does not keep a lot of paper/notes because he prefers to keep things in his memory.[716]

Patsy Thomasson's memory or knowledge betrayed her some 420 times in the course of her deposition. She, too, had much to forget, including her role in KPMG Peat Marwick's review of the Travel Office, her changing of the locks to the Travel Office, threats she allegedly made against Catherine Cornelius and Clarissa Cerda in order to ensure they would not challenge assertions that David Watkins never read their February 15, 1993, Travel Office reorganization memo, and her activities in Foster's office on the night of Foster's suicide.

Jennifer O'Connor, Deputy Director of the Office of Management and Administration at the time of the Travel Office firings, currently is a Special Assistant in the Office of the White House Chief of Staff. She tallied up some 343 memory lapses concerning her role as an assistant to Ms. Thomasson and David Watkins at the time of the firings. Ms. O'Connor drafted the May 17, 1993,

[713] WHMR, p. 20.
[714] May 13 talking points, Jeffrey Eller, CGE 7933.
[715] WHMR interview of Jeff Eller, CGEPR 0230.
[716] Committee deposition of Jeff Eller, pp. 82–83.

McLarty memo which was copied to First Lady Hillary Rodham Clinton. She met with Harry Thomason on the subject of the 25 percent staff cuts in the White House and she recommended to David Watkins that Larry Herman and KPMG Peat Marwick be hired to conduct a review of the Travel Office.[717]

Mr. McLarty who had repeated contact with Mrs. Clinton over the Travel Office matter, had 233 instances where he could not recall key events. While McLarty did finally "recall" a previously omitted meeting with Mrs. Clinton about the Travel Office in light of the committee's documentation of that contact, there were still numerous other instances where McLarty forgot.

White House Management Review

Those involved in preparing the White House Management Review arguably should have had as clear an understanding as any exactly what happened in the White House Travel Office matter and why it happened.

In short, the memories of those most closely involved with the White House Management Review had difficulty recalling key events under oath: Dwight Holton, former Special Assistant to Deputy Chief of Staff Mark Gearan, now a recent law school graduate (348 instances); former Staff Secretary turned law school professor John Podesta (264); former Deputy Chief of Staff turned Peace Corps Director Mark Gearan (221); Staff Secretary Todd Stern (133); former Special Counsel to the Office of Management and Administration and assistant at the creation of David Watkins' "soul cleansing memo" Matthew Moore (130).

White House Counsel's Office

Several attorneys affiliated with the White House Counsel's Office played key roles at the time of the White House Travel Office firings. Others have been central to the White House response to the committee's requests for documents. They have every reason to be very fully aware of the details of the White House Travel Office matter. Yet their individual memories also come up short.

Neil Eggleston, who prepared First Lady Hillary Rodham Clinton's responses to a series of GAO questions after interviewing Mrs. Clinton and who handled all of the various document productions for Travelgate matters, could not recall, did not know, could not remember or recollect on some 250 occasions. Bill Kennedy, former Associate White House Counsel, who summoned the FBI to investigate the Travel Office at the behest of "the highest levels" could not recall 233 times in his April deposition and 116 in a June deposition related to the FBI files matter and the hiring of Craig Livingstone. Beth Nolan, who reviewed SGE and ethics issues in the Travel Office matter, registered 179, while Cliff Sloan tallied 173.

Bruce Lindsey, a long-time Assistant to the President and Senior Advisor turned Deputy White House Counsel, scored some 161 lapses. Bernard Nussbaum, whose claims that all who watched him divide Vince Foster's papers into three stacks were contradicted by

[717] WHMR interview of Jennifer O'Connor, pp. CGEPR 384–385.

all those alleged witnesses, registered 158 memory outages, and another 60 lapses in a subsequent FBI files-related deposition.

Memory or knowledge failed current White House Deputy Chief of Staff Harold Ickes some 148 times; Senior Advisor to the President George Stephanopoulos some 142 and 102 times in two separate depositions; former White House Deputy Chief of Staff Roy Neel some 135 times; and, Assistant to the President for Special Projects Rahm Emanuel on some 102 occasions. Again, given the position of these individuals and their access to White House colleagues and records, the committee believes they had every reason to be cognizant of far more than admitted in their depositions. Mrs. Clinton's Chief of Staff Maggie Williams had some 82 lapses, and particularly couldn't recall anything related to conversations she had with Mrs. Clinton about the Travel Office.[718]

In Conclusion

This is the administration which brought, "I have no specific recollection" and "vague and protective" into the political lexicon. This is the administration in which one's capacity to remember diminishes dramatically as one's authority and responsibility increases. Our analysis suggests that the nearer to the events and the higher up they are in the "chain of command," the more likely these men and women conveniently forget.

The committee is troubled and cannot help but conclude that the memory lapses of numerous senior White House officials—who otherwise exhibit no incapacity or impairment and in fact appear highly regarded—appear in large part to be deliberate, not accidental.

XIV. THE STONEWALL BEGINS TO CRACK

A. WATKINS MEMO BEGINS TO EXPLAIN THE TRUE STORY

One document—the Watkins "soul cleansing" memo—was discovered after 2 years of investigations among documents belonging to Patsy Thomasson who long before had signed an internal White House document claiming she had searched all her files for Travel Office documents.[719] The "soul cleansing" memo went a long way in explaining the real Travelgate story and should have been turned over years earlier to numerous congressional and criminal investigations. Ms. Thomasson's explanations as to why she didn't turn over the Watkins memo are unconvincing.[720] Rather than conduct a search of her records for responsive documents, Ms. Thomasson stated that she was "absolutely positive" that she didn't have any documents and when a copy was mysteriously found in her records she was at "a complete loss" to explain how it got there.[721] No explanation is offered to explain how she happened to forget that she had a copy of this document.

Clearly neither Watkins nor others at the White House ever wanted this version of events to see the light of day. Mr. Watkins explained in his memo he had been "as protective and vague as possible" when talking with investigators. Indeed Watkins was

[718] Deposition of Maggie Williams, July 29, 1996, pp. 15, 20–22, 28.
[719] Watkins memorandum, CGE 12286–12294.
[720] Statement of Patsy Thomasson, January 5, 1996, CGE 36932.
[721] *Id.*

forced most reluctantly to become a witness against himself and his former colleagues as a result of this discovery.[722]

The Watkins "soul cleansing" memo surfaced despite the fact that Watkins' assistant, attorney Matthew Moore, removed the document from the hard drive of his computer and downloaded it onto a disk for Watkins before Watkins left the White House.[723] But Watkins had left a copy with Patsy Thomasson in whose records it eventually was discovered by career White House recordkeeping officials reviewing old files.[724]

The memo provides a candid, unvarnished, and contemporaneous account of the behind the scenes maneuvering and pressures that led to the Travel Office firings. The White House tried to distance Watkins, a former close ally, from the actions of others at the White House but this cannot be supported by the documentary record. The committee obtained considerable evidence of meetings, phone calls and contacts that support the version of events relayed in Watkins' "soul cleansing" memo. In addition, some of the deposition testimony has also supported events as recounted in the memo.

1. Pressure from First Lady and Mack McLarty

In his deposition, Mack McLarty said he never saw Watkins' memo, but acknowledged a never before disclosed conversation with Mrs. Clinton on May 16, 1993—3 days before the firings.[725] Mr. McLarty previously told GAO that he only had one meeting with Mrs. Clinton about the Travel Office.[726]

Now, 3 years later and after the committee obtained documents indicating a May 16 contact between Mrs. Clinton and McLarty, he acknowledges an additional conversation with Mrs. Clinton concerning the Travel Office.[727] On one of the chronologies of Travel Office events, which the White House initially represented was subject to executive privilege, McLarty made a handwritten notation: "May 16: HRC pressure."[728]

Mr. McLarty testified that this notation either reflected something that somebody said at a meeting or "may reflect my exchange with the First Lady on the 16th that we had a pressure to act about this matter."[729] Mr. McLarty now acknowledges "I believe I felt a responsibility, and indeed a pressure, to act, given the information I had, and I believe Mrs. Clinton had a serious concern about this matter and I felt a pressure from her to take it seriously and to act upon it, if necessary."[730]

Mr. McLarty acknowledged that Mrs. Clinton was encouraging action be taken: "I think that was really what she was saying, let's make a decision, you and others charged with this responsibility,

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[722] Mr. Watkins testified before this committee that all the information contained in his memorandum was true. He denied under oath that he had "lied to his memorandum."

[723] Committee deposition of Matthew Moore, March 26, 1995, p. 56. Mr. Moore testified that we worked on 10 different drafts of the Watkins memo.

[724] Letter to Chairman Clinger from Jack Quinn, January 17, 1996.

[725] Committee deposition of Mack McLarty, July 12, 1996, p. 42.

[726] GAO interview of Mack McLarty, March 24, 1994.

[727] Committee deposition of Mack McLarty, p. 42.

[728] CGEPR 563–564.

[729] Committee deposition of Mack McLarty, p. 41.

[730] *Id.,* p. 42.

make a decision and take appropriate action."[731] Mr. McLarty had this conversation with Mrs. Clinton in the residence on May 16 where he was present for a dinner with the President and First Lady.[732]

Mr. McLarty provided a more extensive account of his May 13, 1993 conversation with Mrs. Clinton. Previously McLarty had passed off this meeting as a "stand-up" 5 minute meeting of little consequence.[733] In his deposition, however, McLarty acknowledged that Mrs. Clinton had called to specifically meet with him in his office about the Travel Office. Mrs. Clinton came to his office to specifically discuss this matter.[734]

In documents which were long withheld from the committee, McLarty's attorneys discussed these meetings with White House Associate Counsel Natalie Williams at or around the time of the release of the Watkins memo.[735] In the notes, Williams writes "Conversation w/ First Lady, updating her Peat Marwick audit, told her on top of it, handling situation." Mr. McLarty's attorneys also told Williams of McLarty's May 16 conversation with Mrs. Clinton.[736] The White House asserted executive privilege over these conversations and refused to allow Williams to testify about any conversations contained in her notes.[737]

Mr. Watkins described the pressures he felt from Mrs. Clinton and Mr. McLarty in his memo:

> I would have much preferred to have my staff carefully review the Travel Office and make a detailed business plan for the new fiscal year. This proved impossible, though, when the pressure for action from Mrs. Clinton and you became irresistible. . . . If I thought I could have resisted those pressures, undertake more considered action, and remained in the White House, I certainly would have done so.[738]

Mr. Watkins testified before this committee that he considered "there would have been a great price to pay and perhaps my removal from the White House" if he didn't fire the Travel Office employees.[739] "After the Secret Service incident, it was made clear that I must forcefully and immediately follow the direction of the First Family," Watkins explained in his memo.

Under questioning about his actions during the week leading up to the firings, Watkins testified that "the direction of the First Family was to take swift and responsive action . . . we should reduce the travel—we should get our people in and get those people out." Congressman Shays asked Watkins just what he meant by that statement. Watkins replied: "It means fire them." Rep. Shays

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[731] Committee deposition of Mack McLarty, pp. 38, 57.
[732] *Id.*
[733] *See* July 2 press conference.
[734] Committee deposition of Mack McLarty, p. 25.
[735] Handwritten notes of Natalie Williams, undated, DF 780463.
[736] *Id.*
[737] Committee deposition of Natalie Williams, July 31, 1996, pp. 46–48, 55–56, 70–71.
[738] Watkins "soul cleansing" memo, CGE 12286.
[739] Committee hearing, January 17, 1996, p. 94.

inquired further: "It means get rid of them; doesn't it?" Mr. Watkins confirmed: "That is what it means." [740]

In other handwritten contemporaneous notes, Watkins wrote about a meeting that he had with McLarty and Patsy Thomasson on May 17, in which they talked about McLarty's dinner with the President and First Lady the night before." [741] Patsy Thomasson testified that Vincent Foster told her on May 13 that "the clients"—as Foster referred to the President and First Lady—were very interested in the Travel Office.[742]

2. Pressure from Harry Thomason

Mr. Watkins also detailed the central role of Harry Thomason in initiating Mrs. Clinton's interest in this matter and generating pressure throughout the White House: "Mrs. Clinton took interest in having the Travel Office situation resolved quickly, following Harry Thomason's bringing it to her attention. Thomason briefed Mrs. Clinton on his suspicion that the Travel Office was improperly funnelling business to a single charter company, and told her that the functions of that office could be easily replaced and reallocated." [743]

Mr. Watkins account of Thomason's central role is supported by numerous others within his office. Bonnie Berry who worked as a secretary in Watkins' office stated that Harry Thomason would call about two or three times a week, leaving either a Washington or Los Angeles phone number. Ms. Berry remembered him meeting with Watkins on more than one occasion between May 1st and May 19th.[744]

Ms. Berry testified that she arranged for the office space and White House passes for Harry Thomason and his assistant, Bobbie Ferguson, at the request of David Watkins.[745] Watkins testified that he did so at the request of Mrs. Clinton's office.[746] From Berry's testimony it appears that there may have been a different pass application for Harry Thomason that was signed by David Watkins.[747] The copy of the form the committee has received was signed by Clarissa Cerda, a Watkins assistant.[748]

Mr. Thomason testified there was a "buzz in the air" [749] of rumors about the Travel Office employees. However, the consensus from the vast majority of the dozens of witnesses who testified in committee depositions only described rumors coming from Thomason's contacts with Mrs. Clinton, Foster, Watkins and Cornelius.

While Harry Thomason never disclosed his discussions with Mrs. Clinton to those conducting the White House Management Review, he admitted in committee depositions that he was: "sure that [he] brought it to her attention." [750] Furthermore, in notes withheld

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[740] Committee hearing on January 17, 1996, p. 95.
[741] Handwritten notes of David Watkins, May 31, 1993, PM 000170.
[742] FBI 302 interview of Patsy Thomasson, September 22, 1993, CZ 00561.
[743] Watkins memorandum, undated, CGE 12287.
[744] Committee deposition of Bonnie Berry, May 21, 1996, p. 20.
[745] Committee deposition of Bonnie Berry, p. 32.
[746] Committee hearing, January 17, 1996.
[747] Committee deposition of Bonnie Berry, pp. 33, 36.
[748] CGE 2931–2933.
[749] Committee deposition of Harry Thomason, pp. 136–137, 188.
[750] Committee deposition of Harry Thomason, p. 228.

from this committee, one of Thomason's attorneys told White House Associate Counsel Natalie Williams that Harry had one or two conversations with Mrs. Clinton and remembered telling Watkins that the Travel Office employees should be replaced because they were disloyal and that Mrs. Clinton shared his view.[751] This information coincides with the information that David Watkins relayed in an FBI interview in August 1993 when he stated: "She [Mrs. Clinton] stated action needed to be taken immediately to be certain those not friendly to the Administration were removed and replaced with trustworthy individuals."[752]

In a committee deposition, Associate Counsel Natalie Williams refused to answer any questions about the notes she took of conversations with Thomason's attorney.[753]

Mr. Watkins' contemporaneous handwritten notes detail a conversation that he had with Harry Thomason on May 12: "Thomason comes back in DW's [office]—says he bumped into Hillary and she's ready to *fire* them *all that day*."[754]

Mr. Thomason's own records show numerous phone calls to and from Mrs. Clinton and President during this week.[755] Harry Thomason's records show meetings with the President on May 12 and May 13. Long before this time, Harry Thomason had pitched his proposals for TRM with a memo that the President subsequently forwarded to White House senior management with the notation: "These guys are sharp."[756]

White House records indicate that Thomason had dinner in the residence on a key day—May 13—the day the FBI was called in and told that this matter had the attention of those at the "highest levels" of the White House, and the day Mrs. Clinton requested a meeting with Mack McLarty to discuss the Travel Office and the pressure was on Vincent Foster and Bill Kennedy to find a solution.[757] On this day Foster told Patsy Thomasson that "the clients"—as he referred to the President and First Lady—were very interested in the Travel Office.[758] During that evening, Foster also placed a call to Mrs. Clinton according to his calendar notes.[759]

3. Secret Service Incident

Mr. Watkins also wrote that "after the Secret Service incident, it was made clear that I must more forcefully and immediately follow the direction of the First Family."[760] In her deposition with the committee, Maggie Williams has confirmed that Mrs. Clinton indeed was upset about a "Secret Service incident" in which Newsweek magazine reported Mrs. Clinton was rumored to have thrown a lamp in the residence. Ms. Williams personally addressed this situation by calling the Secret Service.[761]

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[751] Handwritten notes of Natalie Williams, DF 780464.
[752] Public Integrity interview of David Watkins, August 10, 1993.
[753] Committee deposition of Natalie Williams, July 31, 1996, pp. 55–62.
[754] Handwritten notes of David Watkins, May 31, 1993, PM 169.
[755] Phone logs of Harry Thomason, Thomason production, pp. 108–109.
[756] February 17, 1993 memo attached to February 11, 1993 memo of Darnell Martens to Harry Thomason, CGE 002296–98.
[757] Secret Service logs and White House residence logs for May 13, 1993.
[758] Public Integrity interview of Patsy Thomasson, September 27, 1993.
[759] Vince Foster Travel Office notebook, May-July 1993, CGE 1039.
[760] Watkins memorandum, CGE 0012286.
[761] Committee deposition of Maggie Williams, July 29, 1996, pp. 47, 58.

B. WHITE HOUSE MADE INEFFECTIVE CLAIMS OF "EXECUTIVE PRIVILEGE" OVER DISCUSSIONS ABOUT "WATKINS MEMO"

Overall, the supporting documentation that coincides with the revelations in the Watkins memo show that the official White House story glossed over significant contacts with both the President and First Lady. The President was actually informed of the firings by Bruce Lindsey on May 17—a fact omitted in the Management Review even though the authors now acknowledge they were aware of that fact and probably should have reported it. In a disturbing development, the White House has asserted executive privilege over conversations that White House attorneys or staffers for Mrs. Clinton had with Mrs. Clinton regarding the Watkins memo.

C. CONGRESS HOLDS WHITE HOUSE ACCOUNTABLE

Should a lower standard of accountability be accorded for the highest office in the land? We often hear "nobody cares" and it's clear enough that in this White House nobody does care about following the rules.

Whether announcing an FBI investigation of employees whose "crime" was to hold jobs coveted by Clinton family and friends, or improperly requesting and receiving hundreds of FBI background files that they had no business with, or sending a cozy "heads up" from the FBI to the White House about sensitive information, this administration consistently has engaged in activities that, at the least, give the appearance of abusing the power entrusted to it by the country. We should never get used to or tolerate the politicization of law enforcement even if nobody cares.

XV. PRESIDENT CLINTON HAS ABUSED EXECUTIVE POWER AND EXECUTIVE PRIVILEGE AND MISUSED THE COUNSEL'S OFFICE IN ORDER TO EFFECTUATE A COVER-UP OF THE TRAVEL OFFICE MATTER

A. THE LONG ROAD TO GETTING WHITE HOUSE DOCUMENTS—FROM FOOT DRAGGING TO EXECUTIVE PRIVILEGE

Executive privilege is a doctrine of clear necessity, created out of the need to protect the Government's most sensitive Government information. The need to protect some military, diplomatic and sensitive national secrets is not in dispute. Furthermore, the privilege is fundamental to Government operations and is borne out of the constitutional recognition of the separation of powers.[762] Use of the privilege must always be balanced against the congressional oversight prerogative, and the democratic need for accountability. However, it was not meant to be used for purposes of political expediency, as a convenient cloak to shield the Presidency from possible embarrassment.

The committee believes that President Clinton has abused this privilege. The Clinton administration, over the past year, has shielded more documents under an executive privilege claim than those shielded in the 12 years of the Reagan and Bush administrations combined. By asserting executive privilege over documents re-

[762] *U.S.* v. *Nixon,* 483 U.S. 683, 705–706, 708 (1974).

vealing embarrassing events in the White House Travel Office matter, President Clinton used the privilege as a tool in a larger scheme to deprive the public of the truth of his own misdeeds and those of his administration.

Throughout the investigation into the Travel Office matter, the White House delayed the release of documents and denied the committee access to the information it sought. Finally, when the committee tried to call an end to its stonewalling, the White House claimed executive privilege over relevant documents and refused to allow witnesses to testify to certain events when they appeared for committee depositions.[763] The committee only received the remaining, responsive documents to its January 11, 1996 subpoena on August 15, 1996, after a long and protracted effort to obtain these documents from the White House.

After a review of the 2,000 pages of documents which the White House withheld for months from the committee under a claim of executive privilege, it is clear that most of these documents were never subject to any reasonable reading of executive privilege doctrine.

Within the 2,000 pages of documents is a disturbing pattern of collaboration by the White House Counsel's office with outside attorneys. There is an apparent attempt to develop a consistent story-line on critical areas of controversy, including the "Watkins memo", Harry Thomason's role at the White House, relevant documents that the late Vincent Foster had on these matters and Mrs. Clinton's role in the firings.

The Counsel's office is acting as an adjunct criminal defense team, rather than as legal and ethical advisors to the highest office of the land. The activities that the committee has discovered raise troubling questions. For instance, the committee has yet to determine whether there were additional witnesses with whom the White House shared information. In particular, Harry Thomason, a major character in the committee's investigation, was also the subject of a Justice Department investigation. Associate Counsel Cliff Sloan testified that he was directed by Bernard Nussbaum to read the notes of Thomason's White House Management Review interview to Thomason's attorney.[764] The White House attempted to claim executive privilege over this document when the committee first sought it.

The President claims to be following the executive privilege doctrine as established in President Reagan's 1982 Executive order:

> Executive privilege will be asserted only in the most compelling circumstances, and only after careful review demonstrates that assertion of this privilege is necessary. Congressional requests for information shall be complied with as promptly and as fully as possibly, unless it is determined that compliance raises a substantial question of executive privilege.

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[763] Numerous witnesses who were deposed by the committee claimed executive privilege in regard to conversations that they had with Mrs. Clinton. Some of those who refused to answer questions and invoked executive privilege on the advice of the White House included Mrs. Clinton's Chief of Staff Maggie Williams, Mrs. Clinton's Press Secretary Lisa Caputo, Special Counsel Jane Sherburne, Associate Counsel Natalie Williams and Associate Counsel Jon Yarowsky.

[764] Committee deposition of Cliff Sloan, June 28, 1996, p. 49.

> A 'substantial question of executive privilege' exists if disclosure of the information requested might significantly impair the national security (including the conduct of foreign relations), the deliberative process of the executive branch, or other aspects of the performance of the executive branch's constitutional duties.[765]

Claims of privilege under this doctrine would be waived by the President if there were any credible allegations of wrongdoing. For example, President Reagan waived all claims of executive privilege during the Iran-Contra investigation.

In light of the expansion of the Independent Counsel's jurisdiction into the Travel Office matter and, more recently, the FBI files matter, the President's actions were particularly troubling. The President insisted on keeping thousands of pages of documents from public scrutiny while criminal investigations were ongoing. Witnesses in the White House have remained silent under apparent claims of executive privilege.

B. THE PRESIDENT ENGAGED IN AN UNPRECEDENTED USE OF EXECUTIVE PRIVILEGE IN THE COURSE OF THE COMMITTEE'S DEPOSITIONS

The White House insisted that witnesses claim executive privilege, thereby preventing a discussion of these documents during depositions. White House Counsel staff Jane Sherburne, Jon Yarowsky, and Natalie Williams, as well as members of the First Lady's staff, Chief of Staff Maggie Williams, and former Press Secretary Lisa Caputo and numerous others, have asserted executive privilege on dozens of occasions in depositions before this committee.

The assertion of executive privilege over conversations with Mrs. Clinton was made with troubling frequency. No constitutional basis exists for the President to assert executive privilege claims over conversations that Mrs. Clinton had with staff.

C. EXECUTIVE PRIVILEGE CLAIMS ARE BEING ASSERTED FOR POLITICAL SECURITY NOT NATIONAL SECURITY

The President persists in his efforts to shield documents under a seriously flawed assertion of executive privilege absent any national security interest or cited domestic policy matter. For example, there is no justification for a claim of executive privilege over notes that a White House Counsel took of discussions with attorneys for Harry Thomason or Mack McLarty regarding conversations each had with Mrs. Clinton about the Travel Office.[766]

These notes are among those the White House insisted on withholding under the umbrella of executive privilege until August of this year. They were key to the investigation, as they supported Mr. Watkins' account of Travel Office matter, which the White House has sought to discredit.

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[765] Executive order, *Memorandum from President Ronald Reagan for the Heads of Executive Departments and Agencies on Procedures Governing Responses to Congressional Requests for Information,* November 4, 1982.

[766] DF 780463–780465, 780467–780469. Natalie Williams handwritten notes of conversations with attorneys for Harry Thomason and Mack McLarty.

1. Conversations with Mrs. Clinton = executive privilege?

It is unrealistic to presume that conversations between committee witnesses and Mrs. Clinton about the Travel Office matter are of a national security concern or otherwise matters central to the constitutional duties of the Presidency. The White House Counsel's office was used to coordinate the stories of various key witnesses, including Harry Thomason, who was being investigated by the Justice Department for possible conflicts of interest. Many of these witnesses may have appeared before the Grand Jury in conjunction with the Independent Counsel's investigation.

2. Executive privilege for debriefings with outside attorneys?

Another category of documents which the President withheld for months from the public under a claim of executive privilege included dozens of interviews with the attorneys representing Clinton White House staff and friends deposed in this investigation, as well as the Whitewater matter. Even the "independent" Peat Marwick employee, Larry Herman, appears to have submitted to a debriefing concerning his interview with this committee.

The President misused executive privilege when he exerted it over notes that are clearly debriefings of individuals or attorneys whose clients were questioned in the course of this or other related investigations.[767] These actions may waive the attorney-client privilege of the individuals involved when their attorneys transmit the information to the White House.

3. Executive privilege over White House briefing papers created for Congress?

Extensively detailed briefing papers and a series of questions that were prepared to script the Democrat members of the Committee on Government Reform and Oversight for hearings on the Travel Office are included in the 2,000 pages over which executive privilege was claimed. These documents outlined attacks on the Travel Office employees, attacks on the idea of conducting this investigation and even attacks on the committee's staff. These scripts had detailed responses, for example, to any claims that Mrs. Clinton was involved with the firings, providing explicit White House instructions to use such scripts only if the issue was raised during the hearing.

During a committee deposition, the attorney for Jon Yarowsky, Associate White House Counsel, claimed that it was entirely appropriate for the White House Counsel's office to script Congress and cited "the White House submitting the proposed questions for John Dean" during the Watergate hearings as his defense.[768]

4. Executive privilege over information regarding Vincent Foster?

Documents relating to Vincent Foster were another key area where the White House took extraordinary efforts to keep the information from the public. The White House initially redacted hundreds of pages relating to Foster's documents and the debriefings

[767] DF 780533–780535, Natalie Williams handwritten notes of conversations with Larry Herman's attorney.

[768] Committee deposition of Jon Yarowsky, July 25, 1996, pp. 38–39.

of witnesses that the Counsel's office obtained regarding Foster's documents. These documents were clearly responsive to our subpoena but were almost entirely redacted.

D. THE MISUSE OF THE COUNSEL'S OFFICE BEGAN UNDER THE TENURE OF BERNARD NUSSBAUM AS PRESIDENT CLINTON'S FIRST WHITE HOUSE COUNSEL

Bernard Nussbaum, the first of four White House Counsels, exhibited a fundamental misunderstanding of the role of the Counsel to the President. Mr. Nussbaum established the Clinton White House Counsel's Office as a taxpayer funded legal team, whose job was defending the President, rather than the office of the Presidency.

Mr. Nussbaum was well known to President and Mrs. Clinton, having worked with Mrs. Clinton on the House Judiciary Committee Impeachment Inquiry, better known as the Watergate Committee. He was a senior attorney on the committee when Mrs. Clinton began as a young lawyer just out of law school. President Clinton conferred the title of "Assistant to the President" on Mr. Nussbaum, officially validating his access to the Clinton "inner circle."

Mr. Nussbaum publicly voiced his belief that the President's lawyer must "represent his client [the President] faithfully and zealously." He hung a black and white picture of the Nixon impeachment committee staff on his White House office wall located next to Mrs. Clinton's office. Ruth Marcus wrote that Nussbaum is "the $500-an-hour corporate litigator's approach to battle" which he carried into the White House in his representation of the client: Bill Clinton.[769]

Under Bernard Nussbaum, the Office of Counsel to President Clinton prevented the access of investigators undertaking legitimate oversight of the executive branch. Mr. Nussbaum worked to stonewall substantive investigations into matters such as the death of Vince Foster, Whitewater, RTC, and Travelgate. President Clinton, meanwhile, publicly proclaimed that the White House is "committed to fully support and cooperate" with all investigations as well as Special Counsels.

Mr. Nussbaum took the unprecedented position that the Attorney General was forbidden to see Deputy White House Counsel Vince Foster's papers. One writer noted that this desperate view of executive privilege "would make Richard Nixon blush."[770] In response to the manner in which Nussbaum handled the review of Vince Foster's White House documents, Justice Department's No. 2 lawyer, Deputy Attorney General Heymann, publicly proclaimed: "Bernie, are you hiding something?"

As an attorney in private practice, a lawyer has an obligation to his client to advocate the client's position as strenuously as the law will allow. The duties of a Government attorney, however, are quite different. Even the Counsel to the President ultimately serves more than just a single client. Although he provides Counsel to the President of the United States, it does not include legal defense work for the President, if his actions are outside the scope of the

[769] Washington Post, "The Man Behind the President" July 1, 1993.

[770] Washington Times, "Bernard Nussbaum's novel view of executive privilege" August 30, 1995.

Presidency. The Counsel to the President, like any other Government attorney, has a responsibility to uphold the Constitution and laws of the United States.

E. PRESIDENT CLINTON'S SECOND COUNSEL, LLOYD CUTLER, SUSTAINED THE PATTERN OF OBSTRUCTION SET BY NUSSBAUM

Following Nussbaum's resignation, Lloyd Cutler agreed to serve as Special Counsel to President Clinton on March 8, 1994. Mr. Cutler quickly proclaimed that matters would be handled differently. Lloyd Cutler's first press conference with President Clinton focused on his prior White House experience and that White House matters would be given more scrutiny, especially when it came to ethical matters. Mr. Cutler opined,

> The Counsel is supposed to be Counsel for the President in office and for the Office of the Presidency. . . . I don't think there is much of a dichotomy between the two. When it comes to a President's private affairs, particularly private affairs that occurred before he took office, those should be handled by his own private counsel and, in my view, not by the White House Counsel.[771]

To implement these goals, Cutler brought his former law firm partner, Jane Sherburne, into the White House Counsel's Office. Ms. Sherburne began her White House service as a Special Government Employee and became Special Counsel to the President in 1995.

F. PRESIDENT CLINTON'S SPECIAL COUNSEL BEGINS HER "TASK LIST" OF OVERSIGHT OF ALL CONGRESSIONAL AS WELL AS INDEPENDENT COUNSEL INVESTIGATIONS

A document which defines Ms. Sherburne's responsibilities to President Clinton is the December 13, 1994 "task list" she created.[772] As an initial matter, the sheer volume of ethical and legal issues identified in Sherburne's memo is a powerful statement. It stands in stark contrast to President Clinton's statement to the public that "these investigations should go forward, unimpeded and as quickly as possible."[773] President Clinton assured the press that his White House staff did not "need to have any implication that we are in any way trying to manage or affect this process."[774]

In contrast to President Clinton's promise to allow investigations to go forward "unimpeded," Special Counsel Sherburne created this task list of no fewer than 39 separate "issues" of alleged wrongdoing by members of the Clinton administration. These issues were

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[771] Lloyd Cutler's "Remarks Announcing the Appointment of Lloyd Cutler as Special Counsel to the President and an Exchange with Reporters," 30 Weekly Comp. Pres. Document 462, 465 (Mar. 8, 1994).

[772] "Task list, December 13, 1994," by Jane Sherburne, DF 780643–654. This list was among those withheld under a claim of executive privilege by the President on May 30, 1996 with approximately 2,000 other pages of withheld documents. Responding to the committee's demands to provide the documents, the White House made an offer for the chairman and designated staff to review redacted copies of the 2,000 pages. The Counsel's office provided heavily redacted versions of this document. Responding to an August 1996 demand for the documents under a threat of contempt of Congress, the White House Counsel finally relinquished the documents on August 15, 1996.

[773] President Clinton's "Remarks on the National Performance Review and an Exchange with Reporters," 30 Wkly Comp. Pres. Documents 375, 421 (Mar. 3, 1994).

[774] *Id.*

to be reviewed, assigned and followed by the White House Counsel. Ms. Sherburne managed the team of Government attorneys mobilized in the personal defense of President and Mrs. Clinton.

The Sherburne "task list" is impressive for its breadth. It is an indepth list of all possible investigations, regardless of how remote, for which attorneys in the White House were to have been prepared. The widely publicized investigations into Whitewater, Vince Foster document handling, and Travelgate are included among a myriad of other items. Many of the scandals are assigned a specific lawyer and apparently binders with relevant information are assembled for each issue.[775]

Ms. Sherburne's task list also assigns President Clinton's lawyers the duty of "monitoring" the criminal investigations of other Independent Counsels:[776]

- Independent Counsel Donald Smaltz's criminal investigation of Agriculture Secretary Espy. Task # 7 assigned White House Associate Counsel Cheryl Mills to examine possible ethics violations involving Secretary Espy. White House Associate Counsel Beth Nolan also is listed as tasked to look at the ethics portion of this investigation.

  Other aspects of the Independent Counsel's inquiry "beyond Espy ethics" such as Hatch Act violations and contacts with Tyson Foods executives were listed to have a lawyer determine the charter and scope of inquiry, press strategy, congressional interest, assemble a record of what information was already public and then start "fact gathering."
- Independent Counsel David Barrett's criminal investigation of HUD Secretary Henry Cisneros's alleged payment to a mistress far in excess of the amounts he told the FBI. Ms. Sherburne had not yet assigned a White House lawyer with the stated duties: "gather facts," "establish contact" with Secretary Cisneros's counsel, "determine press strategy" and "develop talking points," "identify the source of congressional interest" in the investigation, and to "assemble a binder" in the White House with a "summary and key documents."
- Independent Counsel Daniel Pearson's criminal investigation of Commerce Secretary Ron Brown's financial dealings also had not been assigned by Sherburne. However, the task list outlined that President Clinton's lawyers should "establish contact with counsel," "determine press strategy," "develop talking points," "identify source of congressional interest," and finally to "assemble binder with summary and key documents."

The nature of the task list evolved. By December 1994, for example, Webb Hubbell had already pled guilty to felony counts of mail fraud and tax evasion. The only tasks remaining for Sherburne's "team" of lawyers was to "monitor" his cooperation with Independent Counsel Kenneth Starr, "determine press strategy" and "develop talking points."

Ms. Sherburne had the insight to put other Clinton staff "problems" that were likely to be investigated on her task list. It in-

[775] DF 780643–654, task list, December 13, 1994.
[776] *Id.*

cluded "monitoring" and assembly of a "binder" with summary and key documents for:

- Deputy Chief of Staff Harold Ickes' representation of the Laborers' International Union, under investigation by the Justice Department for 3 years concerning their ties to organized crime;
- George Stephanopoulos' receipt of a Nationsbank loan under the prime interest rate for his Washington townhome;
- FDIC Chairman Ricki Tigert confirmation was put on hold until her contacts with David Gergen and Joel Klein could be reviewed concerning her recusal on matters involving President Clinton;
- GSA Director Roger Johnson's issues were tasked to "identify issues," "determine congressional interest," and "assemble binder with summary and key documents," regarding the Justice Department investigation of his use of Government employees for his own personal business.

Ms. Sherburne's task list included other tasks to be assigned to White House lawyers by topic rather than by the name of the individual Clinton administration official. They tasked lawyers to "identify issues," "determine congressional interest," and "assemble binder with summary and key documents" for:

- "FEC Audit" of irregularities with the Clinton '92 campaign settlement of sexual harassment charges against Clinton's close advisor and White House Director of the Office of Administration, David Watkins. The campaign also reportedly lost rental cars, laptop computers, cellular telephones, and other equipment that had to be accounted for;
- "PIC surplus" involved what the Clinton White House could legally do with the $10 million surplus left over from the President's Inaugural Committee. President Clinton's advisor and PIC official, Michael Berman, was looking into the possibility of placing these PIC funds in a tax exempt organization established to hire personnel that would then volunteer to work in the White House offices as volunteers;
- "Mena Airport" allegations of drug smuggling to points south of Mexico;
- "ADFA" the Arkansas Development Finance Authority created by President Clinton to provide a finance authority in Arkansas which came under scrutiny for political patronage;
- "State Department (passport files)" and "Archives (abuse of personnel system)" concerned the Justice Department's investigations of Clinton State Department officials who pulled 160 files of former Bush administration employees and leaked the contents to a Washington Post reporter;
- "SBA (improper electioneering)" concerned use of taxpayer dollars to distribute Democratic campaign literature pamphlets on health care issues.

Under the heading of "Negative Associations" the task list identifies: "Jim Guy Tucker" former Governor of Arkansas most recently convicted in Whitewater trial; "David Hale (SBA)" pled guilty to making fraudulent Small Business Administration loans to Susan McDougal under pressure from then Governor Clinton; "Jim McDougal" former partner of President Clinton and most recently

convicted in Whitewater trial; and "Dan Lasater (bond deals, cocaine, Roger Clinton)" was one of the underwriters for bonds, served prison term for social distribution of cocaine, provided President Clinton's brother, Roger Clinton, $8,000 to pay off a drug debt.

- "Commodities" task list heading involved Mrs. Clinton's foray into the commodities market while still in Arkansas where she made a $100,000 profit on a $1,000 initial investment;
- "Paula Jones" tasks were to "assemble binder with summary and key documents" concerning the sexual harassment suit currently pending against President Clinton by a former Arkansas State employee;
- "Presidential immunity" was assigned to White House Associate Counsel Cliff Sloan. President Clinton's personal lawyers have successfully claimed Presidential immunity over the pending sexual harassment lawsuit;
- "Troopers" task lists possible issue to be "job for silence" as well as "other" issues to be identified, congressional interest to be determined, and "assemble binder with summary and key documents." Allegations made in public that then-Governor Clinton promised Government positions to Arkansas State troopers for their silence;
- "White House operations (drugs, passes, helicopters)" was tasked to White House Associate Counsels Cheryl Mills and Beth Nolan to review issues relating to White House staff recent drug use prompting the instigation of a special random drug testing program, the failure of the White House to process its staff to receive clearance for a permanent White House passes, and David Watkins' "helicopter" trip to play golf that led to his resignation;
- "Residence renovations" was assigned by Sherburne to Associate White House Counsel Steve Neuwirth. The issue was mentioned in Foster's suicide note involving a dispute over the payment of moneys to Kaki Hockersmith for renovations to the Clintons' residence.

Ms. Sherburne also includes several items on her task list with the notation, "identify issue; determine congressional interest; assemble binder with summary and key documents." They are:

- "Use by Governor Clinton of loans to further legislative initiatives;"
- And under the heading of "women," President Clinton's personal lawyers David Kendall and Robert Bennett are listed with "**" a notation that the issue has yet to be assigned;

G. PRESIDENT CLINTON PUSHES THE BOUNDARIES OF HIS CLAIMS OF EXECUTIVE PRIVILEGE AGAINST PRODUCING RELEVANT DOCUMENTS TO CONGRESS

Several of the efforts on the "task list" reflect efforts by the White House to conceal information from Congress and the American public. Ms. Sherburne noted the need to conduct research on (1) how far executive privilege can be extended to justify withholding materials, and (2) what the limitations are on the "legislative power to investigate." Ms. Sherburne indicates in her memoranda that there is a need to research the "entitlement of Congress to

HRC [Hillary Rodham Clinton]/WJC [William Jefferson Clinton] transcripts of depositions given to [Whitewater Independent Counsel] Fiske.

President Clinton's attorneys have ventured far from his original statements on executive privilege. On March 8, 1994, President Clinton stated that it was "hard for me to imagine a case in which I would invoke [executive privilege]."[777] President Clinton concluded his remarks about cooperating with the current ongoing investigations saying, "[I]t's hard for me to imagine a circumstance in which that [an executive privilege claim] would be an appropriate thing for me to do."[778] President Clinton personally claimed executive privilege over Sherburne's December 13, 1994 task list as well as 2,000 pages of documents detailing conversations that Travelgate and Whitewater attorneys had with President Clinton's lawyers about the course of these investigations.

The hundreds of pages recorded by White House lawyers reveals a systematic program whereby the attorney for each witness testifying under oath before a congressional committee or before the Independent Counsel asks the White House to outline what questions were asked and what answers were provided. These debriefings provide a clear map of what the White House knew and who the White House told.

Among the executive privilege documents are chronologies and reviews created with the aid of information provided in these debriefings. The President's staff was able to construct, from the debriefings of witnesses that went before each investigative body, a single cohesive review. The White House Counsel's Office thus operated as the compiler of all of the pieces of information gathered as a result of the myriad of investigations of the Clinton administration.

H. THE PRESIDENT HAS INSISTED THAT ALL OF HIS COUNSEL'S MAINTAIN AN OBSTRUCTIONIST POSITION WITH CONGRESS

After 5 months of service, Abner Mikva stepped down from the bench at the U.S. Court of Appeals for the District of Columbia to become President Clinton's third White House Counsel on August 11, 1994. Mr. Mikva remained as Counsel to the President for less than 1 year, when he suddenly resigned to "spend more time with his family." Mr. Mikva resigned shortly after delivering to this committee, a document production which had been withheld under a vague "protective" claim of executive privilege. After producing the documents, the Clinton administration asserted executive privilege had never been claimed. The production of these documents further defined the role of the President and his staff in the Travelgate matter and outlined actions taken by the White House to conceal their involvement to previous investigators.

Former Vice Presidential Chief of Staff John Quinn replaced Mikva as the fourth Counsel to the President. Mr. Quinn resumed document production to the committee and ultimately had to claim executive privilege over the remaining subpoenaed documents in

[777] "Remarks Announcing the Appointment of Lloyd Cutler as Special Counsel to the President and an Exchange with Reporters," 30 Wkly Comp. Pres. Documents, 441, 467 (Mar. 8, 1994).

[778] *Id.*

order to prevent their production to the committee. After it became clear that there was no valid privilege over the categories of documents called for, Mr. Quinn turned over most of the withheld documents to this committee rather than face a criminal contempt charge for failure to respond to a valid subpoena.

CONCLUSION

The President committed, over 3 years ago, to full cooperation with investigations into the Travel Office matter. While the committee does not believe it has been able to fully disclose all of the facts in this case, a partial disclosure has implicated the President in a cover-up that was base and broad. The culture of secrecy in which President Clinton insists upon operating is destructive to both public confidence and to an open and efficient Government.

When the President fails to comply fully with investigations mandated by Congress or ordered by senior Justice Department officials, the oversight role critical to our system of checks and balances is compromised. It is incumbent upon this committee to assert and to uphold its jurisdiction and prerogatives of the legislative branch.

In its attempt to obfuscate wrongdoing in the Travel Office affair, President Clinton and high ranking members of his administration, including four successive White House Counsels, engaged in unprecedented abuses of executive power and executive privilege. President Clinton's executive privilege claim over documents relating to the firing of seven Travel Office employees, was in no way based on protecting national security interests, had no bearing on the deliberative process of the President, and had no relation to the constitutional duties of the executive branch. It was a frivolous use of the President's executive privilege.

APPENDIX

SUPPORTING DOCUMENTATION FOR THE RECORD

DOCUMENT INDEX FOR RECORDS RELATED TO MRS. CLINTON

1 **Interview of Mrs. Clinton on June 30, 1993 for White House Management Review (CGEPR 0129)**

2 **Interview of Vince Foster on June 30, 1993 for follow-up interview for White House Management Review (CGEPR 0258)**

3 **July 2, 1993 Talking Points on Travel Report from Lisa Caputo to Mark Gearan (CGE 032978)**

4 **HRC Talking Points on Travel Office Report (CGE 02097-98)**

5 **Interview of Patsy Thomasson by FBI/OPR investigation, dated 9/29/93.**

6 **Mrs. Clinton's responses to GAO Requests for Responses to Written Questions, April 6, 1994 (Questions submitted on March 16, 1994).**

7 **May 3, 1994 letter to Mrs. Clinton from David Watkins regarding the GAO Report (CGE 039294).**

8 **July 13, 1995 Debriefing of David Gergen's Deposition before the Whitewater Committee (DF 781220-781224)**

9 **July 17, 1995 Memorandum to Jane Sherburne, "HRC Travel Office Chronology," (DF 780086-780092).**

10 **Undated handwritten notes of Natalie Williams of conversations with Mack McLarty's and Harry Thomason's attorneys and other miscellaneous notes (DF 780463-780649).**

12 **March 21, 1996, Responses to Questions for the First Lady from the Committee on Government Reform and Oversight.**

13 **"HRC Role," dated May 17, 1996 (but this date appears to be the printout date not the creation date).**

ARC 6:30

Heard about TV pre. [illegible] comes
Dinner & condition [illegible]
many no longer able to
travel exp.
Then catch wind
Asked a couple people what happened
asked Mark NT & DV & VT

Asked person at dinner Thursday
what they talking about

not recalling asking DV re PM
not know FBI being called in
at time

Didn't see DV-mm mention at the
time - Saw it a couple wks ago

People coming to her & she going to them

DV called ARC

CGEPR 0129

CGEPR 0258

if VIA JDP 6:30

[illegible] be [illegible]

The pm 2 mtgs:

Health care mtg → Thau + HRC
HRC says to VF : what's the deal
w/ Tauzin & Dingell thing.
VF says protects, Kathy
figuring it out

Then pm mtg DU-VF

→ Then DU & VF see MM re PM

MACK has seen HRC according to
DU [illegible]
MACK's approval P —

VF tells HRC he might be
PM
VF not updated [illegible] Friday
Ellen's in VF's face

For VF & says to — if you
don't see fired you talk to Ellen

Condon
Sementiny
Sotto
Fang
Cost of

DV talks to Ellen [illegible]
VF disengaging other than [illegible]
FBI May have started [illegible]
on to [illegible]

CGEPR 0259

TO: Mark Gearan
FR: Lisa Caputo
RE: Talking Points on Travel Report
DT: July 2, 1993

SUMMARY:

Mrs. Clinton heard rumblings about problems in the Travel Office as did most White House staff. During a meeting with Vince Foster unrelated to the Travel Office, Mrs. Clinton mentioned to Foster that she had heard about problems in the Travel Office. Foster told her Bill Kennedy was looking into the matter. Later that same day, Mrs. Clinton saw Mack McLarty in passing and asked about the situation in the Travel Office. McLarty told Mrs. Clinton that the matter was being looked into. Subsequently, Foster told Mrs. Clinton that Peat-Marwick was conducting an audit.

David Watkins, who was out of town in Tennessee, received updates on the audit from Patsy Thomasson. Watkins called Foster with reports. Foster told Watkins the First Lady was interested in the matter and suggested Watkins call Mrs. Clinton to update her. Watkins called Mrs. Clinton and updated her on audit.

When the audit was completed on May 17, Watkins recommended that seven Travel Office employees be fired. McLarty approved it. Watkins wrote a memo to McLarty and cc'ed Mrs. Clinton.

CGE 032978

12299

HRC TALKING POINTS ON TRAVEL OFFICE REPORT

Q: How did Mrs. Clinton hear about problems in the Travel Office?

A: Mrs. Clinton heard about potential problems and alleged wrong doing in the Travel Office from talk circulating around the White House.

Q: Did Mrs. Clinton talk to Harry Thomasson about the Travel Office?

A: Mrs. Clinton doesn't recall who mentioned it to her initially. Thomasson may have mentioned it to her among other people in passing.

Q: Why did Mrs. Clinton meet with Vince Foster on matters that were unrelated to the Travel Office on May 13?

A: Mrs. Clinton met with Foster on health care related issues.

Q: Why during that meeting did Mrs. Clinton ask Foster about the Travel Office?

A: She had heard a number of rumors and mentioned it to Foster. Foster told Mrs. Clinton Bill Kennedy was looking into the matter. (NOTE: Bill Kennedy is assigned the duty of handling internal White House security. Kennedy was involved in the Travel Office matter because it fell under his job description.)

Q: Did Mrs. Clinton ever have a conversation with Bill Kennedy about the Travel Office?

A: No. Mrs. Clinton never had conversations or discussions with Kennedy on the Travel Office.

Q: Why did Mrs. Clinton ask Mack McLarty about the Travel Office?

A: Mrs. Clinton, who works in the West Wing, obviously sees McLarty. She asked him in passing about the situation in the Travel Office. McLarty told Mrs. Clinton the matter was being looked into. Vince Foster subsequently called Mrs. Clinton and told her Peat-Marwick was going to conduct a review of the office.

CGE 002097

Q: Did Mrs. Clinton ask for updates and specific information on the Travel Office?

A: No. Mrs. Clinton raised her concern about the possible wrong doing in the White House Travel Office with Vince Foster and with Mack McLarty. Foster later took it upon himself to suggest to Watkins that he update the First Lady on the situation. At no time did Mrs. Clinton ask for any update or information on the audit. Watkins updated Mrs. Clinton on the audit and later cc'ed her on a memo because he was being responsive to Foster's suggestion.

Mrs. Clinton never asked for the memo and did not read the memo. Mrs. Clinton had the memo routed to Maggie Williams, Mrs. Clinton's Chief of Staff, as an FYI.

Q: Why did Watkins call Mrs. Clinton and update her on the audit?

A: Watkins was just being responsive in updating Mrs. Clinton because she had expressed an interest to Foster.

Q: Why did Watkins cc Mrs. Clinton on the memo to McLarty?

A: Again, Watkins was just being responsive.

Q: Was Mrs. Clinton interviewed for this report on the Travel Office?

A: Yes. She talked to John Podesta and Todd Stern. The interview lasted approximately for 5-10 minutes. She knew few specifics about the matter.

FD-302 (Rev. 3-10-82)

CPR Interview

00708

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 9/29/93

Patsy Lee Thomasson was advised of the identities of the interviewing agents. Ms. Thomasson was interviewed in the presence of Judith Wish, Office of Professional Responsibility, Department of Justice, W. Neil Eggleston, Associate Counsel to the President, Timothy Dudley, Counsel for Ms. Thomasson from Little Rock, Arkansas, based law firm of Wilson, Engstrom, Corum, Dudley and Coultar.

Ms. Thomasson is the Special Assistant to the President for Management and Administration and Director of the Office of Administration, White House. She has been a Special Assistant to President Bill Clinton since 3/1/93. She reports directly to David Watkins, Assistant to the President for Management and Administration.

Ms. Thomasson first became aware of the White House Telegraph and Travel Office (WHTTO) in late April, 1993, in connection with her duties as part of the National Performance Review. From a conversation with David Watkins in early to mid-May, 1993, she was aware of the role of the WHTTO and that there were rumors of problems in the WHTTO.

She attended a briefing regarding the WHTTO with David Watkins and Catherine Cornelius, Special Assistant to the Assistant to the President for Management and Administration, where Ms. Cornelius described "extravagant lifestyles" of WHTTO employees, including ownership of race horses and vacation homes. Because of a lack of pertinent details about the race horses and vacation homes, she was not convinced that there was a problem. Ms. Cornelius was unable to provide details such as what percentage of the horses was owned by the WHTTO employee and whether or not the vacation homes had been inherited.

After Ms. Cornelius left the meeting, Mr. Watkins was concerned that "where there was smoke, there might be fire." In April there had been a comment at the White House Correspondents' dinner that the press was paying too much to travel with the

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Investigation on 9/22/93 at Washington, D.C. File # 62A-HQ-1057361

by Assistant Inspectors Allyson A. Simons and Gail Marie Seavey AAS:mfs Date dictated 9/22/93

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

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FD-302a (Rev. 11-15-83)

00709

Continuation of FD-302 of Patsy Lee Thomasson, On 9/22/93, Page 2

President and that comment had been reported in the press. Mr. Watkins was concerned that the White House would be criticized if they did nothing.

They then discussed what should be done. Ms. Thomasson knew that the WHTTO handled reimbursable accounts and she thought that they needed to have the WHTTO accounts audited. Since the White House executive management did not have an auditor, she recommended that they hire a certified public accounting firm.

Ms. Thomasson knew Larry Herman from the KPMG Peat-Marwick firm because he had volunteered his services as part of the National Performance Review. She consulted with the White House Procurement Office and learned that she could hire the Peat-Marwick firm since she had "compelling and exigent circumstances" based on the information thus far gained.

On 5/13/93, Mr. Watkins discussed the situation concerning the WHTTO with Vincent Foster, Deputy White House Counsel. Later that same day, she and Messrs. Watkins and Foster briefed Chief of Staff Thomas F. "Mack" McLarty. While waiting to see Mr. McLarty, Mr. Foster mentioned that "his clients," meaning President and Mrs. Clinton, were concerned about the WHTTO matter. Mr. McLarty agreed to hire the Peat-Marwick firm. Mr. Watkins hired them that day by telephone and made Patsy Thomasson their point of contact. The Peat-Marwick firm agreed to start their audit of the WHTTO reimbursable accounts the next day, 5/14/93. Mr. Watkins had to go out of town and Ms. Thomasson agreed to keep him informed while he was away.

Ms. Thomasson, William Kennedy, Associate White House Counsel, Jennifer O'Conner, and Mathew Moore, from the Office of Management and Administration, met with the Peat-Marwick auditor at about 7:00 a.m. on 5/14/93. Ms. O'Conner and Mr. Moore were supposed to determine what functions the WHTTO performed and evaluate whether or not all of the WHTTO employees were needed. The audit began around 7:30 a.m. on 5/14/93. The auditors briefed Ms. Thomasson and Messrs. Foster or Kennedy every hour or two. Late Friday, 5/14/93, Mr. Foster came to Ms. Thomasson's office and asked how the audit was progressing. Mr. Foster heard Ms. Thomasson call Mr. Watkins and give him an update. Mr. Watkins asked to speak to Mr. Foster. Mr. Foster encouraged Mr. Watkins to update "the clients" (the Clintons) on the WHTTO matter.

FD-302a (Rev. 11-15-83)

00710

Continuation of FD-302 of Patsy Lee Thomasson, On 9/22/93, Page 3

On 5/14/93, Mr. Kennedy mentioned to Ms. Thomasson that the FBI had been called, and Mr. Kennedy would be the FBI's point of contact. The audit continued on 5/15/93.

During the afternoon of 5/15/93, two FBI agents came to the White House to be briefed by the Peat-Marwick auditor. Ms. Thomasson was present. The auditor reported that there were not enough records to perform a "real audit." The WHTTO operated as follows: They would estimate the cost of a trip and bill the press people taking the trip. When the bills came in, the next group of press people were charged more or less to make up any overcharge or undercharge from the previous trip, even if different press representatives were on the second trip. There was a discussion of whether the Peat-Marwick review would continue or whether the FBI should come in and start their own investigation. All agreed that the Peat-Marwick review should continue and the results would be given to the FBI as soon as possible. Ms. Thomasson did not recall any discussion of whether or not the WHTTO employees should be terminated.

The Peat-Marwick auditor worked on Sunday, 5/16/93, while Ms. Thomasson worked at her desk. On Monday, 5/17/93, Ms. Thomasson gave Mr. Watkins the complete update. Ms. Thomasson had grave concerns over the management of the WHTTO and they talked about terminating the WHTTO employees. Ms. Thomasson thinks Mr. Watkins discussed the termination of the WHTTO employees with Messrs. Foster, Kennedy and McLarty and recommended that they be fired. She has a vague recollection of some discussion regarding the WHTTO employees staying on so they could be available for the FBI investigation. By late Monday, Mr. Watkins had decided to terminate the WHTTO employees.

Ms. Thomasson's next role was helping to arrange for the handling of commercial travel for White House office staff and charter business which had previously been performed by the WHTTO. She called the Personnel Director and advised that the WHTTO employees would be leaving. Brian Foucart, Acting Director of the White House Administrative Office, went with David Watkins to fire the WHTTO employees. Jennifer O'Conner prepared the press talking points about their termination.

Either late Wednesday, 5/19/93, or on Thursday, 5/20/93, Mr. Watkins called Ms. Thomasson and asked her to bring Larry Herman, the Peat-Marwick auditor, to George Stephanopoulos'

office. They were meeting with some members of the press and were trying to answer questions. Ms. Thomasson could provide no further information regarding this meeting.

On 5/21/93, Ms. Thomasson was with Mr. Kennedy answering a letter from Senator Bond when Mr. Kennedy was called away to a meeting in Mr. Stephanopoulos' office. She continued to work on the response. Later, Mr. Watkins told her that he had been at the same meeting, but did not elaborate on its purpose.

Ms. Thomasson was interviewed for the White House Travel Office Management Review by Andre Oliver. She had two conversations with Vince Foster after the report was issued. In the first conversation, Mr. Foster asked her if she had read the report and she told him she had not. When he asked her why she had not, she told him that she had gone home in tears after republicans had misrepresented their handling of the WHTTO matter and she did not want to do it again. He told her that she had made a wise choice because the report would make her angry. Mr. Foster did not agree with some of the inferences in the report. For example, Harry Thomason, Thomason, Richland and Martens (TRM), had complained about the actions of the WHTTO but was not interested in their business. However, the report made it appear as though he was motivated by his own self-interest. Mr. Foster asked her how Mr. Watkins was dealing with the reprimand. She told him that Mr. Watkins was angry because he had been advised to hire a lawyer. All of them were upset because they had been trying to make things better and it had turned into something very negative.

The second conversation with Mr. Foster took place in his office. He had called Ms. Thomasson and asked her to come to his office. He wanted to know if she and Mr. Watkins were all right. She told him that they were fine. At the time, she did not think Mr. Foster was any more consumed by the WHTTO matter than any of the rest of them. Mr. Foster did not mention the FBI.

Everyone in her office thought that the press accounts of the WHTTO matter were unfair. Mr. Foster never specifically mentioned the FBI to her. Mr. Kennedy never discussed his contacts with the FBI with her.

(14A)

THE WHITE HOUSE

WASHINGTON

April 6, 1994

Nancy R. Kingsbury
Director
Federal Human Resource Management Issues
General Government Division
General Accounting Office
Washington, D.C. 20548

Re: GAO Requests for Responses to Written Questions.

Dear Ms. Kingsbury:

Attached please find written responses to the questions that GAO posed to Mrs. Clinton.

Very truly yours,

W. Neil Eggleston
Associate Counsel to the President
(202) 456-7901

RESPONSES TO GAO QUESTIONS FOR MRS. CLINTON

1. Mrs. Clinton does not know the origin of the decision to remove the White House Travel Office employees. She believes that the decision to terminate the employees would have been made by Mr. Watkins with the approval of Mr. McLarty.

2. Mrs. Clinton was aware that Mr. Watkins was undertaking a review of the situation in the Travel Office, but she had no role in the decision to terminate the employees.

3. Mrs. Clinton did not direct that any action be taken by anyone with regard to the Travel Office, other than expressing an interest in receiving information about the review.

4. Mrs. Clinton does not recall this conversation with the same level of detail as Mr. Watkins. She recalls that on Friday, May 14, she had a very short telephone call with Mr. Watkins. Mr. Watkins stated that Mr. Foster had mentioned that Mrs. Clinton was interested in knowing what was going on with the Travel Office. Mrs. Clinton knew that Mr. Watkins was out of town. Mr. Watkins conveyed to her that even though he was not in Washington, his office was taking appropriate action.

5. Mrs. Clinton has a general recollection of having conversations with Mr. Foster and Mr. McLarty about the Travel Office situation prior to the termination of the Travel Office employees. She has no specific recollection of any particular conversation with Mr. Thomason on this issue at that time.

Mrs. Clinton believes that she spoke with Mr. Foster about the Travel Office before her telephone call with Mr. Watkins. She also believes that she had a very brief conversation with Mr. McLarty sometime before she spoke with Mr. Watkins. In that conversation, she told Mr. McLarty that she had heard about problems in the Travel Office and wanted Mr. McLarty to be aware of it.

Mrs. Clinton does not recall seeing the May 17 memorandum from Mr. Watkins to Mr. McLarty until after the Travel Office employees were terminated.

GAO

United States
General Accounting Office
Washington, D.C. 20548

General Government Division

14Q

March 16, 1994

Mr. Neil Eggleston
Associate Counsel to the President
The White House

Dear Mr. Eggleston:

As part of our review of the White House Travel Office, we have identified additional information we need from a few individuals. We would appreciate your assistance in having the following individuals provide responses to me addressing the questions indicated in the enclosures: Mrs. Clinton, Mr. Panetta, Ms. Williams, and Ms. Thomasson.

We would appreciate receiving this information by March 25, 1994. Unless the responses raise other unresolved issues, these questions would close our outstanding requests for interviews with these individuals. We appreciate your immediate attention to this request and recognize the short timeframe we are requesting. If you have any questions regarding this request, please call me at (202) 512-5074.

Sincerely yours,

/s/ Nancy

Nancy Kingsbury
Director
Federal Human Resource Management
Issues

Enclosures

GAO QUESTIONS FOR MRS. CLINTON

The White House Management Report describes, on page 9, the following:

> "That afternoon [May 13], before Foster talked to Watkins about Peat Marwick, Foster went to see the First Lady on a matter unrelated to the Travel Office. The First Lady told Foster that she had heard about problems in the Travel Office. Foster replied that Kennedy was looking into it. Late that afternoon, she saw McLarty and inquired about the situation in the Travel Office. Foster subsequently informed her that Peat Marwick was going to conduct a review of the Office."

In our interview with Mr. David Watkins, he stated that (a) on May 14, Mrs. Clinton (through Mr. Foster) had expressed an interest or awareness of the situation in the Travel Office; and (b) that it was Mr. Watkins' understanding that Mr. Harry Thomason asked to have an update on the situation. Mr. Watkins reported that in a subsequent conversation on the same day, Mrs. Clinton (a) mentioned the 25 percent (White House) staff reduction goal; (b) said it would be good to have "our people" working in the Travel Office; and (c) said that the administration had been criticized at the time for being slow in filling positions, and had delayed too long. We also note that the White House Travel Office Management Review contains a copy of a memorandum from Mr. Watkins to Mr. McLarty which was marked as "cc" to Mrs. Clinton, and which describes the steps taken to review the Travel Office matter and the decisions made to remove the employees and carry out the functions with other staff.

We respectfully request Mrs. Clinton's official response to the following questions:

1. How would you describe and to whom would you attribute the origin of the decision to remove the Travel Office employees?

2. How would you characterize your role in that decision?

3. Did you ask or direct that any action be taken by anyone in regard to the White House Travel Office?

4. Is Mr. Watkins' characterization of his discussion with you, as recorded by us, accurate? If not, how would you describe the discussion?

5. Did you participate in any other discussions with White House staff or Mr. Thomason concerning the White House Travel Office matter during the period leading up to the removal of the Travel Office employees on May 19, 1993? If so, when and how would you describe those discussions?

W. DAVID WATKINS
4037 Mansion Drive NW
Washington, D.C. 20007
202-333-0299

5-3-94

Hillary -

The GAO erred in stating that I said you urged me to replace members of the travel office with "our people."

"Urge" is not a word I commonly use. Additionally, as I know you have experienced many times, the statement was reported out of context without ~~the~~ my complete response to their questions being reported.

Obviously, I regret any + all press references and their innuendoes as it related to your involvement in this affair.

I have always KNOWN who my "client" is.

David

CGE 039294

PRIVILEGED AND CONFIDENTIAL
ATTORNEY WORK PRODUCT

July 13, 1995

MEMORANDUM FOR THE FILE

FROM: Miriam Nemetz

RE: Gergen Deposition

Yesterday I received a debriefing regarding David Gergen's deposition from Andy Krulwich. Gergen's deposition lasted for three and one-half hours. Giuffra and Kravitz were the questioners.

Background. In response to a series of background questions, Gergen testified as follows. Gearan did not report to Gergen, but Gergen did oversee some of Gearan's activities. Gergen reported to McLarty and the President. Gergen had virtually no relationship with Foster. Foster came to the White House in June and Foster died in July. Gergen had contact with Foster in connection with the Wall Street Journal's request for photographs and the Supreme Court vacancy. He also occasionally passed him on the stairwell. Gergen never discussed Whitewater with Foster, the President, or Maggie Williams.

Night of July 20th. Gergen learned of Foster's death at a dinner party at the Bradleys' house. Jody Greenstone (who Krulwich thinks was Gergen's assistant) had received a call from Gearan and then contacted Gergen. Gergen called Gearan from the party and was told that Foster's body had been found by the Park Police and that the President had already been told. Gergen asked whether a note had been found, and Gearan said no, but that it was an apparent suicide. Gearan asked Gergen's recommendation on press response, and Gergen recommended notifying the press that night. Gergen himself told the news to a Washington Post reporter who was at the party. Gergen spoke to Mickey Kantor and James Carville, who were also there, about the emotional effect the death would have on the President. He also spoke with Vernon Jordan about the public impact of the suicide.

Gergen and Jordan went to Foster's house at about 11 p.m. The President, Senator Pryor, Webb Hubbell, David Watkins, and McLarty were among the 15 people at the house. There was a lot of grieving and crying. There were no police officers there. Gergen was asked whether there was any discussion at the house about the need to seal or lock the office, and Gergen said no.

Gergen went back to the Residence in Vernon Jordan's car and met with others in the 2nd floor kitchen. The President, McLarty, Jordan, and Gergen were there. Mickey Kantor and his

wife were there for part of the time. Gergen was asked the subject matter of the discussion, and he said the President was grieving and reminiscing about growing up with Foster. The President went into the living room two or three times to call Hillary. Gergen said the subjects of their conversations were mutual grieving and what to do with the schedule the next few days.

Gergen was asked whether he had any conversations about sealing the office at the Residence. Gergen said he called Gearan to let him know where they were, and they had two or three conversations between about 12 and 1. McLarty and Gergen discussed sealing the office. Gergen then asked Gearan whether the office was sealed, and Gergen said he had to check. He either put Gergen on hold or said he would call back, and a few minutes later said the office was sealed. Gergen did not know the source of Gearan's information, but had the impression it was someone in the Deputy Chief of Staff's office (Burton or Roy Neel).

Gergen was asked about his conversations with McLarty, and he said that they mostly talked about why Foster would take his life and what the President should do. Sealing the office was secondary. Gergen said he was not aware of any request by law enforcement to seal the office.

Gergen was asked what he knew about the burn bag and the trash bag. He said that Gearan told him that Foster's trash had been secured, but that the burn bag had been taken out and was intermingled with other material and that the decision had been made not to pursue it. He asked who decided, and said he did not know. He told McLarty, who "took it aboard." Gergen did not think he was being consulted about the matters; he thought it was already done.

Gergen was asked if he ever discussed with Nussbaum that Nussbaum entered Foster's office that night, and he said possibly, later. He gave the same answer with respect to Williams. He was sure he never had such a conversation with Thomasson.

Gergen said he spoke with the First Lady briefly that night. She asked how the President was doing.

July 21st. Gergen said he attended the senior staff meeting Wednesday morning. He did not recall any discussion there about the investigation of Foster's death.

Gergen did not see anyone carrying a box. He does not recall going to the Counsel's Office suite or talking to Nussbaum that day. He does not specifically recall talking to Maggie Williams, although a call from her is reflected on his phone log.

DF 781221

Although he does not remember the conversation, he has the impression she was concerned about the Clintons' grief. He did not do anything to follow up on the sealing of the office.

Review of Foster Office. Gergen said he knew nothing about the review of Foster's office before it occurred.

The Note. Giuffra jumped around when asking questions about the note, but I will describe Gergen's testimony chronologically. Gergen went to Chicago on July 26th. He was making calls in his hotel room when McLarty came in to tell him that he had been called and that a note had been found in the bottom of Foster's briefcase. McLarty either read the note or described its highlights to Gergen. Gergen said he thought the note should be turned over as soon as possible, but McLarty said Burton had raised some issues. McLarty put Gergen on the phone with Burton. Gergen said the note should be turned over. Burton raised executive privilege and privacy concerns.

Giuffra then asked whether Gergen spoke to anyone other than Burton or McLarty that evening about the note, and Gergen said no. (Because of the way he framed the question, Giuffra did not elicit testimony regarding a second conversation Gergen had with McLarty. According to Burt Rein, in the later conversation, McLarty said he had decided to wait until the next day to decide whether to turn over the note. McLarty said that the First Lady was very upset and believed the matter required further thought and that the President should not yet be told. She said they should have a coherent position and should have decided what to do before they told the President. She also was concerned about the privacy of the family.)

Gergen said that the next morning, back in Washington, there were a series of conversations about the note. Nussbaum said he was not opposed to turning over the note, but put a number of issues on the table -- executive privilege, privacy, was it a suicide note, letting Foster family know.

Jim Hamilton came over to the White House in the morning. He said the family should be told before the note was released. Gergen agreed it was only decent to wait until Mrs. Foster could be told. However, she was on her way back from Arkansas, so this caused some delay. Hamilton told them in the mid-afternoon that Mrs. Foster agreed the note could be turned over.

Gergen said he was present when McLarty told the President about the note in a 6 p.m. meeting on Tuesday, July 27th. Nussbaum may also have been present. It was Gergen's impression that the President did not know about the note before this meeting. The contents of the note were reviewed with the President, and he said it should be turned over right away. They

did not discuss legal issues with the President, only privacy and decency.

Gergen was also present at the meeting with Reno and Heymann. Gergen said Reno immediately asked why the note had note been turned over and told them to call the Park Police. She seemed to accept the reasons for the delay when they were explained to her.

Gergen was asked if there were any discussions that the note would reflect badly on the White House. He said the speculated that the note, particularly the statement that the FBI lied, might cause the Attorney General to feel she had to investigate.

Complaints. Gergen was asked whether, prior to the 27th, he had any knowledge of DOJ concerns about he investigation. Gergen said he had some conversations with Heymann, with whom he had a longstanding relationship. Gergen asked Heymann about what the process would be. Heymann said that the Park Police, not DOJ, would investigate. Gergen also recalled a conversation with Heymann in which the White House asked permission to do a preemptive release of the note; Heymann said no.

Gergen was asked about his conversation with Tom Collier. Gergen said Collier called him because he was not on good terms with Neel and Burton. Collier said he had spoken with Neel and Burton. He was concerned about the pace of the investigation. There also were complaints from the Park Police that during the office review Nussbaum would not let them see papers that he did not deem to be relevant. Collier did not say whether Nussbaum was right or wrong, but he said he could not guarantee that the Park Police would not go to the press. Collier asked Gergen to speak to McLarty and speed up the White House's response to the Park Police's request for Foster's telephone logs. Gergen said he did this, and understood that the telephone logs were delivered the next day.

Gergen was asked McLarty's views of Nussbaum. He said that McLarty respected Nussbaum's legal judgment but was frustrated because he (McLarty) had a broader perspective that also took into account perception and political issues. Gergen said he did not recall talking directly to Nussbaum about the pace of the Park Police investigation.

Gergen said that, despite his philosophical differences with Nussbaum, he understood that Foster was working on official White House and personal Clinton legal matters that were totally unrelated to the Park Police investigation. Giuffra then asked when he learned that Foster was working on Clinton personal matters. Gergen said he was not sure, but he assumed it was so

because, based on his experience with prior administrations, the White House Counsel's Office always does personal work for the President.

Gergen said he had no conversations with the First Lady or the President about Foster's papers. He did not recall having such a conversation with Maggie Williams.

Kravitz Questions

Kravitz showed Gergen an FBI 302 that summarized an interview on July 30, 1993. As reflected in the memo, Gergen said that by 10:30 a.m. on July 27 everyone agreed that the note should be turned over. Gergen said his memory was fresher at that time and he had no reason to doubt the accuracy of the memo.

Kravitz asked whether Nussbaum used the concerns he identified as a basis not to turn over the note at all. Gergen said no, he was just raising questions that should be answered before doing so. He observed that they turned the note over quickly after Mrs. Foster and the President were told.

Kravitz asked whether, on July 26, Gergen told anyone that they were taking too long to tell the President about the note. He said he thought it should be more quick, but that McLarty said he wanted to wait until the next day, and Gergen thought that was reasonable.

Kravitz asked whether Reno was comfortable after being walked through the reasons for delay in turning over the note, and Gergen said yes.

Kravitz asked whether he was sure he had used the word "sealed" when talking to McLarty and Gearan and he said yes. Kravitz asked whether, when he talked about sealing the office, he had a distinction in mind between Foster's office and the Counsel Office suite, and Gergen said he was thinking of Foster's office.

Kravitz asked about the atmosphere at the White House after Foster's death. Gergen said people were distraught. It was the first suicide of a high-ranking official since Forrestal, fifty years ago.

DF 781224

July 17, 1995

PRIVILEGED AND CONFIDENTIAL
ATTORNEY WORK PRODUCT

Memorandum To: Jane Sherburne

HRC Travel Office Chronology

The First Lady's involvement with the Travel Office situation was limited to a few conversations with individuals directly involved in the actions taken. However, statements attributed to David Watkins in the OPR Draft Report and the GAO Report may be used to suggest that her interest helped create the sense of urgency that fueled the dismissals in May 1993.

In addition, you should be aware of certain statements attributed to James Lyons. Foster reportedly told Lyons that the Clintons might need outside counsel to advise them on Travel Office matters. Although Foster apparently was concerned about his objectivity, the discussion in the OPR Draft Report may be used to suggest that Foster believed the President and/or the First Lady were somehow implicated in the affair.

I. Chronology

A brief chronology, derived from the White House Management Review ("Management Review"), the OPR Draft Report (which has not been released publicly) and the GAO Report, follows.

Late March 1993	Harry Thomason mentions to the President in passing that there might be trouble in a White House department dealing with travel. Thomason does not provide the President with any details. Management Review, at 25. **(Note: According to Thomason interview notes, HT tells President that he will contact the right people.)**
5/12/93	David Watkins meets with Catherine Cornelius, Harry Thomason and Darnell Martens to discuss their concerns about

DF 780086

the Travel Office. Management Review, at 26.

***Conversation recounted in OPR Draft Report might suggest that First Lady's interest prompted Watkins to take action. Sometime after their meeting, Thomason visits again with Watkins and tells him that he had spoken with the First Lady about the Travel Office situation. The First Lady supposedly said that "we need to stay ahead of this" because if there is corruption in the Travel Office, it will make a good story." OPR Draft Report, at 9. After this conversation with Thomason, Watkins contacts Foster to set up a meeting about the Travel Office. Watkins tells Foster that Thomason has said that "Mrs. Clinton ha[s] an interest in the matter to be discussed." Id. Note: This meeting is Foster's first involvement with the Travel Office matter.

*** GAO Report notes that Thomason told Watkins of conversation with First Lady. The GAO Report mentions that Thomason "repeated his concerns to the First Lady, and later told Mr. Watkins he had done so." Report suggests that this conversation and preceding ones, prompted Watkins and Cornelius to talk with White House Counsel officials. GAO Report at 53.

The Management Review makes no reference to Thomason's discussion with the First Lady or with Watkins. It simply says that Watkins contacted Foster after his meeting with Cornelius and Thomason. Management Review at 26.

5/13/93 Vincent Foster goes to see the First Lady on a matter unrelated to the Travel Office.[1] The First Lady tells Foster she has heard about problems in the Travel Office. Foster informs her that

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[1] Talking Points prepared by Lisa Caputo and dated July 2, 1993, state that the First Lady met with Foster to discuss health care related issues.

Kennedy is looking into the matter. Management Review, at 28. Later that afternoon, the First Lady sees Mack McLarty and inquires about the Travel Office situation. Id.

*** Entry in Foster's notebook suggests that Harry Thomason was present during this meeting with the First Lady. See F00078.

At some point, Foster informs the First Lady that Peat Marwick will be conducting a review of the Travel Office. Id. (Note: The Management Review does not identify precisely when this occurred).

* OPR Draft Report Only. According to the OPR Report, both McLarty and Foster mentioned that the First Lady had inquired about the Travel Office situation during the May 13 briefing in which Watkins, Foster and Patsy Thomasson recommended an outside accounting firm be engaged to audit the Travel Office. OPR Draft Report, at 37.

*** *Possible Implications of First Lady's Interest Given Kennedy's Alleged Remarks Re "High Level" White House Interest.* *In light of the First Lady's knowledge of the matter, and her conversations with key participants before the FBI is contacted, Kennedy's alleged remarks about "high" or "high level" White House involvement or direction can be construed as referring to the First Lady. The Draft OPR Report notes that Kennedy's stated he had no knowledge on May 13 that the First Lady had been apprised of the Travel Office situation. He further stated that Foster had not mentioned during their conversations that he had spoken with her about the matter.*

The Management Review credited FBI agents' claims that Kennedy stated there was "high level" White House interest in the Travel Office matter, despite

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Kennedy having no recollection of such comments. Management, at 35. This might be used to cast doubt on the veracity of Kennedy's statements that he did not know the First Lady was aware of the situation when he spoke with FBI agents on May 13.[2] *None of the reports, however, have ever concluded that Kennedy's alleged remarks referred to the First Lady.*

5/14/93

Upon Foster's suggestion, Watkins updates the First Lady on the Travel Office situation and the Peat Marwick review, which had begun that day. Id. at 29.

***** Version of 5/14 conversation in OPR Draft Report suggests First Lady supported quick action.**

The statements attributed to the First Lady could be used to portray her as pushing for quick dismissals of the Travel Office employees.

"Watkins understood from Foster that the Travel Office matter was on the First Lady's "radar screen," and that Foster asked him to inform the First Lady of what he planned to do regarding the Travel Office from a management perspective.

At about 6:30 or 7:00 p.m., according to Watkins, he telephoned Mrs. Clinton. . . . In short, he informed her that things in the Travel Office were worse than they had originally thought . . . . He told her that he would be back

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2 Note that the OPR Draft Report criticized the Management Review and the FBI Internal Review for failing to discuss whether the agents felt pressured, threatened or intimidated by the alleged comments. None of the agents involved expressed such sentiments; thus, by failing to mention this fact, the reports, according to OPR, fostered the impression that Kennedy and the White House in fact had attempted to improperly pressure the FBI but that the Bureau had resisted.

DF 780089

in Washington on Sunday evening and would, after reviewing the report, take appropriate action. According to Watkins, Mrs. Clinton said that she had talked with Harry Thomason and that he believed that Watkins could have a new travel operation in place very quickly. She also said that she had received advice from several others that "we've made a mistake by not getting our people into jobs sooner. Watkins reported that neither he nor Mrs. Clinton mentioned the FBI during this conversation which lasted from five to seven minutes."

Version in GAO Report. Watkins said the First Lady "urged that action be taken to get 'our people' into the Travel Office to help achieve the 25-percent staff cut. According to Mr. Watkins, the First Lady also mentioned, in the context of the Travel Office, that the administration had been criticized for being slow in making appointments." GAO Report at 64.

5/17/93 — Watkins prepares a memo to McLarty summarizing Peat Marwick's findings and his recommended course of action. Watkins copies the First Lady on the memo. Management Review, at 29; OPR Draft Report, at 49. OPR Draft Report further states that, according to Watkins, the First Lady did not comment on the memo.

II. HRC GAO Responses

In written responses to questions posed by the GAO, the First Lady stated as follows:

** Termination Decision. She did not know of the origin of the decision to remove the Travel Office employees, but believes the decision would have been made by Watkins with McLarty's approval. She did not play any role in that decision. Nor did she direct anyone to take action regarding the Travel Office. She did, however, express an interest in receiving information about the review.

DF 780090

** Watkins Conversation. She did not recall her May 14 conversation with Watkins with the same level of detail as Watkins. She recalls having a very short conversation in which he stated that Foster had mentioned she was interested in knowing what was going on with the Travel Office. Watkins conveyed that although he was out of town, appropriate action was being taken.

** Conversations with Other Travel Office Participants. She recalled generally discussing the Travel Office with Foster and McLarty prior to the dismissals, but had no specific recollection of a conversation with Thomason re the matter at that time.

She also generally recalled speaking with Foster and McLarty before she spoke with Watkins on May 14. She told McLarty that she had heard about problems in the Travel Office and wanted him to be aware of it.

** May 17 Watkins Memo. She did not recall seeing the memo until after the employees had been dismissed.

The First Lady's responses to the GAO regarding her involvement in the matter convey a somewhat different impression than Watkins' statements to the GAO and OPR. Watkins basically portrays her as urging that action be taken, while her responses suggest a mere interest in knowing what was happening. His statements to OPR suggest that the First Lady favored quick removal of the Travel Office employees. (Interestingly, there is no mention of conversations with the First Lady in notes of an interview with Watkins taken during the White House internal review; notes from one of Foster's interviews during that process mention that McLarty and Foster had spoken with First Lady).

Handwritten notes[3] (apparently written by David Watkins and later produced to the Office of Public Integrity) regarding the May 14 conversation might be used to suggest that she not only favored removal, but also had patronage concerns. The notes quote the First Lady as follows:

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[3] The notes are dated June 2, 1993, and come from Neil Eggleston's files; it is unclear, however, whose notes they are (Eggleston was not in the office at the time) and who provided the information.

DF 780091

> Harry says his people can run things better; save money, etc. And besides we need those people out -- we need our people in -- we need the slots --

This quote differs somewhat from OPR's and GAO's rendition of th conversation, and could be used to suggest that the First Lady was pushing to have Thomason's "people" (perhaps TRM?) replace the Travel Office employees.

III. Lyons Statements in OPR Draft Report

The OPR Draft Report also discusses certain statements by James Lyons, a Denver attorney and friend of the First Family. The report states that Foster told Lyons the President and the First Lady might require outside counsel to advise them on the Travel Office matter. Foster reportedly discussed the possibility of congressional hearings on the matter with Lyons, and expressed doubts as to whether he could objectively advise the Clintons given his involvement in the affair. Apparently something in the Management Review sparked Foster's concern, and he sent Lyons a copy of the report. OPR Draft Report at 90. "Lyons read the report several times but could not understand Foster's concern with it." Id.

Foster, according to Lyons, also discussed the issue with Susan Thomases and Jim Hamilton. Lyons discussed Foster's concern with Bernie Nussbaum, who reportedly did not agree with Foster's assessment. Id. at 91.

Foster's concern about the need for outside counsel to represent the First Family in the Travel Office matter might be used to suggest they were somehow implicated in the affair. However, it probably reflects only his frustration over the way the matter unraveled in the media.

Natalie Williams

May 16 Monday
Dinner in residence
with Cabinet officers
after dinner, Mr
held 2-3 minute
conv. w. FL.

- Conversation w First Lady
updating her Peat
Marwick audit,
- told her on top of it
handling situation

PIC funds -> one of numerous
proposals about what to do
with PIC surplus - will find out
of HT meeting

David Williams

DF 780463

Amy Sabrin

@ New

DF 780464

Harry → conversation
w. her in passing →
1 or 2 in passing →
he recalls being in office
abt Little Rock / Annaguadia
Travel Office comes up →
status report. Told her abt
things he heard were
wrong. They should be
replaced disloyalty →
- Remembers telling DW she'd
be replaced, & that FC shows
his new.
- Could → did this during
the campaign → could
do the jobs → → probably
told her about plans

DF 789465

Several drafts of the same thing → couldn't ask her to identify

Usa Remembers

- that REO was going to be issued
- Bearen needed to have talking pts
- Does not remember who called her
- Did not know anything abt substance
- Sat with Maggie, and Maggie gave her the answers
- Possible that Podesta was there
- She was typing it up and it was sent over to Bearden
- And the info coming from Maggie
- Did not talk with FC abt it
- Impression.
- Maggie may have had some communication with her

** [TO BE USED ONLY IF OPR AND GAO SAY MANAGEMENT REVIEW IS INCONSISTENT WITH THEIR DESCRIPTION OF THE FIRST LADY'S INVOLVEMENT]

Nancy Kingsbury

1. Now, Ms. Kingsbury, isn't it true that the Management Review mentions discussions with the First Lady that the GAO report does not even include?

   a. The GAO report does not mention Mrs. Clinton's conversations with Mr. Foster on May 13?

   b. Nor does it mention Mrs. Clinton's conversation with Mr. McLarty on May 13, correct?

2. Indeed, isn't it true that the GAO report only mentions one direct conversation with the First Lady, correct?

   a. Mr. Watkins told you that Mr. Thomason said he had spoken with the First Lady, correct?

   b. You never interviewed Mr. Thomason, did you? So Mr. Thomason did not tell you he spoke with the First Lady, correct?

   c. And the First Lady did not recall a specific conversation with Mr. Thomason, did she? So the First Lady never said she spoke with Mr. Thomason on May 12, correct?

   d. Your report only reflects Mr. Watkins recollection of what Mr. Thomason told him, does it not?

3. Now, Ms. Kingsbury, isn't it true that the one direct conversation with the First Lady -- the May 14 discussion between her and Mr. Watkins -- is also mentioned in the Management Review?

OPR

1. Mr. Shaheen, your report also only refers to one direct conversation with the First Lady, correct?

2. The other references to the First Lady are Mr. Watkins' recollections of what <u>others</u> told him about their discussions with her, correct?

   [a. In fact, the OPR report seems to suggest that <u>Thomason</u> invoked the First Lady's name to prompt Mr. Watkins to move on the situation, does it not?

DF 780466

Leslie Berger

Kathy Wallman → →

900 – 930

DF 780467

DF 780468

March

- Does not remember
anything abt
bedding of patients
- Obvious that gave
difficulty of situation
fact that she would
not stay in Travel
Office. Understand
[illegible]
- Instrument of Nurses
[illegible] at Corder

nonrecollection
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March 21, 1996

BY HAND DELIVERY

The Honorable William F. Clinger, Jr.
Chairman, Committee on Government Reform
and Oversight
House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Mr. Chairman:

I enclose the responses of Mrs. Clinton to the questions transmitted to her by you last month.

Sincerely,

David E. Kendall

David E. Kendall

cc: The Honorable Cardiss Collins

RESPONSES TO QUESTIONS FOR THE FIRST LADY
FROM THE COMMITTEE ON GOVERNMENT REFORM
AND OVERSIGHT OF THE HOUSE OF REPRESENTATIVES

1. Did you at any time direct or authorize anyone to state on your behalf to the General Accounting Office that you did "not know the origin of the decision to remove the White House Travel Office employees?"

Were you aware that any such statement would be made to the General Accounting Office on your behalf?

Set forth all information known to you concerning any such statement made on your behalf to the General Accounting Office and with respect to any communication by or to you regarding any such statement, supply all of the information described in the preliminary statement above.

Response to Nos. 1-6:

Neil Eggleston, an Associate Counsel in the White House Counsel's Office, made a submission on my behalf to the General Accounting Office on April 6, 1994, which I directed and authorized. This submission included statements quoted in the first six of these interrogatories. Mr. Eggleston made this submission in response to the following request, dated March 16, 1994, from Nancy Kingsbury, Director of Federal Human Resource Management Issues at the GAO:

> "The White House Management Report describes, on page 9, the following:
>
> That afternoon [May 13], before Foster talked to Watkins about Peat Marwick, Foster went to see the First Lady on a matter unrelated to the Travel Office. The First Lady told Foster that she had heard about problems in the Travel Office. Foster replied that Kennedy was looking into it. Late that afternoon, she saw McLarty and inquired about the situation in the Travel Office. Foster subsequently informed her that Peat Marwick was going to conduct a review of the Office.

In our interview with Mr. David Watkins, he stated that (a) on May 14, Mrs. Clinton (through Mr. Foster) had expressed an interest or awareness of the situation in the Travel Office; and (b) that it was Mr. Watkins' understanding that Mr. Harry Thomason asked to have an update on the situation. Mr. Watkins reported that in a subsequent conversation on the same day, Mrs. Clinton (a) mentioned the 25 percent (White House) staff reduction goal; (b) said it would be good to have our staff people working in the Travel Office; and (c) said that the administration had been criticized at the time for being slow in filling positions, and had delayed too long. We also note that the White House Travel Office Management Review contains a copy of a memorandum from Mr. Watkins to Mr. McLarty which was marked as cc to Mrs. Clinton and which describes the steps taken to review the Travel Office matter and the decisions made to remove the employees and carry out the functions with other staff.

We respectfully request Mrs. Clinton's official response to the following questions:

1. How would you describe and to whom would you attribute the origin of the decision to remove the Travel Office employees?

2. How would you characterize your role in that decision?

3. Did you ask or direct that any action be taken by anyone in regard to the White House Travel Office?

4. Is Mr. Watkins' characterization of his discussion with you, as recorded by us, accurate? If not, how would you describe the discussion?

5. Did you participate in any other discussions with White House staff or Mr. Thomason concerning the White House Travel Office matter during the period leading up to the removal of the Travel Office employees on May 19, 1993? If so, when and how would you describe those discussions?"

After receiving Ms. Kingsbury's request, Mr. Eggleston met with me to obtain my answers to the GAO questions. I do not recall the date of this meeting nor who else may have been present, but I believe the meeting lasted about 30 minutes. Mr. Eggleston subsequently prepared draft responses, which he

provided for my review. I reviewed the responses and authorized Mr. Eggleston to submit them to the GAO as follows:

"1. Mrs. Clinton does not know the origin of the decision to remove the White House Travel Office employees. She believes that the decision to terminate the employees would have been made by Mr. Watkins with the approval of Mr. McLarty.

2. Mrs. Clinton was aware that Mr. Watkins was undertaking a review of the situation in the Travel Office, but she had no role in the decision to terminate the employees.

3. Mrs. Clinton did not direct that any action be taken by anyone with regard to the Travel Office, other than expressing an interest in receiving information about the review.

4. Mrs. Clinton does not recall this conversation with the same level of detail as Mr. Watkins. She recalls that on Friday, May 14, she had a very short telephone call with Mr. Watkins. Mr. Watkins stated that Mr. Foster had mentioned that Mrs. Clinton was interested in knowing what was going on with the Travel Office. Mrs. Clinton knew that Mr. Watkins was out of town. Mr. Watkins conveyed to her that even though he was not in Washington, his office was taking appropriate action.

5. Mrs. Clinton has a general recollection of having conversations with Mr. Foster and Mr. McLarty about the Travel Office situation prior to the termination of the Travel Office employees. She has no specific recollection of any particular conversation with Mr. Thomason on this issue at that time.

Mrs. Clinton believes that she spoke with Mr. Foster about the Travel Office before her telephone call with Mr. Watkins. She also believes that she had a very brief conversation with Mr. McLarty sometime before she spoke with Mr. Watkins. In that conversation, she told Mr. McLarty that she had heard about problems in the Travel Office and wanted Mr. McLarty to be aware of it.

Mrs. Clinton does not recall seeing the May 17 memorandum from Mr. Watkins to Mr. McLarty until after the Travel Office employees were terminated.".

These answers were accurate responses to the questions posed by the GAO. Please see also my Response to Nos. 7-10, below.

2. Did you at any time direct or authorize anyone to state on your behalf to the General Accounting Office that you "had no role in the decision to terminate the employees" in the White House Travel Office?

Were you aware that any such statement would be made to the General Accounting Office on your behalf?

Set forth all information known to you concerning any such statement made on your behalf to the General Accounting Office and with respect to any communication by or to you regarding any such statement, supply all of the information described in the preliminary statement above.

Please see my previous Response to Nos. 1-6.

3. Did you at any time direct or authorize anyone to state on your behalf to the General Accounting Office that you "did not direct that any action be taken by anyone with regard to the Travel Office, other than expressing an interest in receiving information about the Review?"

Were you aware that any such statement would be made to the General Accounting Office on your behalf?

Set forth all information known to you concerning any such statement made on your behalf to the General Accounting Office and with respect to any communication by or to you regarding any such statement, supply all of the information described in the preliminary statement above.

Please see my previous Response to Nos. 1-6.

4. Did you at any time direct or authorize anyone to state on your behalf to the General Accounting Office that you had "no specific recollection of any particular conversation with Mr. Thomason on this issue at that time?"

Were you aware that any such statement would be made to the General Accounting Office on your behalf?

Set forth all information known to you concerning any such statement made on your behalf to the General Accounting Office and with respect to any communication by or to you regarding any such statement, supply all of the information described in the

preliminary statement above.

Please see my previous Response to Nos. 1-6.

5. Did you at any time direct or authorize anyone to state on your behalf to the General Accounting Office that you "had a very brief conversation with Mr. McLarty sometime before you spoke with Mr. Watkins" on May 14, 1993 and that you "told Mr. McLarty that you had heard about problems in the Travel Office and wanted Mr. McLarty to be aware of it?"

Were you aware that any such statement would be made to the General Accounting Office on your behalf?

Set forth all information known to you concerning any such statement made on your behalf to the General Accounting Office and with respect to any communication by or to you regarding any such statement, supply all of the information described in the preliminary statement above.

Please see my previous Response to Nos. 1-6.

6. Did you at any time direct or authorize anyone to state on your behalf to the General Accounting Office that you did "not recall seeing the May 17 memorandum from Mr. Watkins to Mr. McLarty until after the Travel Office employees were terminated?"

Were you aware that any such statement would be made to the General Accounting Office on your behalf?

Set forth all information known to you concerning any such statement made on your behalf to the General Accounting Office and with respect to any communication by or to you regarding any such statement, supply all of the information described in the preliminary statement above.

Please see my previous Response to Nos. 1-6.

7. Identify and set forth the information sought in the preliminary statement for all communications that you had at any time with Harry Thomason or any individual acting on his behalf regarding any White House Travel Office matters, the personnel employed in the White House Travel Office, or any proposed or actual activities of Mr. Thomason at the White House, including but not limited to, all aviation matters involving Mr. Thomason, Darnell Martens, and/or TRM Incorporated, or other transportation related issues, and any reviews, civil or criminal investigations.

In particular, describe in full any and all discussions, meetings, telephone conversations or other communications you had with Harry Thomason regarding the White House Travel Office on or about May 12, 13, and/or 14, 1993. Describe your knowledge of any meetings attended by Harry Thomason during this time period regarding the White House Travel Office with White House employees.

Did you make any statement, comment or observation to Harry Thomason on May 12 and/or 13, 1993, or at any other time, that you were "ready to fire" any or all of the employees in the White House Travel Office that day?

Did you make any statement, comment or observation to Harry Thomason at any time that could have been construed by him to convey the sentiment that you "were ready to fire" any or all employees of the White House Travel Office or that you wished that any or all of the White House Travel Office employees would be fired or that their employment should be terminated?

For any and all such statements, supply the information described in the preliminary statement.

Response to Nos. 7-10:

It is hard to remember the specifics of conversations that occurred almost three years ago, in view of all that has happened since then, but I have tried to state in this response such recollection as I have. Because there has been so much publicity about the Travel Office matter, it is also difficult now to distinguish between what I knew in 1993 and what I know now. Initially, I think it is desirable to provide some perspective, from my point of view.

The spring of 1993 was a busy and stressful time. After the Inauguration on January 20, there were the predictable complexities and difficulties which confronted my husband in establishing a new Administration. My family faced a significant change in living circumstances, including relocating to a new city, moving into the White House, settling our

daughter into a new school, and the increased entertainment and media demands of living in the White House. In addition, in late January of 1993, my husband asked me to become deeply involved in fulfilling the new Administration's pledge to develop a comprehensive health care plan by May 1, 1993. In the following months, I spent a great deal of time analyzing policy proposals, meeting with many groups and persons with an interest in health care, making speeches, and traveling around the country as part of the Administration's effort to devise a comprehensive and legislatively feasible health care plan. From late March through early April, I also spent many days in Arkansas after my father suffered a critical and ultimately fatal stroke. Following my father's funeral services in Little Rock, Arkansas, and Scranton, Pennsylvania, on April 9 and 10, I returned to the White House the week of April 12 to face a backlog of work and obligations primarily relating to the May 1 target date for the presentation of an Administration health care plan. It became apparent that the target date would have to be moved back because of the work still to be completed. Our interest in avoiding substantial delay put added pressure on us. The first part of May was particularly busy due to health care meetings with Congressional leaders, Congressional Committees and staffs, health care coalitions, business associations, and professional groups, and also due to my travel and speechmaking obligations.

At some point during the first part of May, 1993, I believe

I became aware from Vincent Foster or Harry Thomason of concerns about financial mismanagement in the White House Travel Office. I do not remember precisely what the concerns were, except that they involved allegations of waste, inefficiency, or improper procedures. I had no personal knowledge of or direct involvement with that office, and, indeed, I do not recall even knowing of the existence of the Travel Office until sometime in the first two weeks of May. I have a vague recollection of hearing either the outgoing or incoming president of the White House Correspondents' Association complain about the expense of press travel at the Association dinner on May 1, 1993, but I do not recall how or whether these complaints specifically related to the Travel Office.

Mr. Thomason is an old and close personal family friend. My husband has known him for more than two decades. Mr. Thomason assisted in my husband's campaign for President and served as Cochair of the Presidential Inaugural Committee. From time to time, Mr. Thomason has provided informal advice on how the President might better communicate his values, ideas, and policies. I cannot recall specific conversations with him regarding the White House Travel Office or its personnel, but as indicated above, it is possible that at some point in May, 1993, he may have mentioned to me issues of possible financial mismanagement in the Travel Office. I do not recall what, if anything, I may have said to him on this topic. I do not recall saying to him that I was "ready to fire" the Travel Office

employees. I do not know how Mr. Thomason may have construed remarks by me.

I believe I discussed with Mr. Thomason in the spring of 1993 ways in which he might assist in assuring the most effective presentation of the President's values, ideas, and policies. I do not believe I ever spoke to Mr. Thomason about aviation matters involving himself, Mr. Martens and/or TRM Incorporated, or transportation issues, reviews, or investigations related to himself, Mr. Martens, or TRM Incorporated. I have no knowledge of what meetings Mr. Thomason attended during the May 12-14, 1993, time period.

At some point during the week of May 10, 1993, I spoke to Vincent Foster about the Travel Office, and he told me that William Kennedy, who was a lawyer in the White House Counsel's Office, was looking into reports of financial misconduct and that KPMG Peat Marwick would be conducting a review of the Travel Office. I believe I had two conversations with Mr. Foster on this matter, although I may have had more. I do not believe that I asked Mr. Foster why action wasn't being taken to terminate the employees of the White House Travel Office or that I stated to him that these employees should be fired immediately. I do not recall saying to Mr. Foster that I wanted him to "act" with respect to those employees or indicating how I believed he should "act".

I don't recall speaking to Mr. Foster about any proposed or actual activities of Mr. Thomason at the White House. I do not

believe I ever spoke to Mr. Foster about aviation matters involving Mr. Thomason, Mr. Martens, and/or TRM Incorporated, or transportation issues, reviews, or investigations related to these two men or TRM Incorporated.

I also recall a brief conversation with Thomas F. "Mack" McLarty at some point, in which I told him that I had heard about fiscal mismanagement problems in the Travel Office. I expressed my concern that if there were any problems in the Travel Office they should be addressed promptly. I would not have had enough information to know what steps, if any, should be taken, but I believed then and still believe that if there were fiscal mismanagement in <u>any</u> part of the White House, it would be important to take prompt and appropriate corrective action. I may have spoken to Mr. McLarty a second time about the Travel Office, but I have no specific recollection of what was said. I don't recall saying to Mr. McLarty that the Travel Office matter was in the "forefront" of my mind or that "action needed to be taken".

It is possible that I may have spoken to Mr. McLarty at some point in 1993 about Mr. Thomason's actual or proposed activities at the White House with regard to communications matters, but I have no specific recollection of such a conversation. I do not believe I ever spoke to Mr. McLarty about aviation matters involving Mr. Thomason, Mr. Martens, and/or TRM Incorporated, or transportation issues, reviews, or investigations related to these two men and TRM Incorporated.

During the evening of Friday, May 14, 1993, I remember a brief telephone conversation with David Watkins, Assistant to the President for Management and Administration, who was out of the city. Mr. Foster was present, and he indicated that Mr. Watkins wished to speak to me about the Travel Office matter. Mr. Watkins stated that Mr. Foster had told him that I was interested in knowing what was going on with regard to the Travel Office. He told me that he was having a review conducted, and that, although he was out of town, his office was taking appropriate action. He may have mentioned that KPMG Peat Marwick was conducting some kind of audit or review. I recall that I thanked him for the report and let him know that I was glad he had taken the situation in hand.

I don't believe I had any conversations with Mr. Watkins about the Travel Office before or after this one telephone call. While I do not recall the specific details of our conversation, I did not direct that any particular action should be taken, nor did I make particular comments about what should be done (e.g., that I thought the Travel Office people "should be out"). I may have expressed the view that appropriate action should be taken if the circumstances warranted it. I do not recall telling Mr. Watkins I was going to an event with the President. I do not know how Mr. Watkins may have construed my remarks.

I don't recall ever speaking to Mr. Watkins about Mr. Thomason's actual or proposed White House activities. I do not believe I ever spoke to Mr. Watkins about aviation matters

involving Mr. Thomason, Mr. Martens, and/or TRM Incorporated, or transportation issues, reviews, or investigations related to these two men or TRM Incorporated.

I now understand that the KPMG Peat Marwick report presented on Monday, May 17, 1993, found several significant weaknesses in the existing internal control systems of the Travel Office and, on the basis of a three-day review, identified discrepancies in the amount of at least $18,200 in missing checks and improperly recorded or unrecorded petty cash transactions. This report further found several significant accounting system weaknesses in the Travel Office, including "lack of financial control consciousness," "no formal financial reporting process," "no reconciliations of financial information other than reconciliations of bank statements," "no documented system of checks and balances on transactions and accounting decisions within the office," "no general ledger, or cash receipts/disbursements journals," "lack of accounting expertise," and "no evidence or documentation of competitive bids or purchase orders for press charter service." The report also concluded that "[s]everal disbursements have missing or inadequate documentation," and "[b]illing practices are informal and inconsistent."

Although I had no decision-making role with regard to the removal of the Travel Office employees on May 19, 1993, I expressed my concern, as set forth above, that if there were fiscal mismanagement in the Travel Office or in any part of the

White House, it should be addressed promptly. I am sure I felt such action could include, if necessary and justified, appropriate personnel actions so that this Administration would not be blamed for condoning any existing fiscal mismanagement problems, even though the Travel Office employees had been hired by previous administrations. I may have expressed to Mr. Foster and Mr. McLarty, and perhaps to Mr. Watkins, an interest in receiving information about whether the review that was being conducted found evidence of financial mismanagement.

It is quite possible that I had conversations with other individuals about the White House Travel Office prior to May 19, 1993, but I do not recall them.

8. Identify and set forth the information sought in the preliminary statement for all communications that you had at any time with Vincent Foster or any individual acting on his behalf regarding the White House Travel Office matter, the personnel employed in the White House Travel Office, or any proposed or actual activities of Mr. Thomason at the White House, including but not limited to, all aviation matters involving Mr. Thomason, Darnell Martens, and/or TRM Incorporated or other transportation related issues.

In particular, describe in full any and all discussions, meetings, telephone conversations or other communications you had with Vincent Foster regarding the White House Travel Office on or about May 12, 13 and/or 14, 1993.

Did you make any statement, comment or observation to Vincent Foster on May 12 and/or 13, 1993, or at any other time, about the Travel Office?

Did you make any statement, comment or observation to Vincent Foster on May 12 and/or 13, 1993, or at any other time, to ask why action wasn't being taken to terminate the employment of the Travel Office employees?

Did you make any statement, comment or observation to Vincent Foster on May 12 and/or 13, 1993, or at any other time, "that they should be fired immediately and out of here by the

end of the day" or that the employees should be replaced by the end of the day or by the end of the week?

Did you make any statement, comment or observation to Vincent Foster on May 14, 1993, or at any other time, that you want him "to Act" on the information concerning the White House Travel Office employees?

Did you make any statement, comment or observation to Vincent Foster at any time that could have been construed by him to convey the sentiment that you were inquiring about the Travel Office or wanted to know why action wasn't being taken to terminate the employment of the Travel Office employees or "that they should be fired immediately and out of here by the end of the day" or that you wanted him "to act" on the information received to concerning the White House Travel Office employees?

Did you make any statement, comment or observation to Vincent Foster at any time that could have been construed by him to convey the sentiment that you were exerting pressure on him to act to terminate the Travel Office employees?

For any and all of such statements, supply the information described in the preliminary statement.

Please see my previous Response to Nos. 7-10.

9. Identify and set forth the information sought in the preliminary statement for all communications that you had at any time with Thomas F. "Mack" McLarty or any individual acting on his behalf regarding the White House Travel Office matter, the personnel employed in the White House Travel Office, or any proposed or actual activities of Mr. Thomason at the White House, including but not limited to, all aviation matters involving Mr. Thomason, Darnell Martens, and/or TRM Incorporated or other transportation related issues and any reviews, civil or criminal investigations.

In particular, describe in full any and all discussions, meetings, telephone conversations or other communications you had with Mack McLarty regarding the White House Travel Office on or about May 13 through May 17, 1993.

Did you make any statement, comment or observation to Mack McLarty on May 13, 1993, or at any other time, in which you advised him of the situation in the White House Travel Office?

Did you make any statement, comment or observation to Mack McLarty on May 17, 1993, or at any other time, that this was "in the forefront" of your mind and that "action needed to be taken"?

Did you make any statement, comment or observation to Mack McLarty at any time that could have been construed by him to convey the sentiment that you were advising him of the situation in the White House Travel Office or exerting pressure on him to act to terminate the White House Travel Office employees or that this was "in the forefront" of your mind and that "action needed to be taken"?

For any and all of such statements, supply the information described in the preliminary statement.

Please see my previous Response to Nos. 7-10.

10. Identify and set forth the information sought in the preliminary statement for all communications that you had at any time with David Watkins regarding the White House Travel Office matter, the personnel employed in the White House Travel Office, or any proposed or actual activities of Mr. Thomason at the White House, including but not limited to, all aviation matters involving Mr. Thomason, Darnell Martens, and/or TRM Incorporated, or other transportation related issues and any reviews, civil or criminal investigations.

In particular, describe in full any and all discussions, meetings, telephone conversations or other communications you had with David Watkins regarding the White House Travel Office on or about December, 1992, January, 1993, February, 1993, April, 1993 and May 12, 13, and/or 14, 1993.

Did you make any statement, comment or observation to David Watkins on May 12 and/or 13, 1993, or at any other time, that you thought that "these people," referring to the employees of the Travel Office, "should be out?"

Did you make any statement, comment or observation to David Watkins at any time that could have been construed by him to convey the sentiment that you "thought these people should be out" or that you wished that any or all of the White House Travel Office employees would be fired or that their employment should be terminated?

Did you make any statement, comment or observation to David Watkins on May 12 and/or 13, 1993, or at any other time, that Harry Thomason told you that he thought that other individuals could do the job of the Travel Office employees with his assistance and that his people could run things better and save money?

Did you make any statement, comment or observation to David Watkins on May 14, 1993, or at any other time, that "action needed to be taken immediately to be certain those not friendly

to the Administration were removed and replaced with trustworth individuals"?

Did you make any statement, comment or observation to Davic Watkins on May 14, 1993, or at any other time, that you "had an interest in tracking this matter and wanted to keep abreast of information on the review" and that you were "going to an event with the President"?

Did you make any statement, comment or observation to David Watkins on May 14, 1993, or at any other time, that you believed a mistake had been made by "not getting our people in place sooner"?

Did you make any statement, comment or observation to David Watkins on May 14, 1993, or at any other time, that "we need those people out -- We need our people in -- We need the slots --"?

Did you make any statement, comment or observation to David Watkins at any time that could have been construed by him to convey that "action needed to be taken immediately to be certain those not friendly to the Administration were removed and replaced with trustworthy individuals" or that you "had an interest in tracking this matter and wanted to keep abreast of information on the review" and that you were "going to an event with the President" or that you believed a mistake had been made by "not getting our people in place sooner" or that "we need those people out -- We need our people in -- We need the slots --"?

Did you make any statement, comment or observation to David Watkins any time that could have been construed by him to convey that you "had spoken to Harry Thomason (sic) concerning the matter" or that Mr. Thomason had brought "the Travel Office situation" to your attention?

For any and all of such statements, supply the information described in the preliminary statement.

Please see my previous Response to Nos. 7-10.

11. Identify and set forth the information sought in the preliminary statement for all communications that you had at any time with William Kennedy, Patsy Thomasson, Neil Eggleston, Lloyd Cutler, Bernard Nussbaum, Jennifer O'Connor, Catherine Cornelius, Robert Barnett, Susan Thomases, Lisa Caputo, Jane Sherburne, or Margaret Williams regarding the White House Travel Office matter, the personnel employed in the White House Travel Office, or any proposed or actual activities of Mr. Thomason at the White House, including but not limited to, all aviation

matters involving Mr. Thomason, Darnell Martens, and/or TRM Incorporated, or other transportation related issues and any reviews, civil or criminal investigations.

Since May 19, 1993, due to the numerous investigations and attendant publicity, I have had a number of conversations about the Travel Office matter, including with some of the people named in this interrogatory. I cannot identify all such communications over the last nearly three years with the requested specificity. However, I do not recall speaking to any of the people named here prior to May 19, 1993, about the Travel Office matter or the people employed in the White House Travel Office. I may have spoken to some of these people in 1993 about proposed or actual activities of Mr. Thomason regarding his ideas as to how the President could better communicate his values, ideas, and policies, but I don't believe I ever spoke to any of them about aviation matters involving Mr. Thomason, Mr. Martens, and/or TRM Incorporated, or transportation issues, reviews, or investigations related to these two men and TRM Incorporated. Please see also my previous Response to Nos. 7-10.

12. Identify and set forth the information sought in the preliminary statement for all communications that you had at any time with Jeff Eller, Dee Dee Myers, George Stephanopoulos or Mark Gearan regarding the White House Travel Office matter, the personnel employed in the White House Travel Office, or any proposed or actual activities of Mr. Thomason at the White House, including but not limited to, all aviation matters involving Mr. Thomason, Darnell Martens, and/or TRM Incorporated, or any other transportation related issues, and any reviews, civil or criminal investigations.

In particular, describe in full any and all discussions,

meetings, telephone conversations or other communications you had with Jeff Eller, Dee Dee Myers, George Stephanopoulos or Mark Gearan regarding the fact that the firing of the Travel Office employees would be a good or positive story or that they should stay ahead of the story?

Did you make any statement, comment or observation to Jeff Eller, Dee Dee Myers, George Stephanopoulos or Mark Gearan at any time that could have been construed to convey that the firing of the Travel Office employees would be a good or positive story or that they should stay ahead of the story?

For any and all of such statements, supply the information described in the preliminary statement.

Since May 19, 1993, due to the numerous investigations and attendant publicity, I have had a number of conversations with different people about the Travel Office matter, including some of the people named in this interrogatory. I cannot identify all such communications over the last nearly three years with the requested specificity. I do not recall speaking to any of the people named here prior to May 19, 1993, about the Travel Office matter or the people employed in the White House Travel Office. I may have spoken to some of these people in 1993 about proposed or actual activities of Mr. Thomason regarding his ideas as to how the President might better communicate his values, ideas, and policies, but I don't believe I ever spoke to any of them about aviation matters involving Mr. Thomason, Mr. Martens, and/or TRM Incorporated, or transportation issues, reviews, or investigations related to these two men and TRM Incorporated.

I do not recall saying to Ms. Myers or Messrs. Eller, Stephanopoulos, or Gearan that the firing of the Travel Office employees would be a good story or that they should stay ahead

of the story.

I simply do not know how these four people construed remarks of mine.

Please see also my previous Response to Nos. 7-10.

13. Identify and set forth the information sought in the preliminary statement for all communications you had on May 16, 1993, including but not limited to, all persons with whom you had dinner, regarding the White House Travel Office matter, the personnel employed in the White House Travel Office, or any proposed or actual activities of Mr. Harry Thomason, including but not limited to, all aviation matters involving Mr. Thomason, Darnell Martens, and/or TRM Incorporated, or other transportation related issues and any reviews, civil or criminal investigations.

I do not recall what, if any, communications I had about the Travel Office matter, the Travel Office personnel, or the proposed or actual activities of Mr. Thomason on May 16, 1993. I don't believe I had any discussions of aviation matters involving Mr. Thomason, Mr. Martens, and/or TRM Incorporated, or transportation issues, reviews, or investigations related to these two men and TRM Incorporated on this date.

14. Identify and set forth the information sought in the preliminary statement for all communications concerning or knowledge of Mr. David Watkins' handwritten notes asking "POTUS real relationship with Catherine Cornelius?"

I did not write this note, and I have no knowledge about what it means.

15. Set forth all information known to you concerning any documents removed or transferred from Mr. Foster's office at any time between July 20, 1993 through July 29, 1993.

Identify and set forth the information sought in the preliminary statement for all communications you had regarding

the removal of any documents from Mr. Foster's office and the individuals who were in his office prior to the review of the office on July 22, 1993 in the presence of law enforcement officials.

Identify and describe any Travel Office files maintained by Mr. Foster or other employees of the Counsel's office working at his behest and how such documents were handled or transferred.

The question of documents removed or transferred from Mr Foster's office in July, 1993, has been the subject of extensive public hearings and media coverage. Because I am generally aware of this publicity, it would simply be impossible for me to set forth "all information known to [me]" about this matter.

I do not recall having had communications with anyone about removal of documents from Mr. Foster's office and the individuals who were in his office prior to the review of the office on July 22, 1993, in the presence of law enforcement officials.

I did not know what, if any, Travel Office files Mr. Foster might have been working on at the time of his death. I knew nothing about Travel Office work being done at that time by others under Mr. Foster's direction or how any related materials may have been handled or transferred.

16. Identify and set forth the information sought in the preliminary statement for all communications that you had at any time with any person regarding the reprimands of particular individuals in the White House.

I do not recall any discussions of reprimands of particular individuals in the White House prior to July 2, 1993. After the White House Travel Office Management Review was released on that date, it is possible I discussed the reprimands of White House

personnel at some point, but I do not recall doing so.

17. Do you keep a personal diary or is one maintained for you? If so, when was this diary begun and are events recorded into this diary on a regular basis?

I do not keep a personal diary, nor is one maintained for me.

18. Do you keep a telephone log and appointment calendar or is one maintained for you? If so, when was this log or calendar begun and are events recorded into this log or calendar on a regular basis?

I do not keep such records. My office does not keep a record or calendar of my appointments and meetings, although my Scheduling Office does keep a schedule for me, and copies of my schedules are retained. My Executive Assistant provides to me and maintains a daily log of incoming communications to that office which includes telephone messages. She also provides me with a call sheet reflecting telephone calls to be returned. These call sheets have not been systematically maintained. The Office of Personal Correspondence in the East Wing maintains a daily log of correspondence for me, which occasionally includes a few telephone messages for me received by that office.

19. Identify and set forth the information sought in the preliminary statement for all gifts or things of value received by you or your family, at any time, from Harry Thomason, Darnell Martens, TRM Incorporated, Harry Thomason & Associates, World Wide Travel, Air Advantage, or any entity or person affiliated therewith.

Harry Thomason and his wife, Linda Bloodworth-Thomason, are long-time personal friends, and my family and I have both given gifts to and received gifts from them at anniversaries,

birthdays, Christmas, and other occasions. We have stayed at their home, and they have visited us at ours. I do not recall receiving gifts from the other persons and entities listed in this question, or, to my knowledge, from entities or persons are who are "affiliated" with these people and entities.

20. Identify and set forth the information sought in the preliminary statement of any participation, concern, or pressure exerted by you or the Office of the First Lady to terminate any other employees of the White House during the first fifteen months of the Clinton presidency.

Identify all information known to you of any "rumors" of possible wrongdoing in the White House Travel Office prior to the May 19, 1993 firings of the employees.

Identify all information known to you of any "financial mismanagement" of possible wrongdoing in the White House Travel Office as of May 12, 1993.

As has been true of all new Presidents, my husband took such steps to organize the Executive Branch as he thought proper to discharge his responsibilities as Chief Executive. Likewise, since January 20, 1993, such steps have been taken as were deemed necessary and appropriate, including personnel changes, to make the White House residence a comfortable and efficient place for us to live and a welcoming and pleasant environment for us to entertain both state and personal guests.

For responses to the second and third sentences of this interrogatory, please see my previous Response to Nos. 7-10.

21. Do you have any knowledge of anyone who at any time maintained, stored, or utilized any records in the White House residence Book Room regarding the White House Travel Office matter, the personnel employed in the White House Travel Office,

or any proposed or actual activities of Mr. Harry Thomason, including but not limited to, all aviation matters involving Mr. Thomason, Darnell Martens, and/or TRM Incorporated, the Presidential Inaugural Committee, or other transportation related issues?

I have no such knowledge.

22. Provide a written description detailing any knowledge which you have concerning the origin and chain-of-custody of the undated 9-page memorandum by Mr. David Watkins, a copy of which was produced to this Committee on January 3, 1996. This document includes Bates-stamp numbers CCGE 12286-12294. Identify all persons in the chain-of-custody of whom you have any knowledge by name and location. Include any information that you have concerning the origin and chain-of-custody of any other drafts, copies of drafts, final versions, or copies of final versions of the Watkins memorandum.

Describe any other similar documents, drafts, copies of drafts, final versions or copies of final versions of the 9-page Watkins memorandum of which you have knowledge. Include any information that you have concerning the origin and chain-of-custody of any of these additional documents.

Provide a complete account of all your knowledge, past or present, of the existence of the 9-page Watkins memorandum. Describe the circumstance or circumstances under which you gained any knowledge whatsoever of the drafting, existence, storage, retrieval, or use of this memorandum for any purposes whatsoever.

In the 9-page draft Watkins memorandum, Mr. Watkins makes four references to an issue that developed between the Secret Service and the First Family in February and March, 1993. Based upon Mr. Watkins' stated belief that a poorly handled Secret Service incident required that he take immediate and forceful action on subsequent matters requested by you, provide a full description of the February, March or Spring, 1993 Secret Service incidents in which you and/or the President were involved. Identify what was expected of Mr. Watkins and Mr. McLarty that they failed to do for you and/or the President in response to the incidents.

I have no first-hand knowledge of the origins or chain of custody of this memorandum.

I do not know for certain what particular incidents Mr. Watkins is referring to in his draft memorandum, but there was

an adjustment period in early 1993 when we had to become accustomed to the security and surveillance procedures then in effect in the White House. Moreover, certain false reports of conduct within the White House residence had been circulated and even published during the first few months after our move, and it was sometimes implied that the source of these rumors was the Secret Service. Mr. McLarty and Mr. Watkins were able to work out procedures which better accommodated the needs of our family and the Secret Service.

23. Set forth all information known to you concerning the circumstances leading up to the departure of Mr. Watkins from the White House, including but not limited to, any concerns about his management, personal conduct towards employees, and actions regarding the use of White House helicopters.

I have no first-hand knowledge of the circumstances which led to Mr. Watkins' departure from the White House.

24. Set forth all information known to you concerning Catherine Cornelius' role in the Travel Office firings and any actions taken by David Watkins, Patsy Thomasson or others to remove Catherine Cornelius from her job at the White House following the Travel Office firings. Describe any efforts made to find Ms. Cornelius another job and any knowledge you have concerning Ms. Cornelius' concerns about the hostile environment created by David Watkins and Patsy Thomasson.

I have no first-hand knowledge of these matters.

25. Were you aware of any "talking points" concerning Mr. Billy Dale or the Travel Office disseminated by your office at any time since Mr. Dale's trial began on October 26, 1995? If so please describe with whom you discussed any such talking points and any information you were provided about such efforts.

I'm not aware of any "talking points" concerning Mr. Dale

or the Travel Office that my office "disseminated" in this period. I know that, prior to interviews, press conferences, or public appearances, I have occasionally been furnished with information to be used in answering predicted questions. Some of these predicted questions have related to Travel Office matters.

26. Set forth all information known to you concerning any actions taken to use Presidential Inaugural Funds to fund outside volunteers or other employees to assist in any White House functions and the role of Harry Thomason, David Watkins, Vince Foster, Michael Berman and others in exploring ways to use outside sources of funding or Presidential Inaugural Funds to fund any White House activities.

I helped arrange a $300,000 donation by the Presidential Inaugural Committee to the White House Historical Association in 1993 to be used for the renovation and upkeep of the White House. I am generally aware that there were discussions in 1993 of ways to manage the work load and ameliorate the effects of the 25% staff cut which the Administration had imposed on itself and that these discussions included consideration of whether excess Presidential Inaugural Committee funds could be used for such purposes, although ultimately they were not.

Hillary Rodham Clinton
HILLARY RODHAM CLINTON

Subscribed and sworn to before me
this 21st day of March, 1996.

Moira K. Ricketts
Notary Public

MOIRA K. RICKETTS
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires February 14, 1999

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May 17, 1996

HRC ROLE

[illegible]	[illegible] Review	GAO	FBI Internal Review	OPR	[illegible]	[illegible] Watkins
Discussion with Thomason re Travel Office	Does not mention. Interview Notes Watkins ** Nowhere mentions a conversation between HT and HRC HT ** Nowhere mentions a conversation with HRC HRC ** She asked a couple of people, including Thomason, "what happened." Context and timing of this comment are unclear.	On May 12, Thomason meets with Watkins, Martens and Cornelius to discuss concerns about the Travel Office. "Following this meeting, Mr. Thomason repeated his concerns to the First Lady, and later told Mr. Watkins that he had done so." (53)	No discussion of Thomason's involvement in the Travel Office matter	On the morning of May 12, Watkins, Cornelius, Martens and Thomason meet to discuss Travel Office. "Later that day, Thomason visited with Watkins again and told him that he had seen Mrs. Clinton, that he had mentioned the Travel Office matter to her, and that she had responded, 'we need to stay ahead of this' because if there is corruption in the Travel Office, it will make a good story." (9)	No discussion of Thomason's involvement in the Travel Office matter.	No discussion of Thomason's involvement in the Travel Office matter

DF 780712

[illegible]	WH Management Review	GAO	FBI Internal Review	OPR	IRS Internal Review	[illegible]
Discussions with Foster re Travel Office	1st Conversation On May 13, Foster goes to see the First Lady on an unrelated matter. The First Lady tells him she has heard about problems in the Travel Office. Foster informs her that Kennedy is looking into the matter. (8) 2nd Conversation Foster informs the First Lady that Peat Marwick will be conducting a review of the Travel Office. (8) The report does not mention when precisely this occurred.	No mention of these conversations in the GAO report.	No mention of these conversations; focus of report was FBI contacts with the White House.	Report mentions Foster told others that the First Lady had inquired about the Travel Office. * Watkins states that during a May 13 meeting in McLarty's office, Foster reported that Mrs. Clinton had inquired about the Travel Office. McLarty mentions that he had also discussed the situation with her. (37-38). * Late in the afternoon on May 14, Foster tells Watkins that Mrs. Clinton had inquired about the Travel Office matter earlier in the day. Foster asks Watkins to contact her and tell her how he planned to handle the situation.	No mention of these conversa-tions; focus of report was alleged IRS contact with the White House	No mention of these conversation; focus of report was alleged IRS contact with the White House

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[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Discussion with MacLarty re Travel Office	In the afternoon on May 13, the First Lady sees Mack McLarty and inquires about the Travel Office situation. (9)	No mention of this conversation.	No mention of this conversation.	Watkins states that during a May 13 meeting in McLarty's office, McLarty mentions that he has discussed the Travel Office situation with the First Lady. (38)	No mention of this conversation.	No mention of this conversation.

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Discussion with Watkins re Travel Office	"Beginning Friday and over the weekend, Watkins received telephone updates on the progress of the Peat Marwick review. Late Friday afternoon, he received an update from Patsy Thomasson on the progress of the Peat Marwick review. He then talked to Foster about the review. Foster, in light of the First Lady's inquiry the previous day, suggested Watkins update her. Watkins then called the First Lady and updated her about the situation in the Travel Office." (9) On May 14, at Foster's suggestion, Watkins updated the First Lady on the Travel Office situation and the	"On May 14, Mr. Watkins talked with the First Lady and told her that KPMG had found sloppy management in the Travel Office. He said that she urged that action be taken to get 'our people' into the Travel Office to help achieve the 25-percent staff cut. According to Mr. Watkins, the First Lady also mentioned, in the context of the Travel Office, that the administration had been criticized for being slow in making appointments." (53-54)	No mention of the discussion in the report; focus was FBI involvement.	"At about 6:30 or 7:00 pm, according to Watkins, he telephoned Mrs. Clinton. He relayed the information he had received from Thomasson about sloppy and near non-existent record keeping procedures by the Travel Office. He also told her that the auditors had found petty cash unaccounted for. In short, he informed her that things in the Travel Office were worse than they had originally thought. Watkins told Mrs. Clinton that the auditors would not complete their review until Sunday night, May 16, and would have a report for him on Monday morning.	No mention of this conversation; focus was IRS contacts.	No mention of this conversation; focus was IRS contacts.

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DF 780715

				He told her that he would be back in Washington on Sunday evening and would, after reviewing the report, take appropriate action. According to Watkins, Mrs. Clinton said that she had talked with Harry Thomason and that he believed that Watkins could have a new travel office operation in place very quickly. She also said that she had received advice from several others that "we've made a mistake by not getting our people into jobs sooner." Watkins reported that neither he nor Mrs. Clinton mentioned the FBI during this conversation		

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[illegible]	[illegible] Management Review	GAO	[illegible] Internal Review	OIG	[illegible]	[illegible]
				which lasted from five to seven minutes."		

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DF 780717

DOCUMENT INDEX FOR HARRY THOMASON

1 **January 29, 1993 memo, "TRM Action Items" from Darnell Martens to Harry Thomason on how to pursue "Washington opportunities."**

2 **February 11, 1993, "White House Inventory of the Federal Aircraft Fleet," from Darnell Martens to Harry Thomason.**

3 **February 17, 1993 Note for "Mack, Mark, Watkins" attached to February 11, 1993 memo (CGE 2296-2298).**

4 **March 5 memo about allegations of wrongdoing in Travel Office (fax is undated - 5 pages, sent to "Adriane/Harry")**

5 **March 12, 1993 memo, "Federal Aircraft Management Information System (FAMIS), from Darnell Martens to Harry Thomason (CGE 2224-2226).**

6 **March 23, 1993 memos on Harry Thomason's White House pass (CGE 2931-2936)**

7 **April 6, 1993 memo from Darnell Martens to Bruce Lindsey regarding the project to review non-military federal aircraft fleet.**

8 **April 12, 1993 fax to Bruce Lindsey from Darnell Martens/TRM (CGE 2228-2229)**

9 **April 16, 1993 handwritten notes of David Watkins (CGE 29184)**

10 **April 26, 1993 fax to Bruce Lindsey's secretary with memo (3 pages CGE 2230-2232)**

11 **April 27, 1993 fax and April 29, 1993 memo from Darnell Martens to Bruce Lindsey (CGE 22336,22333-35)**

12 **May 6, 1993 fax to Jack Kelly of OMB faxing previous memos to Bruce Lindsey (CGE 2237-2241)**

13 May 11, 1993 fax memo to Harry Thomason's assistant Bobbi Ferguson from Darnell Martens for Martens to confirm he is coming to Washington (1 page)

14 May 11, 1993 calendar page for Mack McLarty (CGE 26860)

15 May 12, 1993 White House pass information for Darnell Martens (CGE 18296-18297)

16 May 12, 1993 e-mails of Catherine Cornelius (CGE 39295-39297)

17 May 13, 1993 fax memo to Harry Thomason from Darnell Martens saying he can be ready to do the Travel Office business by Sunday "if needed."

18 Miscellaneous phone messages and notes of Harry Thomason while at the White House (4 pages).

19 Undated TRM Confidential memo on proposal for TRM to get White House Travel Office business (3 pages).

20 Harry Thomason calendar of meetings and phone messages from May 10-May 21, 1993 (redacted).

21 May 17, 1993 Memorandum to Mack McLarty from David Watkins regarding the White House Travel Office, cc: Hillary Rodham Clinton (CGE 17753).

22 "Undated" White House Project memo by Harry Thomason (CGE 1461-1468)

23 June 11, 1993 White House Management Review interview of Jennifer O'Connor, CGEPR 383-390)

24 June 17, 1993 White House Management Review interview of Ross Fischer of Miami Air, (CGEPR 237-239)

25 June 20, 1993 Memo from Cliff Sloan to Beth Nolan, Subject: Response to Questions from Republican Leadership, CGE 43210-43212)

26 **July 1993 Memorandum for John Podesta and Todd Stern from Beth Nolan, Subject: "Questions from Travel Office report re Harry Thomason," (CGE 43235-43246)**

27 **July 14, 1993 routing slip attached to July 13, 1993 memo from Beth Nolan to Cliff Sloan regarding "Preliminary Thoughts on Travel Office Report re Harry Thomason," (CGE 43265-43275).**

28 **Undated memo on Special Government Employees from the White House, (CGE 43348-43355)**

29 **July 6-July 12, 1993 phone logs of Cliff Sloan with entries regarding Harry Thomason (CGE 37126-27,130-31,138).**

30 **August 18, 1993 handwritten notes re "memo - HT" (CGE 37586)**

31 **August 25, 1993 memo for Leon Panetta from Roy Neel regarding audit of federal aircraft by TRM (CGE 17597).**

32 **April 11, 1994 memorandum for Lloyd Cutler and John Podesta from W. Neil Eggleston re: Travel Office report and not turning over "ICAP" documents to GAO (CGE 7719-7721).**

33 **September 8, 1994 Justice Department memorandum from Public Integrity Chief Lee Radek to Deputy Assistant Attorney General of the Criminal Division, John Keeney regarding "Status of Travel Office investigation" including the White House not producing all documents on Harry Thomason.**

34 **September 5, 1995 letter from Clinton attorney David Kendall to Committee Counsel Barbara Comstock regarding 24 files of allegedly "personal" Clinton legal documents which included an empty file on "the White House Project"– a project Harry Thomason was working on.**

TPA

C O N F I D E N T I A L

TO: HARRY THOMASON
FROM: DARNELL
RE: TBM ACTION ITEMS
DATE: 1/29/93

---

1) To capitalize on "Thomason" name recognition, revert to my original proposal in the business plan to use the trade name of "Harry Thomason & Associates".

2) If we are to pursue Washington opportunities:

A) Obtain some form of official status as advisors to the White House for general aviation policy matters. (ITC, product liability reforms, regeneration of piston aircraft manufacturing, etc.)

B) Propose one or more of several specific consulting projects. Such as:

- Develop computerized safety & operational database such as our original NTSB proposal from the business plan. Relate the recent Citation accident using a government operated aircraft.

- Review all non-military government aircraft to determine financial and operational appropriateness. A review of all 1,200 aircraft could be accomplished in two years.

C) HET & DMN should travel to Washington within the next 30 to 45 days to meet with either DOT or White House transportation advisors regarding the above. Perhaps an initial meeting could be included in your trip next week.

Darnell will pursue with Dick Dick manager

D) Determine who controls the scheduling of the White House Press Corps aircraft. This can be done by TBM much as the campaign aircraft were handled.

E) Participation in the development of the Civil Advanced Technology Administration originally proposed by Clinton.

F) FAA Administrator: selection assistance, policy recommendations.

C O N F I D E N T I A L

TO: HARRY THOMASON
Chairman, TRM, Inc.

FROM: DARNELL MARTENS
President, TRM, Inc.

RE: WHITE HOUSE INVENTORY OF THE FEDERAL AIRCRAFT FLEET

DATE: 2/11/93

On 1/29/93, I sent you and Dee-Dee Myers a memo in which I stated that, based on the Administration's directive to consider cutbacks wherever feasible, TRM should solicit a consulting project from the White House of the following description:

"Review all non-military government aircraft to determine financial and operational appropriateness."

Yesterday morning on CNN-Live, the President stated in a cabinet meeting that his staff has informed him that there are savings to be had in a review of all government aircraft and that an inventory of those aircraft will be made.

This inventory MUST by administered by someone who knows aircraft as well as operational and capital budgets.I propose a plane-by-plane inventory of the 1,874 aircraft in the Federal fleet. We would, with cooperation by the GAO & OMB, list each aircraft's: agency user, purpose, current value, operating budget, mission appropriateness, utilization, alternative aircraft (if any), operating budget effects (of changes, if any) and miscellaneous comments.

SUMMARY OF THE FEDERAL AIRCRAFT FLEET

Large Commercial Jets	26
Large Business Jets	22
Medium Business Jets	41
Small Business Jets	150
Turboprop	600
Piston-Multiengine	190
Piston-Single engine	406
Helicopters	383
Military-type Jets	56
TOTAL	1874

We've demonstrated our capabilities to the President by coordinating all aircraft activities for The Clinton For President Committee, The Clinton/Gore '92 Committee and the Clinton/Gore Transition Team. Now we have an opportunity to make a substantive contribution to the deficit reduction plans. We can deliver a practical, useful tool to both reduce costs and improve aircraft utilization.

Harry, I can state, without qualification, that TRM is uniquely qualified to conduct this study. This is the project for which I have trained for 19 years. I know the aircraft--I understand the budgets. Put me in front of the right person at the White House and I will prove the value of both the project and Thomason's capabilities.

CS

007985 SS

ND001-01 (Am) 3/10/93 pm gDP

C O P Y
from ORM

THE WHITE HOUSE
WASHINGTON

DATE: 2/17

NOTE FOR: MACK, MARK, WATKINS

The President has reviewed the attached, and it is forwarded to you for your:

Information ☐
Action ☑

Thank you.

JOHN D. PODESTA
Assistant to the President
and Staff Secretary
(x2702)

CGE 002296

C O N F I D E N T I A L

THE PRESIDENT HAS SEEN

TO: HARRY THOMASON
Chairman, TRM, Inc.

FROM: DARRELL MARTENS
President, TRM, Inc.

RE: WHITE HOUSE INVENTORY OF THE FEDERAL AIRCRAFT FLEET

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CGE 002297

REDACTED

CGE 002298

C O N F I D E N T I A L

TRM, INCORPORATED
513-871-5410

INTERCOMPANY MEMORANDUM

TO: Harry Thomason, Chairman

FROM: Darnell Martens, President

RE: Federal Aircraft Management Information System (FAMIS)

DATE: 3/12/93

Based on your discussion with President Clinton of my 2/11/93 memo, I began the process of obtaining specific information regarding the scope of work and potential savings involved in performing an audit of all non-military Federal aircraft.

SCOPE OF WORK:

(A) The scope of work involves the plane-by-plane review of 1,874 aircraft. We have already requested and received some information from the OMB regarding these aircraft.

The information currently available is not representative of the true cost of operation. Existing definitions of "operating costs" varies widely and is not consistent among the various agencies. Much of the costs are hidden in the general overhead budgets.

To develop true operating budgets, perform an audit of how the aircraft are used and to evaluate alternative aircraft and/or operational recommendations would require one year.

(B) After hearing from the Interagency Committee for Aviation Policy, it would appear that a follow-on project of developing and implementing a management information system that continues to adequately monitor and document the aircraft usage is needed. This, too, would require approximately one year to develop and implement.

POTENTIAL SAVINGS: Potential savings had been earlier estimated by me at $100 million year one with minimum annual operating budget savings of $50 million per year thereafter. I now believe this to be very conservative.

A discussion with Lawrence B. Godwin, Executive Officer of the Interagency Committee for Aviation Policy (ICAP) at the General Services Administration revealed that the government did not even account separately for the budgets relating to personnel transport on non military aircraft until four years ago. In his opinion, the state operating costs do not even closely indicate the true costs.

CGE 002224

He offered that the published costs may be low by as much as a decimal point. Since the 1991 published costs were $1,017,118,369, this indicates a potential variance of $9 billion.

My research bears out this supposition. For example, the Dept. of Agriculture aircraft operating costs equal only $365 per hour, the Dept. of Interior just $220 per hour and the Dept. of Justice at $861 per hour. These figures simply are not reasonable. They are too low considering the type aircraft operated. Therefore, there must be costs which are not disclosed. My analysis and ICAP's statements both indicate gross understatements of aircraft costs.

I now believe that TRM can identify savings to the government of several hundred million dollars. A very conservative estimate would be $300 million initially and $150 million per year thereafter. Additionally, a significant percentage of the aircraft operations budget would be shifted to private enterprise (charter) thereby improving the general economy.

SUMMARY: We know that a review of these aircraft are warranted...the President believes in it, we believe in it and now we have confirmation that those responsible for these operations within the General Services Administration believe in it. Additionally, the budget savings have grown to be statistically significant.

TRM is uniquely situated to perform this review and complete it in a meaningful time frame.

DHM:HZT93-1212

CGE 002225

FAMIS SCOPE OF WORK

Initial Draft

Start	Completetion	Task
May 03	May 28	Develop specific definition of operating budget and aircraft utilization parameters. Audit packages developed for implementation by GAO. Specify TRM computer software and hardware configuration for the FAMIS database.
May 31	Jun 18	Meet with and train GAO audit personnel regarding FAMIS audit package and related information.
Jun 28	Sep 24	Group I Agencies: audit packages solicited, returned and analyzed.
Sep 30		*Group I Report to Executive Branch*
Sep 27	Dec 31	Group II Agencies: audit packages solicited, returned and analyzed.
Jan 07	*'94*	*Group II Report to Executive Branch*
Jan 03	Mar 25	Group III Agencies: audit packages solicited, returned and analyzed.
Apr 01		*Group III Report to Executive Branch*
Mar 28	Apr 29	Group I thru III Agencies: all audit packages analyzed relative to interagency considerations and final report prepared.
May 02	*'94*	*Full report delivered to Executive Branch.*

CGE 002226

THE WHITE HOUSE
WASHINGTON

COPY

March 23, 1993

TO: TECHNICAL SECURITY DIVISION
U.S. SECRET SERVICE

SUJECT: REQUEST FOR PASS

NAME: Thomason, Harry Z.
(LAST) (FIRST) (MIDDLE)

TITLE AND OFFICE Office of the President

Immediate Supervisor's
Title and Name President Clinton

Location (Room No.) _____ Tel. Ext. 2345

Type of Security Clearance:

FBI (a) Completed NC WORKING & NCIC CCH ID WALES Completed

(b) Other _____

(c) Waived _____

Type of Pass:

_____ Temporary Executive Office 30 Da.____ 60 Da._____ 90 Da.__

_____ Permanent Executive Office

X Temporary White House 30 Da._____60 Da.___90 Da.__X__

_____ Other: _____

APPROVED BY: _____
Craig Livingstone
Assistant to the Counsel to
the President (Security)

CGE 002931

THE WHITE HOUSE

WASHINGTON

MAR 2 4 1993

March 23, 1993

TO: FBI, LIAISON

FROM: BERNARD W. NUSSBAUM

SUBJECT: FBI INVESTIGATIONS

SUBJECTS NAME Thomason, Harry Z. SS# 431-74-0584

DATE OF BIRTH 11-28-40 PLACE OF BIRTH Hampton, AR

PRESENT ADDRESS 4908 Noeline Encino, CA 91436

WE REQUEST: _____ Copy of Previous Report

__X__ Name Check

_____ Expanded Name Check

_____ Full Field Investigation: Level I___ Level II___Level III__

_____ Limited Update

_____ Other

The person named above is being considered for:

_____ White House Staff Postion

_____ Presidential Appointment

__X__ Access

Attachments:

_____ SF 86

_____ SF 87, Fingerprint Card

_____ SF 86, Supplement

Remarks/Special Instructions:

CGE 002932

CENTRAL FILES AT FBI HEADQUARTERS AND THE FILES OF THE IDENTIFICATION DIVISION AND APPROPRIATE COMPUTER DATA BASES CONTAIN NO IDENTIFIABLE INFORMATION

APR 0 5 1993

WHITE HOUSE
SECURITY OFFICE

MAR 23 1993

FORWARD TO ROOM 8, OEOB

THE WHITE HOUSE OFFICE
SUPPLEMENTAL INFORMATION SHEET
FOR PERSONNEL ACTION
(TO BE ATTACHED TO FORM WHP-1)

3/10/93
Date

PERSONAL INFORMATION

Name (Ms., Miss, Mrs., Mr.) Thomason (Last) Harry (First) Z (Middle) (Maiden)
Birth Date 11/28/40
Local Address
Birth Place Hampton, Arkansas
SSN 431-74-0584
Last Perm. Address 4908 Noeline
Encino, CA 91436
Tel. No. 818-906-1332 (Home) 818-760-5779 (Office) Emergency Danny Thomason (Name) 501-227-4589 (Tel. No.)
Marital Status: ☐ Single ☒ Married ☐ Widowed ☐ Separated ☐ Divorced
Name of Spouse Linda Bloodworth-Thomason

ASSIGNMENT

Office of President
Reporting to President
Ext. Room
Status: ☐ White House Employee ☐ Detailee ☒ Volunteer ☐ SRA (Contact)
☐ Other
Desired Effective Date Ending Date

PRIOR EMPLOYMENT DATA

Military Service: ☒ No ☐ Yes Branch Date of Service
Prior Federal Govt. Service as Civilian: ☒ No ☐ Yes Ending Date
Current or Last Place of Govt. Service or Civilian Employment: Name
Address Tel. No.
Personnel Contact in Current/Last Govt. Agency Name Tel. No.
Prior W. H. Service: ☒ None ☐ Employee ☐ Volunteer ☐ SRA

ACCESS PASS

TO BE COMPLETED BY REQUESTING OFFICIAL
☐ WH Access List ☒ WH Pass
☐ EOB Access List ☐ EOB Pass
☐ Volunteer Pass
Signature of Requesting Official
Signature of Approving Official

VOLUNTEERS

TO BE COMPLETED BY VOLUNTEER

I acknowledge that the personnel data above is correct and that I am volunteering my services without compensation or promise of such.

Harry Thomason
Signature of Volunteer
March 22, 1993
Date

FOR USE BY WHITE HOUSE PERSONNEL OFFICE ONLY:
Preliminary copy to Security _____ Date
Approved copy to Security _____ Date

WHP-1(3/87)

RUSH - ASAP

CGE 002933

THE WHITE HOUSE

WASHINGTON

July 26, 1993

MEMORANDUM FOR: US SECRET SERVICE PASS SECTION

FROM: WHITE HOUSE SECURITY

SUBJECT: EXTENSION OF PASSES

Please extend passes for the following individuals for the indicated time period:

NAME	Exp.	Pass Type	60 Days	90 Days

NAMES AND DETAILS PERTAINING TO OTHER INDIVIDUALS ARE REDACTED

CGE 002934

NAMES AND DETAILS PERTAINING
TO OTHER INDIVIDUALS REDACTED.

CGE 002935

CGE 002936

FROM: Adam Goldwer
Political Affairs x2607

Subject: Access to Westwing
4-30-93 & 5-1-93

[redacted] WH Badge
11-28-40
431-74-0584

Markie Post WH Access List
11-4-50
550-92-4864

- Request access to OEOB, WH Mess, 2nd FLR EAST Wing, Roosevelt Room, Robin EMMANUELS Office

Clinton

T R M, I N C O R P O R A T E D

513-871-5410
FAX: 513-87 1-5761

TO: BRUCE LINDSEY

FROM: DARNELL MARTENS

RE: REVIEW OF NON-MILITARY FEDERAL AIRCRAFT FLEET

DATE: 4/6/93

Attached is:

1) A memo to Harry Thomason which was presented to and discussed with the President in mid-February. The President indicated to Harry that this was a project he was interested in considering.

2) A follow-up memo to Harry's meeting with the President which outlines the proposal in greater detail adding the cooperation of the GSA's Interagency Committee for Aviation Policy (Lawrence Godwin, Executive Officer).

3) A Scope of Work summary indicating a one year time frame for the completion of the audit and recommendation phase of the report.

Interim reports could be issued in order to accelerate the implementation of cost savings.

Subject to your review of this preliminary information, TRM is prepared to assemble and provide any additional information you may require to fully consider this project.

Likewise, TRM formally requests the opportunity to generate this report for the Administration. We have consistently demonstrated both our capabilities and loyalty to the Administration throughout the past 18 months. Further, we are uniquely qualified to provide a report which can be implemented and will result in lower government costs.

CGE 002227

TRM, INCORPORATED
HARRY THOMASON & ASSOCIATES, INCORPORATED

4536 AIRPORT ROAD
CINCINNATI, OHIO 45226
TELEFAX NUMBER 513-871-5761

TO Bruce Lindsey DATE 4/12/93

TELEPHONE NUMBER:

FAX NUMBER: 202 - 456 - 2397

COMPANY: The White House

CITY & STATE:

NUMBER OF PAGES INCLUDING COVER SHEET: 2

FROM: DARNELL H. MARTENS, PRESIDENT

TELEPHONE NUMBER: 513-871-5410

REMARKS:

Deb —

I will be traveling from Cincinnati to Los Angeles tomorrow AM I will be in LA until 4/21

If you need me for anything, call 818-508-5800 (Jennifer)

FAX 818-508-5807

Thanks!

CGE 002228

Mac 64

T R M, I N C O R P O R A T E D
MEMORANDUM

CINCINNATI: 513-871-2419 FAX 871-5761 LOS ANGELES: 818-908-28 FAX 908-28

TO: BRUCE LINDSEY
ASST. TO THE PRESIDENT, SR. ADVISOR
THE WHITE HOUSE

FROM: DARNELL MARTENS
PRESIDENT, TRM, INC.

RE: FAMIS (Federal Aircraft Management Information System) RE

DATE: 4/12/93

Based on our 4/7/93 meeting at your office, I am recommending that Office of the President initiate an operational and financial audi all non-military Federal aircraft.

The specific purpose of the audit will be to: 1) generate a consi accounting methodology for Federal aircraft and perform an audit that method, and 2) generate a report for the President, usin information obtained, that will list specific recommendations rega aircraft requirements and interagency utilization.

As you know, I have already met with and obtained the cooperati Lawrence B. Godwin, Executive Officer, Interagency Committ Aviation Policy, General Services Administration (think of ICAP U.S. Government's flight department).

The Office of the President needs to:

A) Issue an Executive Order empowering ICAP to perform the This Executive Order is simply providing the authority to carry mandate ICAP has already received from the OMB (Circular A-126). will require an additional manpower allocation and a reasonable budget for the audit.

B) Enter into a consulting agreement with TRM, Incorporated to: as a liaison between ICAP and The White House, 2) develop th methodology with ICAP, and 3) develop the final recommendations President based on the obtained information.

In discussing this with Harry Thomason after our meeting, he m same synergistic opportunities we discussed. Such as, reper single-engine aircraft production in America and, with an operational and financial baseline, we have the opportunity to system of true interagency use of our aircraft assets.

This project falls solidly under the heading of re-i government.

Please advise our next step (other than setting up a meeting w Johnson). I will be in Los Angeles 4/13 through 4/21. I am disposal.

CGE 002229

4-16-93 Harry Bob Coy - California
2 or 3 Presidential Details.

Bruce / Harry Thomason - Head of all Protection Services in Western U.S.

Conv. with Hillary -
Conv. with Bruce

Ghosts -

Harry Thomason -

- Put this data into a form
- You can use -
- George Stewart - 55
- Treasury Dept. - 2 Agents talking Bob Woodward
- Dept. of 5 people -
- Charter - Press
  be taking Kick-backs

* Ask for 5% Kick-back -
Conduit -

CGE 029184

TRM, INCORPORATED
HARRY THOMASON & ASSOCIATES, INCORPORATED
4536 AIRPORT ROAD
CINCINNATI, OHIO 45226
TELEFAX NUMBER 513-871-5761

TO Deb DATE: 4/26/93

TELEPHONE NUMBER:

FAX NUMBER:

COMPANY: The White House

CITY & STATE: Office of Press Liaison

NUMBER OF PAGES INCLUDING COVER SHEET: 3

FROM DARNELL H. MARTENS, PRESIDENT

TELEPHONE NUMBER 513-871-5410

REMARKS

- Harry will arrive Thurs. evening.
- Info per attached

Thanks!

© TRM INC 1993

T R M, I N C O R P O R A T E D
HARRY THOMASON & ASSOCIATES
MEMORANDUM

CINCINNATI: 513-871-5418
FAX 871-5761

TO: DEB

FROM: DARNELL MARTENS
PRESIDENT, TRM, INC.

RE: Federal Aircraft Management Information System REPORT

DATE: 4/26/93

Has Mr. Lindsey had an opportunity to follow up on our meeting of 4/7/93 and my faxed memo of 4/12/93 regarding the Federal Aircraft Report (copy attached)?

Harry Thomason will be at The White House on Friday and Saturday of this week. Would Mr. Lindsey want to schedule a follow-up meeting at that time?

I am in Cincinnati this week (phone numbers above). Please advise at your convenience. Thank you!

T R M, I N C O R P O R A T E D
MEMORANDUM

CINCINNATI: 513-871-5410
FAX 871-5761

LOS ANGELES: 818-506-5800
FAX 90[illegible]

TO: BRUCE LINDSEY
ASST. TO THE PRESIDENT, SR. ADVISOR
THE WHITE HOUSE

FROM: DARNELL MARTENS
PRESIDENT, TRM, INC.

RE: FAMIS (Federal Aircraft Management Information System) REPO

DATE: 4/12/93

Based on our 4/7/93 meeting at your office, I am recommending that th Office of the President initiate an operational and financial audit o all non-military Federal aircraft.

The specific purpose of the audit will be to: 1) generate a consiste accounting methodology for Federal aircraft and perform an audit usi that method, and 2) generate a report for the President, using t information obtained, that will list specific recommendations regardi aircraft requirements and interagency utilization.

As you know, I have already met with and obtained the cooperation Lawrence B. Godwin, Executive Officer, Interagency Committee Aviation Policy, General Services Administration (think of ICAP as t U.S. Government's flight department).

The Office of the President needs to:

A) Issue an Executive Order empowering ICAP to perform the aud This Executive Order is simply providing the authority to carry out mandate ICAP has already received from the OMB (Circular A-126). I will require an additional manpower allocation and a reasonable tra budget for the audit.

B) Enter into a consulting agreement with TRM, Incorporated to: 1) as a liaison between ICAP and The White House, 2) develop the a methodology with ICAP, and 3) develop the final recommendations to President based on the obtained information.

In discussing this with Harry Thomson after our meeting, he noted same synergistic opportunities we discussed. Such as, regenera single-engine aircraft production in America and, with an accu operational and financial baseline, we have the opportunity to cre system of true interagency use of our aircraft assets.

This project falls solidly under the heading of re-inve government.

Please advise our next step (other than setting up a meeting with Johnson). I will be in Los Angeles 4/13 through 4/21. I am at disposal.

TRM, INCORPORATED
HARRY THOMASON & ASSOCIATES, INCORPORATED

4536 AIRPORT ROAD
CINCINNATI, OHIO 45226
TELEFAX NUMBER 513-871-5761

TO: Bruce Lindsey DATE: 4/27/93

TELEPHONE NUMBER:

FAX NUMBER:

COMPANY:

CITY & STATE:

NUMBER OF PAGES INCLUDING COVER SHEET: 4

FROM: DARNELL H. MARTENS, PRESIDENT

TELEPHONE NUMBER 513-871-5410

REMARKS:

Per Attached

© TRM, INC. 1992

CGE 002236

T R M, I N C O R P O R A T E D

513-671-5410
FAX: 513-671-5761

TO: BRUCE LINDSEY

FROM: DARNELL MARTENS

RE: FEDERAL AVIATION MANAGEMENT AUDIT

DATE: 4/29/93

Attached is summary of the proposed audit and report with some additional detail. This information was generated in concert with ICAP of the GSA.

Likewise, we now have the support of the FAA Flight Standards Office which has serious concerns regarding the operational safety of "public aircraft" (non-military Federal aircraft).

I have completed some research which indicates an alarmingly high accident rate within certain agencies of the government in some cases an accident rate 3 to 4 times higher than the civil aviation fleet rate.

The operational side of the proposed audit would identify those areas in which safety could be improved.

I would greatly appreciate the opportunity to get together with you and Roger Johnson to determine if he is in agreement. If so, we could set a timetable for the project's initiation.

Please advise. Thanks!

CGE 002233

FEDERAL AVIATION MANAGEMENT AUDIT

PURPOSE

The intent of this audit is to generate a report which will:

1) formulate a consistent accounting methodology (operational and financial) for Federal aircraft;

2) perform an audit using that methodology, and

3) generate a report for the President, using the information obtained, that will list specific recommendations regarding aircraft requirements and interagency utilization.

METHODOLOGY

The Executive Branch would empower TRM, Incorporated to work in concert with the Interagency Committee For Aviation Policy (ICAP) of the General Services Administration (GSA) to generate the report. These two entities, TRM and ICAP, have worked together to make this proposal to The White House and each has specific and synergistic capabilities to insure the quality and completion of the audit and report.

TRM and ICAP would develop the audit and accounting methodology for the non-military Federal aircraft fleet. This process would require six (6) weeks.

ICAP would administer the actual audit function using individuals allocated to ICAP from other agencies and one from private industry. A five-member audit team is envisioned requiring:

- Team Coordinator: Source-GSA/ICAP
  Organizes, coordinates and administers the Federal Aviation Management Audit
- Financial Consultant: Source-TRM
  Reviews and analyzes agency financial strategies including aircraft acquisition, replacement and disposal.
- Budget and Accounting Analyst: Source-GSA or OMB
  Reviews and analyzes agency aviation operational budget and accounting data.
- Principle Operations Inspector: Source-FAA
  Reviews and analyzes agency operations manuals and systems.
- Principle Maintenance Inspector: Source-FAA
  Reviews and analyzes agency maintenance manuals and systems

There are presently 66 selected audit sites (17 in Washington, 46 in the Continental US and 3 outside the Continental US). The audit will require an estimated 156 audit days. This portion of the report will require eight (8) months to complete.

Lastly, TRM will generate its version of the report to the President focusing on the budgetary considerations. ICAP will generate the report focusing on operational and safety issues. The issuance of the final report will require six (6) weeks.

Therefore, the completion of all of the above will require an estimated eleven (11) months. Budgetary recommendations would be completed in time for inclusion in next years Federal Budget.

CGE 002234

ANTICIPATED RESULTS

- $150 million in one-time capital infusion (sale and sale/leaseback of equipment).
- $150 million in on-going operating budget reductions.
- Improved interagency use of aircraft.
- Improved safety.
- Significant acquisition (lease or purchase) of new equipment (economic stimulus).
- Restart American production of single-engine high-wing aircraft (significant long-term economic stimulus).
- Solve a significant equipment crisis for FBI, Interior, Justice who have aircraft which need replacement but no appropriate American made replacement exists (See discussion above).
- Establish a completed framework with which ICAP can continue to provide the same information generated by the audit on a long-term basis for continuous, [illegible] management of the Federal aviation assets.

AUDIT/REPORT COSTS

Overall costs are minimized by allocating existing personnel from various agencies to ICAP for the duration of the audit. Therefore, a significant portion of the costs are not incremental - only reallocated for a short period. No new permanent personnel are required to carry out the audit and completion of the report.

ICAP, whose costs are minimized through reassigned personnel, estimates its costs as:

Public Sector Contractor (34 weeks)	$ 65,[illegible]
Audit Team Expenses:	
Per Diem/Lodging	[illegible]
Car Rental	[illegible]
Airfare	[illegible]
Total	$1[illegible]

TRM estimates its costs as:

Methodology development, Data analysis, Final report development	$234,500
Software development	(6,500)
Administrative Support	16,700
Travel Expenses	[illegible]
Total	$[illegible]

Estimated Computer Hardware & Related Software (Apple)	$ [illegible]
Estimated Total Project Costs	$[illegible]

Given the direct economic return for the next budget year and every year thereafter, the safety improvements anticipated and the economic stimulus generated by the recommendations provide a return on investment in excess of 60X to 1.

CGE 002235

TRM, INCORPORATED
HARRY THOMASON & ASSOCIATES, INCORPORATED

4536 AIRPORT ROAD
CINCINNATI, OHIO 45226
TELEFAX NUMBER 513-871-5761

TO: Jack Kelly DATE: 5/6

TELEPHONE NUMBER:

FAX NUMBER:

COMPANY: OMB

CITY & STATE:

NUMBER OF PAGES INCLUDING COVER SHEET: 5

FROM: DARNELL H. MARTENS, PRESIDENT

TELEPHONE NUMBER: 513-871-5410

CGE 002237

REMARKS

A) Memo (4/12) to Bruce Lindsey after meeting on his request as to how to proceed

B) Memo (4/29) to Bruce as follow-up to prior conversations with me on audit detail

The detail contains methodology which could be integrated into the IG audits

T R M, I N C O R P O R A T E D
MEMORANDUM

CINCINNATI: 513-871-5411 FAX 871-5761
LOS ANGELES 818-[illegible] FAX [illegible]

TO: BRUCE LINDSEY
ASST. TO THE PRESIDENT, SR. ADVISOR
THE WHITE HOUSE

FROM DARNELL MARTENS
PRESIDENT, TRM, INC.

RE: FAMIS (Federal Aircraft Management Information System) REPORT

DATE: 4/12/93

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As you know, I have already met with and obtained the cooperation of Lawrence B. Godkin, Executive Officer, Interagency Committee on Aviation Policy, General Services Administration (think of ICAP as the U.S. Government's flight department).

The Office of the President needs to:

A) Issue an Executive Order empowering ICAP to perform the audit. This Executive Order is simply providing the authority to carry out the mandate ICAP has already received from the OMB (Circular A-126). ICAP will require an additional manpower allocation and a reasonable travel budget for the audit.

B) Enter into a consulting agreement with TRM, Incorporated to: 1) act as a liaison between ICAP and The White House, 2) develop the audit methodology with ICAP, and 3) develop the final recommendations to the President based on the obtained information.

In discussing this with Harry Thomason after our meeting, he noted the same synergistic opportunities we discussed. Such as, regenerating single-engine aircraft production in America and, with an accurate operational and financial baseline, we have the opportunity to create system of true interagency use of our aircraft assets.

This project falls solidly under the heading of re-inventing government.

Please advise our next step (other than setting up a meeting with Roger Johnson). I will be in Los Angeles 4/13 through 4/21. I am at your disposal.

CGE 002238

T R M, I N C O R P O R A T E D

513-871-5410
FAX: 513-871-5761

TO: BRUCE LINDSEY

FROM: DARNELL MARTENS

RE: FEDERAL AVIATION MANAGEMENT AUDIT

DATE: 4/26/93

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I have completed some research which indicates an alarmingly high accident rate within certain agencies of the government - in some cases an accident rate 3 to 4 times higher than the civil aviation fleet rate.

The operational side of the proposed audit would identify those areas in which safety could be improved.

I would greatly appreciate the opportunity to get together with you and Roger Johnson to determine if he is in agreement. If so, we could set a timetable for the project's initiation.

Please advise. Thanks!

CGE 002239

FEDERAL AVIATION MANAGEMENT AUDIT

PURPOSE

The intent of this audit is to generate a report which will

1) formulate a consistent accounting methodology (operational and financial) for Federal aircraft;

2) perform an audit using that methodology, and

3) generate a report for the President, using the information obtained, that will list specific recommendations regarding aircraft requirements and interagency utilization.

METHODOLOGY

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TRM and ICAP would develop the audit and accounting methodology for the non-military Federal aircraft fleet. This process would require six (6) weeks.

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  Reviews and analyzes agency operations manuals and systems.
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  Reviews and analyzes agency maintenance manuals and systems.

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Lastly, TRM will generate its version of the report to the President focusing on the budgetary considerations. ICAP will generate the report focusing on operational and safety issues. The issuance of the final report will require six (6) weeks.

Therefore, the completion of all of the above will require an estimated eleven (11) months. Budgetary recommendations would be completed in time for inclusion in next years Federal Budget.

CGE 002240

ANTICIPATED RESULTS

- $150 million in one-time capital infusion (sale and sale/leaseback of equipment).
- $150 million in on-going operating budget reductions.
- Improved interagency use of aircraft.
- Improved safety.
- Significant acquisition (lease or purchase) of new equipment (economic stimulus).
- Restart American production of single-engine high-wing aircraft (significant long-term economic stimulus).
- Solve a significant equipment crisis for FBI, Interior, Justice who have aircraft which need replacement but no appropriate American-made replacement exists (See dot-point above)
- Establish a completed framework with which ICAP can continue to provide the same information generated by the audit on a long-term basis for continuous, on-going management of the Federal aviation assets.

AUDIT/REPORT COSTS

Overall costs are minimized by allocating existing personnel from various agencies to ICAP for the duration of the audit. Therefore, a significant portion of the costs are not incremental - only reallocated for a short period. No new permanent personnel are required to carry out the audit and completion of the report.

ICAP, whose costs are minimized through reassigned personnel, estimates its costs at:

Public Sector Contractor (34 weeks)	$ 65,000
Audit Team Expenses:	
Per Diem/Lodging	56,250
Car Rental	4,770
Airfare	72,500
Total	$198,520

TRM estimates its costs at:

Methodology development, Data analysis, Final report development	$214,500
Software development	16,000
Administrative Support	16,000
Travel Expenses	24,000
Total	$270,500

Estimated Computer Hardware & Related Software (Apple)	$ 30,000
Estimated Total Project Costs	$499,020

Given the direct economic return for the next budget year and every year thereafter, the safety improvements anticipated and the economic stimulus generated by the recommendations provide a return on investment in excess of 600 to 1

CGE 002241

C O N F I D E N T I A L

TRM, INCORPORATED
HARRY THOMASON & ASSOCIATES, INCORPORATED

4536 AIRPORT ROAD
CINCINNATI, OHIO 45226
TELEFAX NUMBER 513-871-5761

TO: Bobbi Ferguson DATE: 5/11

TELEPHONE NUMBER:

FAX NUMBER:

COMPANY: Harry Thomason's Office

CITY & STATE:

NUMBER OF PAGES INCLUDING COVER SHEET: 1

FROM: DARNELL H. MARTENS, PRESIDENT

TELEPHONE NUMBER: 513-871-5410

REMARKS:

Bobbi —

• I wanted to confirm that I will check in at the NW Gate @ 10:45 am, 5/12

• My D.O.B. is 6-3-53.

• If you have any changes, leave a message on my home phone as I will be at appointments this afternoon. See you tomorrow.

— Darnell

© TRM, P.C. 1992

11

TUESDAY
MAY, 1993

234 Days Left

TO BE DONE TODAY (ACTION LIST)

NOTES & MEMOS MADE TODAY

APPOINTMENTS & SCHEDULED EVENTS

NAME	PLACE	SUBJECT	HOURS
			8
			9
			10
Briefing - Mark			11
			12
			1
			2
			3
			4
			5

REDACTED

CGE 026860

FORWARD TO ROOM 6, OEO

THE WHITE HOUSE OFFICE
SUPPLEMENTAL INFORMATION SHEET
FOR PERSONNEL ACTION
(TO BE ATTACHED TO FORM WHP-1)

[redacted]C02009

5/12/93
Date

PERSONAL INFORMATION

Name (Ms., Miss, Mrs., Mr.) MARTENS (Last) DARNELL (First) HILBERT (Middle) (Maiden) Birth Date 6-3-53

Local Address 713 Eagleview Ct. Birth Place Ida Grove IA
Mason, OH 45040 SSN 264-11-4278

Last Perm. Address

Tel. No. 513-398-3617 513-871-5410 (Office) Emergency G. Martens (Name) 513-779-2259 (Tel. No.)

Marital Status: ☐ Single ☒ Married ☐ Widowed ☐ Separated ☐ Divorced

Name of Spouse Linda M. Martens

ASSIGNMENT

Office of Administration

Reporting to Harry Thomason/David Watkins Ext. 2957 Room

Status: ☐ White House Employee ☐ Detailee ☒ Volunteer ☐ SBA (Contact)
☐ Other

Desired Effective Date Ending Date

PRIOR EMPLOYMENT DATA

Military Service: ☒ No ☐ Yes Branch Date of Service

Prior Federal Govt. Service as Civilian: ☒ No ☐ Yes Ending Date

Current or Last Place of Govt. Service or Civilian Employment: Harry Thomason & Assoc. (Name)

4536 Airport Road Cincinnati, OH (Address) 513-871-5410 (Tel. No.)

Personnel Contact in Current/Last Govt. Agency N/A (Name) (Tel. No.)

Prior W. H. Service: ☒ None ☐ Employee ☐ Volunteer ☐ SBA

ACCESS/PASS

TO BE COMPLETED BY REQUESTING OFFICIAL

☒ WH Access List ☒ WH Pass Vol.

☐ EOB Access List ☐ EOB Pass

☐ Volunteer Pass

Signature of Requesting Official

CO (per DW)
Signature of Approving Official

VOLUNTEERS

TO BE COMPLETED BY VOLUNTEER

I acknowledge that the personnel data above is correct and that I am volunteering my services without compensation or promise of such.

Signature of Volunteer

CGE 018296

FOR USE BY WHITE HOUSE PERSONNEL OFFICE ONLY:
Preliminary copy to Security Approved copy to Security

WHP-2(2/87)

THE WHITE HOUSE
WASHINGTON

COPY

002090

May 12, 1993

TO: TECHNICAL SECURITY DIVISION
U.S. SECRET SERVICE

SUJECT: REQUEST FOR PASS

NAME: MARTENS, DARNELL HILBERT
(LAST) (FIRST) (MIDDLE)

TITLE AND OFFICE OFFICE OF ADMINISTRATION AND MANAGEMENT

Immediate Supervisor's
Title and Name DAVID WATKINS

Location (Room No.) _____ Tel. Ext. 2957

Type of Security Clearance:

FBI (a) Completed NC WORKING & NCIC CCH ID WALES Completed

(b) Other _____

(c) Waived _____

Type of Pass:

_____ Temporary Executive Office 30 Da.____ 60 Da._____ 90 Da.__

_____ Permanent Executive Office

_____ Temporary White House 30 Da._____60 Da._____90 Da.____

_____ Permanent White House

__x__ Other: TWHVOL (90 DAYS)

APPROVED BY: NA
Craig Livingstone
Assistant to the Counsel to
the President (Security)

CGF

RECORD TYPE: NONE

CREATOR: Catherine Cornelius (CORNELIUS_C) (WHO)

CREATION DATE/TIME:12-MAY-1993 09:26

SUBJECT: Travel Office

TO: Michael R. Lufrano (LUFRANO_M) (WHO)
READ:UNKNOWN

TO: Clarissa Cerda (CERDA_C) (WHO)
READ: READ

TEXT:

I have a meetin with Harry Thomasson at 10am this morning...to
discuss the future of this office.could be over very soon.

CGE 039295

RECORD TYPE: NONE

CREATOR: Michael R. Lufrano (LUFRANO_M) (WHO)

CREATION DATE/TIME:12-MAY-1993 09:30

SUBJECT: RE: Travel Office

TO: Catherine Cornelius (CORNELIUS_C) (WHO)
READ: READ

CC: Clarissa Cerda (CERDA_C) (WHO)
READ: READ

TEXT:

Remember . . everything you send on e-mail is stored forever in the archives. Careful!
But please call after your meeting. Good Luck!

CGE 039296

RECORD TYPE: NONE

CREATOR: Catherine Cornelius (CORNELIUS_C) (WHO)

CREATION DATE/TIME:12-MAY-1993 14:08

SUBJECT: Travel

TO: Clarissa Cerda (CERDA_C) (WHO)
READ: READ

TEXT:

I need to start thinking about how you officially bring in someone to help.

NON-RESPONSIVE MATERIAL REDACTED

Does the White House engage in a memorandum of understanding to assist in crisis situation...
Who would have this information... please let me know, Catherine.

CGE 039297

CONFIDENTIAL

TRM, INCORPORATED
HARRY THOMASON & ASSOCIATES, INCORPORATED
4536 AIRPORT ROAD
CINCINNATI, OHIO 45226
TELEFAX NUMBER 513-871-5761

TO: Harry Thomason DATE: 5/13

TELEPHONE NUMBER: 456-2977

FAX NUMBER:

COMPANY: The White House

CITY & STATE:

NUMBER OF PAGES INCLUDING COVER SHEET: 1

FROM: DARNELL H. MARTENS, PRESIDENT

TELEPHONE NUMBER: 513-871-5410

REMARKS:

(1) 30 day Billing Cycle No Problem

(2) Aircraft are being reviewed for Sun. if needed.

(3) Penny & I can be at White House to assist "C" as needed to begin operations

(4) Call me with update when convenient.

© TRM, INC. 1993

CLINTON / GORE TRANSITION TEAM / TRM, INCORPORATED

4536 AIRPORT ROAD
CINCINNATI, OHIO 45226
TRI JEFAX NUMBER 513-871-5761

TO: [illegible] / [illegible] DATE:

TELEPHONE NUMBER:

FAX NUMBER:

COMPANY:

CITY & STATE:

NUMBER OF PAGES INCLUDING COVER SHEET: 5

FROM: DARNELL MARTENS WYNN POS

TELEPHONE NUMBER: 513-871-5410

REMARKS:

TO: HARRY THOMASON

FROM: DARNELL MARTENS

RE: WHITE HOUSE PRESS CHARTERS

DATE: 3/5/93

Attached is a summary of where we are at in the White House Press Charter story. The attached summary is for YOUR EYES ONLY at this time since I cannot yet prove everything contained in the report. I do believe it to all be true but proof is always something else again.

We have contacted the DOT regarding the AOA campaign violations, we are contacting a party Treasurer to determine if AOA's owners made substantial Republican contributions, we are to receive a package from Miami Air today with additional information on their experience with the White House and, lastly, we are trying to obtain an on-the-record conversation with the ex-AOA employee.

AOA knows something is up. They now hang up on Air Advantage whenever they call. Does it sound to you like they are hiding something? Relative to these folks, I feel like Mike Wallace on 60 Minutes.

I will have further updates by Monday. We should have a complete summary with substantive information by the time I get to Los Angeles next Wednesday.

Later...

C O N F I D E N T I A L

WHITE HOUSE PRESS CHARTERS

THE PROPOSAL

Dee Dee Myers stated to both Harry Thomason (personally) and Darnell Martens (by phone) that the White House was not tied to any particular charter operator and that based on that assumption she saw no reason why Thomason, Richland & Martens, Inc. (TRM) should not be able to compete for the White House Press Corps charter business.

Dee Dee Myers was kind enough to place Darnell Martens of TRM in contact with Billy Dell of the White House Transportation Department.

THE PHONE CALL

Mr. Dell informed Mr. Martens that there was no possible combination of price/service under which TRM could earn the White House business and to not waste his time discussing the matter.

Understand that TRM was not informed that it would be "difficult" or that there was only a "slim" chance of earning the business...but that there was "no chance" of earning the business.

Dell informed TRM that there was no price point that he could not get (but specifically declined to disclose at what price he obtains aircraft) or an operator that he has not already contacted. Therefore, what could TRM do that he would not?

Certainly a fair question (however, Dell offered the question rhetorically not in an effort to discuss the matter).

Martens informed Dell that TRM purchases a much higher volume of charter hours than the White House does and that the buying power could be combined with the White House business to lower the cost from particular vendors to the Press Corps. Further, Martens informed Dell that TRM is aware of at least one operator that has aircraft based in Washington, has aircraft superior to those currently being used and could be obtained at a rate comparable and probably lower than that currently being paid by the Press Corps. Martens again asked Dell that based on the above described possibility of a price/service combination that is superior to the current operation, wouldn't just a simple meeting be in order?

Again, Dell informed Martens that there was no possibility of gaining the White House business. "I have been here 31 years and no one has seen fit to replace me with a commercial operation yet. So until they do, I will continue to handle this without your help. However, if you are ever in Washington, I would be happy to meet you but do not bother making a special visit because you will not get the business."

Martens ended the conversation by "accepting" Dell's offer for a meeting at a future date.

RESEARCH INFORMATION

TRM has learned that, contrary to Dee Dee Myers understanding, the White House Press Corps has been flown on a virtually exclusive basis by Pan Am and then "Son of Pan Am" known as Airline of the Americas (AOA) - a charter operation made up of ex-Pan Am executives using ex-Pan Am aircraft. (AOA is now also doing business under the name of Ultra Air.)

In the brief period between Pan Am's bankruptcy and Airline of the Americas certification other operators were used.

Airline of the Americas is a Republican-operated charter airline. The company ran afoul of the DOT and FEC when it provided press transportation without chargebacks to the press in order to insure good press coverage of Bush campaign appearances.

AOA wanted the flights to be considered a contribution but this was denied by the FEC/DOT subsequent to a complaint initiated by David Bustbaum of the Clinton/Gore '92 Committee. The uncompensated flights were discontinued.

This activity by AOA does, however, indicate a decidedly anti-Clinton philosophy which seems, on the surface, to be inconsistent with the current Administration. Further, this activity had to have been operated with the full knowledge and cooperation of the White House Transportation Department since all flights dealt with following President Bush.

Off-the-record discussions with a former AOA employee who resigned after the above-mentioned complaint and now works for another charter airline indicate that the relationship between the Republican White House and AOA had other legal and/or ethical inconsistencies which he did not want to deal with.

This could also explain, what TRM considers to be, the almost violent reaction by the White House Transportation Department regarding the possibility of someone else coming in to operate the White House Press Charters. This begins to fall loosely under the heading of: "Methinks thou dost protest too much."

THE RESULT

Dee Dee is wrong. The White House is tied into an operator...an operator who did everything possible (and then some) to get President Bush re-elected with the full knowledge and apparent cooperation of the White House Transportation Department (at least the senior members who were present throughout the Bush Administration).

THE SOLUTION

1) At a minimum...

...the Administration should direct the White House Transportation Department to contact TRM/Air Advantage who would systematically search the market for the best price/service combination for the flight request made on behalf of the press.

In this way, the White House business would be spread among several operators and the equipment best suited to the mission would be acquired. Also, under this system, no allegations of monopolies or favoritism could be made against the White House Transportation Department.

2) At best...

...the Administration should disband the antiquated Transportation Department system in favor of the functions being outsourced to TRM/Air Advantage. This would provide services equal to those now supplied, place all transactions at "arm's length" and make it possible to reduce the White House staff by 4 to 5 people (one administrative person would likely be retained in the White House as a coordinator) - an estimated savings of $250,000 per year.

MEMORANDUM OF CALL

Previous editions usable

TO: Cathy Hoey

☐ YOU WERE CALLED BY ☐ YOU WERE VISITED BY — Catherine Cornelius

OF (Organization) WH Travel Office

☐ PLEASE PHONE ▶ 2250 ☐ FTS ☐ AUTOVON

☐ WILL CALL AGAIN ☐ IS WAITING TO SEE YOU

☐ RETURNED YOUR CALL ☐ WISHES AN APPOINTMENT

MESSAGE

Would like to set up meeting for Wednesday.

RECEIVED BY	DATE	TIME
		1:00

63-110 NSN 7540-00-634-4018

STANDARD FORM 63 (Rev. 8-81) Prescribed by GSA FPMR (41 CFR) 101-11

☆ U.S.G.P.O. 1982 312-070-40024

2140

THE WHITE HOUSE
WASHINGTON

George told Jeff - fixing to come after - Jeff / D. W. never used any of C. memo's

W.H. Pro Sect

Larry Williams

Tom Power called

Charges similar with Peat/Morick

General Nick Lacey

618-256-6750

THE WHITE HOUSE
WASHINGTON

7pm

Harry

Catherine Cornelius with David Watkins called you back. X 2861

Trey

TMR Memo
CONFIDENTIAL

WHITE HOUSE PRESS CHARTERS

THE PROPOSAL

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Note that TRM was not informed that it would be "difficult" or that there was only a "slim" chance of earning the business but that there was "no chance" of earning the business.

Dale informed TRW that there was no price point that he could not get (but specifically declined to disclose at what price he obtains aircraft) or an operator that he has not already contacted. Therefore, what could TRM do that he could not?

Certainly a fair question (*however, Dale offered the question rhetorically — not in an effort to discuss the matter*).

Martens informed Dale that TRM purchases a much higher volume of charter hours that the White House does and that the buying power could be combined with the White House business to lower the cost from particular vendors to the Press Corps. Further, Martens informed Dale that TRM is aware of at least one operator that has aircraft based in Washington, has aircraft superior to those currently being used and could be obtained at a rate comparable and probably lower than that currently being paid by the Press Corps.

Martens again asked Dale that based on the above described possibility of price/service combination that is superior to the current operation, wouldn't just a simple meeting be in order?

Again, Dale informed Martens that there was no possibility of gaining the White House business, "I have been here 31 years and no none has seen fit to replace me with commercial operation yet. So until they do, I will continue to handle this without your help. However, if you are ever in Washington, I would be happy to meet you but do not bother making a special visit because you will not get the business."

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In the brief period between Pan Am's bankruptcy and Airline of the Americas certification, the first half of 1992, other operators were used.

Also, the White House uses American Trans Air for international press travel. ATA has long-range aircraft that AOA does not operate.

Airline of the Americas is a Republican-operated charter airline. The company ran into controversy during the presidential campaign when it provided press transportation without chargebacks to the press in order to insure good press coverage of Bush campaign appearances.

AOA wanted the flights to be considered a contribution but this was denied by the FEC/DOT subsequent to a complaint initiated bye David Buxbaum of the Clinton/Gore '92 Committee. The uncompensated flights were discontinued to the satisfaction of the concerned government agencies.

This activity by AOA does, however, indicate a decidedly anti-Clinton philosophy which seems, on the surface, to be inconsistent with the current Administration. Further, this activity had to have been operated with the full knowledge and cooperation of the White House Travel Services Department since all flights dealt with following President Bush.

This could also explain, what TRM considers to be, the almost violent reaction by the White House Travel Services Department regarding the possibility of someone else coming in to operate the White House Press Charters. This begins to fall loosely under the heading of "Me thinks thou does protest too much."

Likewise, American Trans Air had been contacted by Darnell Martens of TRM representing the Clinton for President Committee(CRPC) in April and May of last year. They informed Martens point blank that they had a limited relationship with the White House and that limited business with Bush was better than no business with Clinton. ATA did provide a bid for the business but the written contract rates and terms were far in excess of those discussed with Martens in person-placing ATA our of the market.

Once again, a company which made it choice and has represented that it did not support the Clinton presidential initiative continues to benefit from its special relationship with Billy R. Dale and the White House Travel Services Department.

THE RESULT

Dee Dee is wrong. The White House is tied into two operators (one essentially domestic and one essentially international)... operators who did everything possible (and then some) to get President Bush re-elected apparently without the full knowledge and cooperation of the White House Travel Service

Department (at least the senior members who were present throughout the Bush Administration).

Using two operators semi-exclusively is not illegal. It probably isn't unethical. But it is simply not possible that one domestic operator which operates only two airplanes (a 727 in St. Louis and a 727 in New York), has exactly the type of aircraft needed for the lowest possible price for virtually every domestic flight.

What significance, if any, can be attributed to the coincidence that essentially the same individual at both the White House and Pan Am/AOA have been handling the press charter business for protracted period of time? Is it a matter of just being easier to call one operator? If so, then the Travel Services Department is not doing its job. If its something else, then what?

Further, why wouldn't the White House Travel Services Department be sensitive to the existence of many operators who have invested heavily in their businesses and are small businesses by most defintions? Isn't it reasonable to assume that other operators could provide the level of service required by the White House?

With 20 years of experience in air charter and being the former "president" of *Air Elvis*, I can state without equivocation that the operator and aircraft are out there and they are capable and deserving of some of the business. Why can't they compete for the business?

SUMMARY

- No competitive service/price bidding for White House Press Corps (WHPC) charters.
- Current operator has only two aircraft: one in St. Louis, one in New York none in Washington.
- Current operator attempted to provide free transportation to press covering Bush campaign appearances.
- Current Director of White House Travel Services Department (WHTSD) must have been aware of the above aborted attempt to provide free transportation and took no subsequent action (Director agrees on price and signs the checks - no price, no checks)
- WHTSD refuses to discuss business opportunities with legitimate charter operators.
- WHTSD has tied itself to a specific domestic operator without the knowledge or approval of Administration officials (including Dee Dee Myers).
- WHTSD claims that price is of little significance since press pays - but government personnel do fly on aircraft and government does pay using GTR's.

Harry
Al

~~Press Briefing (lot of questions)~~

~~Get a copy of the Audit report. It was released. It is 17 pages long.~~
~~use this for [illegible] the auditors. To the knowledge no one [illegible] looked any thing from this report.~~

Not Part of the memo

Daily Report

Monday, May 10, 1993

√	Summary	Type	Start time	End time
☑	call Hillary 212-355-3100 ask for Sara Waters, she wants to talk to you tonight, Patty Solis	To Do		
☑	call Susan Thomases at home after 9:30 pm	To Do		
☑	call Mack Mclarty meeting tomorrow	To Do		
☑	call David Watkins meeting in the morning	To Do		
☑	call Catherine Cornelius re setting up a time to meet Harry, left a message with her off., someone in her office said that they would tape a message to her lamp	To Do		

Daily Report

Tuesday, May 11, 1993

√	Summary	Type	Start time	End time
	David Watkins	Event	9:30 AM	10:30 AM
	Mack Mclarty Karen	Event	2:00 PM	3:00 PM
	Susan Thomases	Event	3:00 PM	4:00 PM
☑	call Mrs. Clinton she called at 10:00am, 6266	To Do		
☑	call Susan Thomases AT HOME 9:30 pm	To Do		

Daily Report
Tuesday, May 11, 1993

√	Summary	Type	Start time	End time

Daily Report

Wednesday, May 12, 1993

√	Summary	Type	Start time	End time
	The President	Event	8:30 AM	8:45 AM
	Vince Foster	Event	9:50 AM	10:50 AM
	Catherine Cornelius travel 2250	Event	10:15 AM	11:00 AM
	Darnell Martens	Event	11:00 AM	11:59 AM
	David Watkins Darnel, CC,HT	Event	12:00 N	12:30 PM
	lunch Darnel, Harry, & BFF, and Steve	Event	12:30 PM	1:15 PM
	see Vince Foster in Vince's off. with David, Catherine	Event	1:30 PM	2:30 PM
	meeting again with Vince Bill Kennedy, Catherine, & David	Event	4:00 PM	5:00 PM

☑	call Vince Foster 202-456-6611.	To Do
☑	call Catherine Cornelius 2250 in Travel	To Do

000001 08

Daily Report

Wednesday, May 12, 1993

√	Summary	Type	Start time	End time
☑	call Patsy Thomasson 3133	To Do		

Daily Report

Thursday, May 13, 1993

√	Summary	Type	Start time	End time
	The President	Event	8:45 AM	9:15 AM
	Catherine Cornelius	Event	9:30 AM	10:15 AM

☑ call Mrs. Clinton
2369-Pam — To Do

☑ Call Susan Thomases
in NY 212-935-8000 — To Do

Daily Report

Thursday, May 13, 1993

√	Summary	Type	Start time	End time
☑	Vince Foster	To Do		
☑	stopped by David's off. before lunch with Sidney	To Do		

Daily Report

Friday, May 14, 1993

√	Summary	Type	Start time	End time

☑	call Catherine the audit started in the travel off.	To Do
☑	Maggie HRC chief of Staff 1660 Pam .	To Do

Daily Report

Friday, May 14, 1993

✓	Summary	Type	Start time	End time

Daily Report
Saturday, May 15, 1993

√	Summary	Type	Start time	End time
☑	call Catherine 2250, not there	To Do		

Daily Report

Sunday, May 16, 1993

√	Summary	Type	Start time	End time

Daily Report

Monday, May 17, 1993

√	Summary	Type	Start time	End time

Daily Report

Tuesday, May 18, 1993

√	Summary	Type	Start time	End time
	Catherine	Event	9:30 AM	10:00 AM

Daily Report

Tuesday, May 18, 1993

√	Summary	Type	Start time	End time

Daily Report

Wednesday, May 19, 1993

√	Summary	Type	Start time	End time
☑	call Darnell Martens re charter (D.M. at 310-458-6444)	To Do		

Daily Report

Wednesday, May 19, 1993

√	Summary	Type	Start time	End time
☑	call Catherine 202-456-7560 for today	To Do		

Daily Report

Thursday, May 20, 1993

√	Summary	Type	Start time	End time
	Pres. Clinton signing V.M. Bill	Event	11:00 AM	11:30 AM

Daily Report

Friday, May 21, 1993

√	Summary	Type	Start time	End time
☑	call DeeDee Myers 202-456-2673 asst. Dave, to transfer hit recall get a dial tone then dial ext. and hang up	To Do		

THE WHITE HOUSE

WASHINGTON

001552

May 17, 1993

MEMORANDUM TO MACK MCLARTY

FROM: DAVID WATKINS

SUBJECT: WHITE HOUSE TRAVEL OFFICE

CC: Hillary Rodham Clinton

As part of the National Performance Review (NPR) lead by the Vice President, the White House Office of Management & Administration has been engaged in customer service overhaul and an internal management review of operational functions in the Executive Office. Urged by Harry Thomasson, who had heard rumors of criminal activity in the Travel Office, and Catherine Cornelius, who had been observing the Travel Office for 45 days, we placed the Travel Office at the front end of the review and began an emergency review this past Friday.

What We Did

On Thursday, May 13, we retained KPMG Peat Marwick to conduct an accounting audit. At the same time, Vince Foster and Bill Kennedy began initial talks with the FBI both to ask their advice on how to proceed, given allegations of kickbacks and mismanagement, and to ensure that our review would not impede a criminal investigation. Catherine Cornelius, who had been detailed to the Travel Office to observe its functions for 45 days, briefed FBI agents about what she had seen, including copies of checks written to cash in large sums from the Press Reimbursable Account of the Travel Office.

Friday morning, May 14, Peat Marwick began their review, which we described to Travel Office staff as the audit portion of the NPR review of the White House. Peat Marwick reviewed Travel Office records, procedures, systems and controls pertaining to financial management. Our internal White House team interviewed staff to develop a log of their responsibilities in case a take-over of the operation was necessary. The review continued over the weekend.

What We Found

Although the final Peat Marwick report will not be presented until Wednesday, we were updated several times a day over the course of the weekend, enabling us to brief the FBI on the progress of the review.

Peat Marwick auditors found:

1. Abysmal management. No accounting "system" exists for the Press Reimbursable Account. There is a "seat of the pants" operation that keeps few records and has no control function or reconciliation process. Checks are written to

CGE 017753

cash by the same individuals who endorse them. These same employees keep all the books.

001553

Billing to the press corps is informal, undocumented and based on personal judgements. The press is billed on estimates, not on actual costs. (And these estimates are made by the director, in his head.) If the director believes he has been overcharging on one trip, he will just undercharge on the next.

2. Unaccounted-for funds. Large checks have been written to cash, for the intended purpose of tipping drivers and baggage handlers on trips. In the 17 month period studied, 17 checks were written to cash. However, in 8 of these 17 cases, Peat Marwick found discrepancies in the cash leaving the bank and the amount logged into the petty cash fund. The unaccounted-for cash totalled approximately $18,000.

Follow-up Actions

Late Saturday, we briefed the FBI on these findings and began planning a new system to replace the old one. FBI agents suggested they believed there was sufficient cause for them to conduct a criminal investigation but they asked us to have Peat Marwick complete their audit before the FBI would begin further work.

Our Interim Plan

As a result of the findings, tomorrow, May 18, I will meet with the staff of the Travel Office and will terminate them, with pay through June 5, 1993.

Simultaneously, we will reorganize the White House Administrative Office to include a Travel Section that will carry on the functions of the former White House Travel Office. The new White House Administrative Office will be headed by a (to-be-hired) experienced financial manager who will oversee the administrative, personnel, travel, telephone service and photo operations.

The Travel Section, on an interim basis, will consist of: Catherine Cornelius, who will manage the procurement of charters and will coordinate staff travel through travel agency staff; a financial specialist detailed from another agency to implement Peat Marwick's plan for a new financial control system for the office; and an administrative assistant, Chris Walton, who worked on the campaign.

Temporarily, Worldwide Travel will take over travel services, as we examine the permanent outsourcing this function to a travel agency. We will develop procedures to request bids for this business.

While our review indicated that the Travel Office staff acted as adjunct press advance staff on Presidential Trips, it is our understanding from Catherine that these are duplicative functions, overlapping our Scheduling and Advance staff's duties. We will eliminate this duplication, making sure not to disrupt any trips.

This plan will reduce a seven person office to three people. If the interim plan proves successful, we will potentially save four personnel slots, towards our 25% reduction.

CGE 017754

All Entry Exits for 05/10/93 - 05/31/93; L_NAME - THOMASON; F_NAME - HARRY; B

DATE	TIME.....	L NAME.....	F NAME....	M	BADGE.	TYP	POS	L	STATUS.....
28	07:24:53PM	THOMASON	HARRY	Z	34A048	P	A1	1	ENTERING
27	06:05:07PM	THOMASON	HARRY	Z	34A048	P	A1	3	EXITING
27	04:00:49PM	THOMASON	HARRY	Z	34A048	P	A1	1	ENTERING
26	06:49:37PM	THOMASON	HARRY	Z	34A048	P	A1	3	EXITING
26	01:48:15PM	THOMASON	HARRY	Z	34A048	P	A1	1	ENTERING
26	11:52:43AM	THOMASON	HARRY	Z	34A048	P	A1	3	EXITING
26	09:19:15AM	THOMASON	HARRY	Z	34A048	P	A1	1	ENTERING
25	11:56:56AM	THOMASON	HARRY	Z	34A048	P	A1	3	EXITING
25	09:09:39AM	THOMASON	HARRY	Z	34A048	P	A1	1	ENTERING
24	06:15:10PM	THOMASON	HARRY	Z	34A048	P	A1	3	EXITING
24	08:33:50AM	THOMASON	HARRY	Z	34A048	P	A1	1	ENTERING
22	10:35:44PM	THOMASON	HARRY	Z	34A048	P	A1	3	EXITING
20	11:57:49AM	THOMASON	HARRY	Z	34A048	P	A1	3	EXITING
20	08:48:37AM	THOMASON	HARRY	Z	34A048	P	A1	1	ENTERING
19	06:45:36PM	THOMASON	HARRY	Z	34A048	P	A1	3	EXITING
19	09:03:16AM	THOMASON	HARRY	Z	34A048	P	A1	1	ENTERING
18	07:00:24PM	THOMASON	HARRY	Z	34A048	P	A1	3	EXITING
18	08:35:12AM	THOMASON	HARRY	Z	34A048	P	A1	1	ENTERING
14	09:00:46AM	THOMASON	HARRY	Z	34A048	P	A1	1	ENTERING
13	10:58:37PM	THOMASON	HARRY	Z	34A048	P	A1	3	EXITING
13	07:55:29PM	THOMASON	HARRY	Z	34A048	P	A1	1	ENTERING
13	07:55:15PM	THOMASON	HARRY	Z	34A048	P	A1	1	BAD PIN
13	06:58:38PM	THOMASON	HARRY	Z	34A048	P	A1	3	EXITING
13	08:37:30AM	THOMASON	HARRY	Z	34A048	P	A1	1	ENTERING
12	05:12:33PM	THOMASON	HARRY	Z	34A048	P	A1	3	EXITING
11	06:12:01PM	THOMASON	HARRY	Z	34A048	P	A1	3	EXITING
11	12:19:38PM	THOMASON	HARRY	Z	34A048	P	A1	1	ENTERING
11	09:17:13AM	THOMASON	HARRY	Z	34A048	P	A1	1	ENTERING
10	06:20:34PM	THOMASON	HARRY	Z	34A048	P	A1	3	EXITING
10	03:11:15PM	THOMASON	HARRY	Z	34A048	P	A5	1	ENTERING
10	03:00:42PM	THOMASON	HARRY	Z	34A048	P	A5	3	EXITING
10	09:21:53AM	THOMASON	HARRY	Z	34A048	P	D2	2	ENTERING

1 1 1 3 5

WHITE HOUSE PROJECT

MISSION

We have been invited to study White House procedures in order to improve the use of The White House as a tool for more clearly defining the philosophy programs and goals of the President, the First Lady, and this administration. There is general consensus that the manner in which the First Family chooses to use The White House will be a significant factor in how many Americans perceive them. Through the use of White House events, we hope to not only create a consistent trademark image and style for the Clintons, but also reflect their interest in making what is best and brightest in American culture, art, and entertainment, both accessible and desirable to the public at large.

In researching ways to use The White House more effectively, our methodology included: (1) Talking to personnel in each department, (2) Talking to people who have worked in other administrations, (3) Studying written information that exists on methods used in past administrations.

CGE 001461

Over the next few weeks, we expect to prepare several papers addressing the minutiae of how things might be improved and a bible addressing how to put the personal style of the Clintons, their intellectual and artistic preferences, into events (both formal and informal, traditional and ground breaking) at The White House. However, we think it is very important to present this first overview now, addressing some of the most obvious problems that need to and can be rectified immediately! We are also acutely aware that any plans we discuss and/or implement will probably pertain to all aspects of the system. Therefore, we are addressing all aspects of the system. Our goal is not to inundate you with more bureaucracy, but to provide you some real and viable solutions, that will in turn, make your task easier.

CURRENT IMAGE

Current opinion on the image of The White House and the staff in general seems to be that it is, in varying degrees, underpeopled, overworked, harried, slightly disorganized, reactive, and inconsistent in style. Now before you throw up your hands in despair, that is only one predominant perception, and certainly not the whole story. On the plus side, in terms of sheer human potential, our bounty is great. Throughout our interviews, inside and outside The White House, everyone commented again and again that this particular staff is one of the brightest most industrious, most innovative and loyal groups to ever inhabit this arena. Also, most impressive was the fact that in interviewing dozens of staff members over a two day period, not one person tried to blame anyone else in any other department for whatever was not working (probably a landmark occurrence in Washington fact finding). Instead, every Clinton staffer concentrated on candid but positive assessments of how things could be improved. Following the staff's lead, we now intend to illuminate the significant problems currently and commonly facing us and the most positive and effective ways of correcting them.

OVERVIEW

Of all the factors discussed during our research, the decision to reduce White House expenditures by 25% appears to have had the most negative impact on current operations. This cut would have been acceptable had it not been coupled with new restraints on how public funds may be spent (restraints that

CCF 001462

did not apply to the last administration). As a result of this coupling, key departments have been decimated, sometimes operating staffs only one- fourth as large as their predecessors. We cannot over-emphasize how much the acute shortage of personnel is adversely effecting the current day-to-day operations of The White House. This human deficit has led to a breakdown of communications between departments. The breakdown of communication has led to a permanent reactive mode in which far too much time and energy is spent responding to daily crises rather than creating new ideas and planning positive long range, interlocking multi-categoried events. The breakdown of long-range event planning has robbed the President and First Lady of a consistent, original style and identity for which they have always been known. It is imperative that we now create an environment in which their very original personal style, innovative character, keen intellect, and sincere appreciation for social, cultural and artistic endeavor and achievement can flourish.

We will briefly present an overview of each department in this paper and we will only mention the major items that we think can be addressed immediately. Frankly, there is nothing you can or probably should do to reverse the budget cuts. But while you are learning to function with what budget you have, we will be investigating an independent source of financing which, if implemented, would allow many of you to increase the number of people on your staffs, at least for the duration of this very crucial and defining first year.

SCHEDULING AND ADVANCE

A heavy burden falls on this department in matters of day to day operations. It is one of the departments most affected by the cutback. There are currently only four full time advance people (compared to approximately fifteen (15) in the past two administrations).

The image presented by Scheduling and Advance at various functions and events is sometimes inferior because they are so overwhelmed by the number of events that they can only concentrate on the execution of the event and not the visuals. Advance is also getting very little lead time on the schedule because there seems to be a decision closure problem on events. Not necessarily the major decisions but minor ones that still effectively stall this unit.

There is no slot for a receptionist for this department. This job is filled by volunteers and therefore continuity is disrupted. This is compounded by the amazing fact that the phones have no message center capability.

Knowing that we are only hitting the broad strokes and will address minutiae later, we make the following recommendations for this department.

1. Immediately install message capability on the departments phones.
2. Immediately add three (3) full time advance people
3. Hire one (1) additional advance person that does nothing except oversee visual concepts of the events. We would be happy to offer names for this position if requested.
4. Other departments that create events should strive to effect long range plans and communicate these plans to this department. We should be seeing crowds of twenty and thirty thousand on the road instead of the four and five thousand we are seeing now. The crowds still want to turn out but our lack of time severely inhibits our crowd builders.
5. Finally we should immediately hold a seminar for our advance teams on how to get the most appealing visuals from our events. This is one of the FEW ways we can use members of the Hollywood community. We are assured the best and brightest art directors and set decorators would be glad to devote a day of their time to this project.

COMMUNICI ATION

We have combined communications, message and media into one category for this preliminary paper. A more detailed paper will follow.

These Departments also suffer from being understaffed . This point is most dramatically confirmed by the fact that this group has three (3) full time speechwriters as opposed to the twelve (12) that the last occupants of the White House had. We noticed in examining the schedule that there were eight major speeches in one six day period. To say this is overload for three speechwriters (and the President for that matter) would be putting it mildly. We also looked at a list of all canceled events of the past several months. They ranged from a canceled Town Meeting to a Union Station train appearance and represented

CGF 001464

dozens of wasted manhours preparing for these events. Since this staff is operating with fewer people, long range planning becomes even more critical so that we might avoid wasted effort.

We will repeat that everyone seems to have a feeling that we are unfocused at the moment. I'm sure that everyone has heard this ad naseum and it deserves no further discussion here other than to say maybe the message should be, " It's the focus, stupid!".

Continuing to point out the obvious we would like to remind everyone that the campaign was most successful when large numbers of people had pertinent information. Richard Nixon once said that during the campaign everybody talks to each other but when they get to Washington they quit talking and start reading the Washington Post. Nixon was right, so quit reading the Post and start communicating!

It is not in our Mission to suggest policy decisions to communication but we would like to offer the following items for your considerations.

1. A representative of the speechwriters should be in senior staff meetings. Great and eloquent speeches need time to incubate and attendance at these meetings will give the speechwriters a much better overview of what they have to plan for in the long run
2. Looking at past White House Schedules our group believes that the number of events the President is scheduled for should be cut by twenty five percent. We know it is hard to enforce this kind of schedule but you will ultimately have to do it so you might as well start now.
3. We propose that for obvious reasons you add two (2) members to the writers group.

SOCIAL EVENTS

This department more than any other conveys the image of the President and First Lady. There is also no department that has a greater need to know what is going on. Unfortunately this seems to be the department that is last to get the word.

CGE 001465

Of all the social events held at the White House there has only been enough lead time to send written invitations to FOUR events. This is the most damming indictment of the lack of long range planning.

This department has NO advance people as opposed to three full time advance people assigned to the previous administration. The lack of advance people and the continuing habit of over scheduling the number of events leads to the to the East Wing looking more like a catering hall than part of The White House. If this continues, The White House will only be defined by the numbers of events rather than the style and grace of those events. This is not the definition this administration wants. Also the severe over scheduling does not allow The President and The First Lady the flexibility they would like.

Photo opportunities have gotten out of hand. Sometimes as many as two hundred people participate taking hours rather than the fifteen minutes allotted. You can not have it both ways. You either have to give the proper amount of time or be realistic about the number of people you can schedule.

The Kennedy Center box should be handled under this Department in association with the Political Department. Much thought should be given to who sits in the box. Historically it has been used as a very effective tool. Currently people outside the White House think the box is now a liability since it sometimes remains offensively empty at important events.

We offer the following suggestions.

1. Add two (2) advance people to the staff.
2. Include the Social Director in senior staff meetings.
3. Give the Social Director more power to curb the continuing over - scheduling of White House events.
4. During photo opportunities, always ANNOUNCE the President rather than let him just wander in. Besides being more appropriate to the office it will save several hours of time per week and give more clarity to the event.
5. Transfer the management of the Kennedy Center box to the Social Director in consultation with the Political Affairs Department.

CGE 001466

6. It is imperative that all department heads contact the Social Director BEFORE scheduling any event in the residence.

CORRESPONDENCE

The Correspondence Department is the most overloaded department of all. The mail is arriving at a rate of forty five thousand letters a day. This is double the amount of mail any previous President has received. So far only about sixty five hundred a day can be answered. Taking into consideration that approximately twenty five thousand are mail-in propaganda pieces, we are falling behind at a rate of thirteen thousand five hundred per day!

Because it is so seriously understaffed, the department is in danger of having to destroy hundreds of thousands of pieces of mail that have not even been read much less answered. The thought of destroying mail quantities this large is demoralizing to this department as well as the First Family. What should be demoralizing to everyone is the fact that for each letter destroyed there is one more angry person out there who probably voted for President Clinton . It is a name also lost to the data base for the next campaign.

Steps should be taken to increase the communication between this department and other White House groups. Correspondence is one of the White House's most valuable assets and should be respected as such. We should also seek to build and use this data base in our image making plan.

We offer the following suggestions.

1. Add seventy five (75) full time employees for a limited time in order to reduce the backload of mail.
2. Find office space to house the additional people. This space will probably have to be offsite.
3. Include Correspondence in senior staff meetings.
4. Special letters should be handled in a more timely manner. They should not languish on the President's desk.
5. Boost this unit's morale and the White House press image by getting some of the more successful pieces of correspondence into the media stream.

FUNDING

There are other broad aspects on issues of Image and Style that will be addressed in subsequent documents. The suggestions outlined here are very simple and may not seem significant but we feel they are the first steps that should be taken in order to improve the communication flow to the staff.

We realize we have proposed adding personnel even though there is no money to do so. Unless staff members have a better suggestion, we propose that Presidential Inaugural Commission surplus funds be transferred to The Presidential Inaugural Foundation which is qualified as tax-exempt under the IRS code. By amending the Articles of Incorporation, we could start an "intern" or "scholar" program. These people hired under the program could then be utilized as needed on the staff. We have additional information on how to accomplish this task on file.

Knowing that there are many places surplus Inauguration funds could be used we only want to point out once again that in our opinion it is imperative to define the philosophy, programs and goals of the President. In order to do that we must start with the small steps outlined in this paper.

CGE 001468

Jennifer O'Connor 6/1/00

Tikes as Dep. Dir. Management & Admin. - pd w/ part-time position, works for Grant (as he requests)

- Currently coordinating FOP Reference review (mapping 03-04 activities) looking at 1) FOP administration & contract services and technology services b/w OCFO and OFO - and a Reference management review of the WH

Transition

Mr. Pelosi's election - Then worked for Pelosi in January, reviewing the salaries and structure of the WH. They figured they'd let Jim handle the travel office.

Jim Dee was -

Dee says he'd keep the travel office the way it was. He appreciated her outreach in the WH, saying "I want to be travel" ~~[illegible]~~ ~~[illegible]~~ Held Matt Moore the a meeting in the office. Matt Stoyger CC'd on for a meeting w/ the WH employees (after the mtg, they were confused how it worked).

Jo had no involvement w/ the office memo. In March, Jo learned that Ms and Carlos were underwriting moving out of the office, and had a meeting w/ them about the proposal for the office (as later). Jo assumed they would move to the travel office.

CGEPR 0383

Dee said he'd help Carlos get into Pelosi's office, and would get a report for Ms - Kelly's job report and detailing her to the travel office.

2

End of March – Dr kept CC on his payroll and put her into trial offs (temp.) CC hoped that one of employees might retire and she would get a permanent appt.

Early April
Dr gave CC a permanent appt. He wanted her to assume the office (to know) Then recalls a subsequent meeting in Dr's office – CC in Dr's office w/ Sandy Atkinson and then to order.

MID April
Jo asked CC how many people would be needed in the trial office – CC said 3. Jo was always looking at wage to the writers – remembered CC's original "hypothetical." Jo asked Dr if there was a plan to have 3 people; Dr responded by saying there would be no charge.

May 10
Jo interviews Larry Herman & pulls him into the performance review. Discussed the actions of Larry Herman as a VPA interview of Todd Campbell.

May 11

Jo approaching CC's room soon to Jo sees Dr's secretary to meet w/ her (CC forgot to report time in sign in to the office to answer phone) Tells her to tell that Dr wanted her to meet w/ HR. Dr also asked Jo to meet w/ HR to discuss VPA 20's case (HR also conducting a management review) Jo sets up meeting w/ HR for May 12

(CC – getting ready to leave for Mary Ann's Partum)

May 12

He has lunch w/ Dr in the Mess Dr tells her – "There

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2

confidential" — That HT has dealings w/ Hand Corporation, and that the AFSCO has solicited Rockefeller.

Later that day, I go to meet HT (HT then says he can't meet Jensen he's got a bus. to deal w/ w/ DW) - I accompany HT to DW's office (I'll say to HT that I'll understand situation). At that meeting w/ DW, HT characterizes employees as short range guys are rapping us off, they're crooks and it would be a great public story, Bill Proxmire cleaning up house. I ask to HT if he has evidence and he says yes.

Now

I meet w/ HT (in the am) to explain the 25% strategy cut. HT also must have that meeting. I go to DW's office - Reinhardt w/ VF. RR says this met w/ the FBI and they asked good questions. Left meeting w/ no resolution other than things would be more quality. DW and VF agreed that there wasn't enough evidence (RR was very non-committal in these meetings - only answered questions).

VF DW RR

5pm - I go to speak by Patty Thomson. It asks her to call Paul Wharton, Jr. and have to DW's office. When I enter DW's office, he's speaking with Gary Herman: DW says Herman of an audit would be unusual and warrants. Herman answers DW that it would be unusual, so expect notifications

Atty. Frank Adams

CGEPR 0385

7/ ~~[illegible]~~ Mon

In a [illegible] later mtg (attended by JC, DW, FT and VF) DW then informs VF that a reshuffle will be conducted by Pres Nixon, as part of the National Reference Review. Tells VF that will be out and the old guard in. VF goes to Glen. VF leaves the meeting. DW seems to leave to ~~[illegible]~~ catch a plane.

Later JC states that DW may have said that it was a bad idea to replace older employees of CC. Thought that CC could not run it. Thought he would look like a complete fool. She also notes that DW's instructions of the Pres were now that 1) he wanted more evidence 2) needed to show been interest in moving quickly on this.

6pm Paul Tobenkin, Peter Segal, Mort Mann, Patty Paramon and JC meet in FT's office. FT tells them of a crisis in the Fiscal office (JC already knew this) and they should report to office at 7 that Friday. It was noted that the content of this conversation is confidential.

7 sepm - JC calls Herman to tell him that Mueller (who also works on NPR) will come for him on Friday's review. Herman has questions re: fiscal office file - asked if there was any wrongdoing, so "he'd know what to look for". JC avoids question.

JC expresses that energy w/ CC and Colby (they're nervous about upcoming events) JC says to CM that she should attend Friday's Monroe meeting w/ Pres auditors. (Maybe she didn't because she hadn't been invited)

(note: Segal leaflet unsigned. Fiscal office is part of OLPA. It takes of Treas. office. Office of Treas Ass (OTA))

CGEPR 0386

5

May 18

Paul Tobin + Pr

Brian Tennant, Peter Egel, Jo, Kennedy meet w/ Pr and Jim. Pr says Ray and Pr will review offer together. Says Jo and Paul will lead WH team. (note: the actual NPR is scheduled for the following week).

Paul asks questions about review plan. (Pr tells him how review will happen (rather informally). Pr also raises issue of processing records and need for security. (Pr tells Paul Jo will be security)

Pr wants updates during the course of the day so he can update the POTUS.

They lead to the Penn office where Pr tells Dale that this is a review, as part of the NPR. Jo and Tobin stay at door. Herman separates w/ Dale, asking general questions about staff, procedures, etc. Herman has offices w/ PC - says General procedures seem to good - as General curiosity.

- Lt briefs Pr. Pr at Union
- Brennan and Jo and underscore the confidentiality about management review at PRS request. (Pr wants Joyce memo - w/ Jo's editing)

3:50pm Lt briefs Jo on proceedings
Jo briefs Pr and Pr

CGEPR 0387

May 17

Pr returns DC. He asks Jo to draft a memo to McLarty giving an update on Pr's review and stating that employees will be terminated.

Lt drafts memo.

CGEPR 0388

J. O'Connor 6-11

in March

Thompson + SCI + CC staff had a mtg w/ DV in March

TL 3-13 mtg ... JD CC pressure pt
VF DV JD CC
JO thinks HT

... slow down process ... get ev. ...

VF at 2nd TL mtg

Q + A J.D. ... raises Q why ... who handled money

Peter Seybold
Paul Tobacck

CGEPR 0389

* Georgia O'Connor 6/20

Title Deputy Director, Office of Management and Administration

* Georgia drafted a press statement and sent it on May 19. (At Smith's request) Says that Bob and Peter changed it – it did not mention the FBI. She has no idea as to whether they were given Smith or George.

* She also drafted talking points for Smith's removal of employees on Wed, May 19. Peter sent the terminated yesterday. They were not included for the press.

CGEPR 0390

CGEPR 0237

Ross Fisher Miami Fla 6-17

Feb 13, 1992
5-28/TO/92
8 K'

& 8 trips for UHTD
after PA tour
Held down name for BD at Elmira.

flew & chartered but not 1st class a/c

said we could mostly w/ F.C. club entry etc.

needed commitment from BD before do plans

all of a sudden ~~ADA~~ near from ees that ADA non-licensed now cancel & that they'd get UH bns.

presented (not formally) to Bruce & Frank Voight & BD

"Raised eyebrows that ADA get this bns when found in

Never approached for kickback

Robert Verner vs Mitz

No conversation w/ Verner either

for ADA to get UH bonuses

[illegible] & [illegible] in advance of ADA"

CGEPR 0238

AF has civil reserve air fleet
(eg Desert Storm pay)
Govt. looking
at incentives of
1) civil land mil. fields
2) WH pres focused on DOD approved
craft inspected by FAA
& AF

eg another big K level.

Head of Air Mobility Command
(Gen. Ronald Fogleman now)

sent letter to DOD
thought approp for UH to support
program requesting AMC craft
carrier for UH. Ala pass

& DD (Hoover) has sent
no written reply

Ed Driscoll
Nat'l Air Carriers Ass'n
knows story (202)833-8200

To get plane outfitted up to ppt21
service... you'll need 6 mo. K at least

CGEPR 0239

If it were me I'd track down
- K journey flight
- what it cost
- what press paid

say charter cost $26m

I'd assume it 100 $260 each

GTR's for 5 x $260

~~[illegible]~~

Press pays & WH either free or pro rata should be GTR for WH + check from press fund for rest

Sum of checks & GTRs = total R p.

~~[illegible]~~ Q is did sum of checks + GTRs coming in to WHTO exceed y (no correspondence in method of payment) amount ~~[illegible]~~ paid out to charter co w/ WHTO pocketing

June 20, 1993

To: Cliff Sloan

From: Beth Nolan BN

Subject: Response to Questions from Republican Leadership

Chief of Staff Mack McLarty has received a letter from Republican leaders of the House of Representatives in which they raise 26 questions related to the dismissal of employees in the White House Travel Office. This memorandum provides information to assist with responses to questions 23, 24, and 25.

As a preliminary matter, these questions assume facts that I do not know to be accurate. Moreover, even assuming them to be true, I believe it would be inappropriate to opine on some facts without knowing if other facts might also exist. I have therefore attempted to offer responses that outline the relevant law without deciding the particular cases posed.

23. Was Harry Thomason a special government employee within the meaning of 18 U.S.C. 202(a) by virtue of the fact that he had a White House residence pass, daily access to the White House, and an office in the Old Executive Office Building?

Whether someone is considered a government employee for purposes of the conflict of interest laws is a factual question. First, the distinction between a "special" and "regular" government employee is merely that the special is appointed to serve less than 130 days in a 365-day period, and is subject to a limited set of conflicts laws by virtue of the part-time nature of the appointment. Persons who serve without compensation may be special or regular government employees, depending on the amount of time it is expected that they will work.

As to whether someone is an employee, normally, we look to the presence of three sets of facts: (1) appointment to federal office; (2) performance of a federal function under authority of law; and (3) supervision (or the possibility of supervision) by a federal officer or employee. *See* 5 U.S.C. §§ 2104, 2105; 1 Ops. Office of Legal Counsel 20 (1977).

Formal appointment to office is the usual indication of having met the first factor, but it is not essential: A special government employee, for example, is anyone "who is retained, designated, appointed, *or* employed" to perform federal duties. 18 U.S.C. § 202(a) (emphasis added). A person who performs work as a federal employee cannot

evade the conflicts laws simply by avoiding formal appointment to office. Nonetheless, some formal relationship normally must be intended to meet the first criterion. *See* 1 Ops. Office of Legal Counsel 20, 21 (1977).

The second and third criteria--that the person be engaged in performance of a federal function under authority of law and be subject to the supervision of a federal officer or employee--also suggest a somewhat formal relationship. OLC opined in 1977 that a person identified as "Mr. A" who "advised the President almost daily, principally on an informal basis," was not a special government employee by virtue of that relationship. It determined, however, that Mr. A's work on one current issue had gone beyond that informal role when he called and chaired a number of meetings with federal employees and assumed responsibility for coordinating the Administration's activities on that matter. As to that matter, OLC concluded that Mr. A should be designated a special government employee, but concluded that Mr. A's personal consultations with the President on other matters were not therefore converted into official matters. 1 Ops. Office of Legal Counsel 20, 23 (1977).

It is important to note that the lines are often fuzzy. Bayless Manning notes, in his important book explaining the conflicts laws, *Federal Conflict of Interest Law*:

> In the ordinary situation, a person will not be considered to be a consultant-employee if he does not bear a formal appointment, is not enrolled on the personnel roster of the relevant agency, has no government personnel file in his name, and has not been sworn in or signed the customary oath of a government employee. Other factors that might be relevant can be conjectured. *Is the person's advice solicited frequently? Is it sought by one official, who may be a personal friend, or impersonally by a number of persons in a government agency that needs expert counsel? Do meetings take place during office hours? Are they conducted in the government office, and does, perhaps, the adviser maintain a desk or working materials in government facilities?*

Bayless Manning, Federal Conflict of Interest Law 29-30 (1964) (emphasis added). *See also* OGE Op. 82x22.

Whether one is an employee can be a complicated factual question, as can be seen from the above discussion. It seems clear, however, that possession of a badge or daily contact with the White House are not determinative of employment status. Nor would the rendering of advice be conclusive, since that may properly be rendered in a personal rather than official capacity. Instead, one would need to assess whether someone with a badge and such access was performing federal functions under authority of law, and supervising, or being supervised by, federal employees and officers. Assignment of an office in a federal building would support a conclusion of employment status, but it would not be conclusive of such status in the absence of other important factors.

CGE 043211

24. If Harry Thomason was a special government employee, did his efforts to obtain contracts with the Travel Office violate the conflict of interest restrictions of 18 U.S.C. 208, which prohibit government employees, including special government employees, from participating personally and substantially in particular matters in which they have a financial interest?

18 U.S.C. § 208, as the question indicates, prohibits government employees from participating personally and substantially in particular matters in which they have a financial interest. For purposes of § 208, the interests of any organization in which the employee serves as officer, director, trustee, general partner, or employee are imputed to the employee as if they were the employee's own interests.

Section 208 has some important limitations. It prohibits participation only with respect to "particular matters" that have a "direct and predictable effect" on the employee's financial interest.

> *Particular Matter*: "The term particular matter encompasses only matters that involve deliberation, decision, or action that is focused upon the interests of specific persons, or a discrete and identifiable class of persons." A particular matter "does not extend to the consideration or adoption of broad policy options that are directed to the interests of a large and diverse group of persons." 5 C.F.R. § 2635.402(b)(3) (1993). Adoption of a general policy, or recommendations regarding general changes in government operations, normally would not be considered particular matters, although subsequent decisions implementing adoption of such recommendations might constitute particular matters. On the other hand, policies or operational considerations affecting a discrete group would normally be considered particular matters.
>
> *Direct and Predictable Effect*: "A particular matter will have a direct effect on a financial interest if there is a *close causal link* between any decision or action to be taken in the matter and any expected effect of the matter on the financial interest." 5 C.F.R. § 2635.402(b)(1) (1993) (emphasis added). That is, attenuated effects, as well as effects that are contingent on the occurrence of speculative or unrelated events, are *not* direct. Effects that are only speculative are not predictable. *Id.*

Recommendation for changes in government operations, therefore, could well be a recommendation about something other than a particular matter. Even if the matter were "particular," it might not have a direct and predictable effect on the federal employee's financial interests, given the number of steps between that recommendation for operational changes and the identity and award of particular contracts. Direct recommendation that one's own company be awarded a specific contract, on the other hand, would fall within the § 208 prohibition. As with the question of employment status, the question is highly fact dependent.

CGE 043212

25. Did Penny Sample or any other person interested in obtaining contracts with the Travel Office violate the conflict of interest restrictions of 18 U.S.C. § 208?

It is of course impossible to answer such an open-ended question. I have considered the following revised question: "Would one who is an officer of a private company violate § 208 if, as a federal employee, she recommended award of a federal contract to the company?" As discussed above, normally the answer to such a question would be yes, because one would assume that the company clearly would have a financial interest in being awarded the contract. If, however, the company decides not to earn money for providing the contractual service to the government, by not charging its normal commission, it is arguable that its financial interests are not affected. On the other hand, even when it does not charge a fee, the company's financial interests *could* be directly and predictably affected by the employee's action, perhaps because it undertook the costs of providing a service but did not earn its ordinary fee, or perhaps because it had simply used the contract as a "loss leader" that guaranteed it future business. This latter possibility raises issues of whether such an effect would be direct and predictable. That is, determination of a § 208 violation would be entirely dependent on the particular facts, and would specifically depend upon the existence of a financial effect and its directness and predictability.

CGE 043213

DRAFT JUL 10 93

CONFIDENTIAL

July __, 1993

001871

MEMORANDUM FOR JOHN PODESTA
STAFF SECRETARY

TODD STERN
DEPUTY STAFF SECRETARY

FROM: BETH NOLAN
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Questions from Travel Office Report re Harry Thomason

The report on the management review of the White House Travel Office has raised questions about whether Harry Thomason was a special government employee and, if so, whether he violated any conflict of interest laws. This memorandum is intended to analyze those questions. This analysis is based on the facts provided in the Travel Office Report.

I. Facts

These facts are taken from the Report:

> Darnell Martens is President of Thomason, Richland & Martens (TRM), a small, aviation consulting firm based in Cincinnati, Ohio. TRM is one-third owned by Martens, one-third by Harry Thomason, and one-third by Dan Richland, an associate of Thomason.
>
> Martens had done billing and consulting during the Clinton-Gore campaign for Air Advantage, the campaign's charter broker. After the election, Martens was interested in helping Air Advantage and certain campaign charter carriers learn how to bid on the White House press charter business.
>
> In early February, Martens sought Thomason's help in contacting the White House. Thomason called Press Secretary Dee Dee Myers and asked whether the White House charter business was subject to competitive bidding. Myers assumed that it was, and Thomason told Martens to contact Myers. Subsequently, Martens called Myers and Myers forwarded his call to Billy Dale, the long-time Director of the Travel Office.

CGE 043235

001872

Martens asked Dale about the possibility of bidding competitively on the White House press charter business. According to a memo that Martens wrote to the file following the phone call, Dale told Martens that he had served in the Travel Office for 31 years, that no one had seen fit to replace him with a commercial operation and that no combination of price or service could win White House business for Martens. (See Martens Memo, Exhibit G.)[1]

Martens mentioned the call to Thomason. He also called Air Advantage owner Penny Sample to tell her about his conversation with Dale. In that call, he discovered that the White House Travel Office had, for a long time, basically used only one charter carrier for domestic travel. The traditional White House carrier had been Pan Am. Several months after Pan Am went out of business, the Travel Office began using a new carrier, Airline of the Americas (which now does business under the name UltrAir), started by former Pan Am employees.

In early March, Martens, on a trip to Los Angeles, told Thomason about the Dale call in greater detail. He also told Thomason that he had heard a rumor suggesting that there was corruption in the Travel Office.

Thomason was concerned that the White House charter business was not competitively bid and that the Travel Office might also be engaged in wrongdoing. In passing, he mentioned to the President in late March that he thought there was

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[1] The Martens memo set forth as Exhibit G indicates that Martens approached the Travel Office by expressing an interest in obtaining White House Press Corps charter business for TRM. The memo as a whole discloses Martens' interest in opening up the Travel Office to competitive bidding, without particular regard to possible business for TRM. Thus, the memo refers to "operators and aircraft . . . out there . . . capable and deserving of some of the business. Why can't they compete for the business?"

Both Martens and Thomason subsequently stated that they had no interest in obtaining business for TRM, but were instead concerned that the White House business was not open to competitive bidders. Martens also was interested in seeing that his friends in the industry be able to compete for White House business that had been closed to competitive bidding. The Report tends to credit these statements that TRM was not seeking White House business, and there is no reason to disagree with the fact-finders' conclusions in this regard.

Nevertheless, the Martens memo shows an explicit interest in business for TRM, at least in February, although that interest was apparently abandoned. Because of the presence of this expressed interest, this memorandum considers Mr. Thomason's conduct in two possible lights: that TRM was not interested in obtaining business for itself, as the Report apparently concludes, and that TRM was interested in obtaining business for itself, as the Martens memo initially suggests.

CGE 043236

001873

trouble in a White House department having to do with travel, but did not give the President any details.

* * * * *

At the end of April, Thomason returned to Washington. He had been asked to consult on the staging of presidential events and was provided with an access pass of the kind issued to staff, allowing him open passage throughout the White House complex. He was permitted temporary use of an office in the East Wing.

On May 1, at the White House Correspondents Association Dinner, Thomason heard George Condon, President of the Correspondents Association, address the growing expense to the press of travelling on Presidential trips, a particular problem for smaller news agencies. Thomason viewed the no-bid practices of the Travel Office as part of the problem.

On May 10, Thomason asked Watkins about the status of the Travel Office. Watkins said he had placed [Catherine] Cornelius in the Travel Office and, following his meeting with Thomason, called Cornelius to ask her to meet with Thomason. Thomason asked Martens to fax his February memo to the White House.

* * * * *

On May 12, . . . Cornelius met with Thomason. They discussed their respective concerns about the Travel Office and concluded that persons there might be engaged in wrongdoing.

Following their meeting, Thomason and Cornelius met with Watkins to report their suspicions. Martens, who was in Washington at the time, joined the meeting and recounted his conversation with Dale.

In the early afternoon of May 12, Watkins set up a meeting with Deputy White House Counsel Vincent Foster. Watkins was accompanied by Cornelius and Thomason. [The meeting reconvened later that day, at which time Associate Counsel William Kennedy was designated to identify a course of action to pursue the allegations of financial mismanagement.]

* * * * *

On May 13 and 14, Thomason, Cornelius and [Jeff] Eller urged that the Travel Office matter be dealt with promptly. At a meeting of Thomason and

CGE 043237

001874

> Cornelius on the morning of May 13, Eller had been called to give guidance on handling the press. . . .

II. Employment Status

The first question that has arisen is whether Mr. Thomason was a special government employee. The answer to this question is not certain. It is possible, however, that Mr. Thomason was a special government employee during April and May of this year.

A volunteer or uncompensated consultant or other person who is not a full-time government employee may nonetheless be considered an employee for purposes of the conflict of interest laws. The conflict of interest statutes define a special government employee as "an officer or employee of the executive or legislative branch of the United States . . . who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days, temporary duties either on a full-time or intermittent basis . . . ." 18 U.S.C. § 202(a). The term "employee" itself is not defined by the conflict of interest statutes (or elsewhere in title 18). For this reason, the definition of employee found in title 5 of the United States Code is frequently the starting point for analyzing whether the conflict of interest laws apply to a particular person. *See* OGE Op. 82x22; Federal Personnel Manual, Ch. 304-1-4.

Title 5 offers three criteria by which employment status is judged: (1) appointment to federal office; (2) performance of a federal function under authority of law; and (3) supervision by a federal officer or employee. *See* 5 U.S.C. §§ 2104, 2105; 1 Ops. Office of Legal Counsel 20 (1977); OGE Op. 82x22. These criteria provide guidance for deciding whether someone is a government employee for purposes of the conflict of interest laws, but because they are only guideposts, they are not conclusive.

Formal appointment to office by a federal officer is the usual indication of having met the first criterion. Formal appointment is not essential, however; a person who performs work as a federal employee cannot evade the conflicts laws simply by avoiding formal appointment to office. Nonetheless, some formal relationship normally must exist. *See* 1 Ops. Office of Legal Counsel 20, 21 (1977). Bayless Manning notes, in his important book explaining the conflicts laws, *Federal Conflict of Interest Law*:

> In the ordinary situation, a person will not be considered to be a consultant-employee if he does not bear a formal appointment, is not enrolled on the personnel roster of the relevant agency, has no government personnel file in his name, and has not been sworn in or signed the customary oath of a government employee. Other factors that might be relevant can be conjectured. *Is the person's advice solicited frequently? Is it sought by one official, who may be a personal friend, or impersonally by a number of persons in a government agency that needs expert counsel? Do*

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meetings take place during office hours? Are they conducted in the government office, and does, perhaps, the adviser maintain a desk or working materials in government facilities?

Bayless Manning, Federal Conflict of Interest Law 30 (1964) (emphasis added). *See also* OGE Op. 82x22.

The second and third criteria--that the person be engaged in performance of a federal function under authority of law and be subject to the supervision of a federal officer or employee--also suggest a formal relationship. That is, outsiders may render personal advice from time to time, without thereby being converted to special government employees. Moreover, they may advise not as individuals providing independent advice to the government but rather as representatives of outside interests; when this is the case, they are not expected to render impartial advice and therefore are not subject to the conflict of interest laws.[2] Finally, they may be independent contractors, rather than employees, and thus not subject to the conflict of interest laws.[3]

If a person is deemed to be a de facto employee, a second question is whether he or she is "special" or "regular." Persons who serve without compensation may be special or regular government employees, depending on the amount of time it is expected that they will serve. A special government employee is one who is appointed to serve less than 130 days in a 365-day period. By virtue of that designation, a special government employee is subject to a more limited set of conflicts laws than is a regular employee.

In 1977, the Office of Legal Counsel of the Department of Justice (OLC) opined that a person identified as "Mr. A" who "advised the President almost daily, principally on an

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[2] OGE Op. 82x22 ("of the persons . . . who serve the Government temporarily or intermittently, only those who do so in an independent capacity are its employees"); Federal Personnel Manual, Ch. 735, App. C, at 4 ("A consultant or adviser whose advice is obtained by an agency from time to time because of his individual qualifications and who serves in an independent capacity is an officer or employee of the Government. On the other hand, one who is requested to appear before a Government agency to present the views of a nongovernmental organization or group which he represents, or for which he is in a position to speak, does not act as a servant of the Government and is not its officer or employee.").

[3] "[I]f a person is hired to conduct a study using his own judgment and resources and then turn over the end product to the agency, he would probably be regarded as an independent contractor. On the other hand, if a person works on Government premises under the direction of Government personnel and performs work of a kind normally handled by Government employees, he is probably an employee." 1 Ops. Office of Legal Counsel 20, 21 (1977).

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informal basis," was not a special government employee by virtue of that relationship. 1 Ops. Office of Legal Counsel 20, 22 (1977). OLC emphasized that "given the largely personal relationship between the President and Mr. A, apparently based on mutual respect rather than an assignment of duties, it seems doubtful that Mr. A ordinarily consults with the President under the latter's supervision, direction, or control as that concept is applied in the conflict-of-interest and similar laws or engaged in the type of work ordinarily performed by Government employees." *Id.* at 21-22. OLC determined, however, that Mr. A's work on one current issue had gone beyond that informal role when he called and chaired a number of meetings with federal employees and assumed responsibility for coordinating the Administration's activities on that matter. As to that matter, OLC concluded that Mr. A should be designated a special government employee. *Id.* at 23. OLC did not conclude, however, that Mr. A's personal consultations with the President on other matters were also thereby converted into official matters. *Id.*

The OLC opinion is useful in considering Mr. Thomason's employment status, although also not conclusive. The Report recites facts that could support a conclusion that *de facto* appointment and employment occurred: Mr. Thomason was asked to advise on the staging of presidential events, was provided a badge, and was given temporary office space. Without knowing more about how he was asked to provide the advice and the conditions under which he reported his views to federal employees, however, it is impossible to be certain whether Mr. Thomason was a special government employee. Mr. Thomason clearly has a personal relationship with the President that permitted him to provide informal advice of a personal nature. It is simply unclear whether his "assignment" on the staging of presidential events was an assignment of a nature that led to *de facto* appointment and to carrying out federal functions under the supervision of federal employees. The clear indicia present with Mr. A--calling and chairing meetings with federal employees and coordinating Administration activities on a matter--are not present in this case.

As can be seen from the OLC opinion, the rendering of advice to the President or even White House staff members is not conclusive of employment, because advice may properly be rendered in a personal rather than official capacity. Possession of a badge and even daily contact with the White House also are not determinative of employment status, but someone with a badge and such access who is performing federal functions under authority of law, and under the supervision of federal employees and officers, would normally have such status. Temporary assignment of an office in a federal building could support a conclusion of employment status, but there may be occasions when someone is offered temporary space but is not an employee. The facts must be viewed as a whole.

When viewed as a whole, the facts revealed in the Report could support a conclusion that Mr. Thomason was an uncompensated consultant with the status of a special government employee, by virtue of his assignment to consult on the staging of presidential events. Under this view, Mr. Thomason's consulting on that one matter

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went beyond providing personal advice to the President or others. On the other hand, it is possible that Mr. Thomason had access to the White House as friend and personal adviser to the President and that even his advice on staging events was personal rather than official. It is in fact difficult to determine exactly which category Mr. Thomason fits, but in light of the particular assignment he received, it seems prudent to proceed under the assumption that he attained special government employee status for the purpose of that assignment. That is, the matter is not free from doubt, and we should proceed to analyze Mr. Thomason's conduct as if he were a government employee.

If Mr. Thomason had employment status, it is undoubtedly as a special government employee. The assignment undoubtedly was a temporary one that was not expected to exceed 130 days actually worked.

Moreover, if Mr. Thomason was a special government employee, it appears that he was one only for purposes of consulting on the staging of presidential events. The Report indicates that Mr. Thomason commented several times on the status of the Travel Office to various persons in the White House, and attended several meetings addressing the Office, but these facts do not necessarily lead to a conclusion that Mr. Thomason had been given an assignment to work on Travel Office matters, or that he otherwise had official authority with respect to the Travel Office. He started out, in essence, as an "officious interloper," whose advice was not officially sanctioned. It appears that once he provided information about the Travel Office, the information was conveyed to several government employees, sometimes at the request of other government employees. Even so, the role he played is not inconsistent with the role of a private person providing personally held knowledge and views to government officials. Mr. Thomason does not appear to have been assigned official responsibilities with respect to the Travel Office, or otherwise to have performed as a consultant or employee.

The Office of Government Ethics has addressed this kind of situation:

> A Federal official may occasionally receive unsolicited, informal advice from an outside individual or group of individuals regarding a particular matter or issue of policy that is within his official responsibility. Or he may himself bring up an agency matter or policy issue informally with one or more outsiders in order to obtain their views. An incident of this sort sometimes prompts the inquiry whether the outsiders have becomes SGE's of the agency. In general, the answer is that they have not, for they are not possessed of appointments as employees nor do they perform a Federal function.
>
> However, as so often happens in considering the applicability of the conflict-of-interest laws, a generality is insufficient here and a *caveat* is in order. An official should not hold informal meetings more or less regularly with a nonfederal individual or group of individuals for the purpose of

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> obtaining information or advice for the conduct of his office. If he does so, he may invite the argument that willy-nilly he has brought them within the range of 18 U.S.C. §§ 202-209.

OGE Op. 82x22.

There is no question that the argument has been raised that Mr. Thomason was a special government employee for purposes of the Travel Office consideration. Although this argument does not appear to be justified in light of the law and facts, in the interests of full analysis of possible conflicts, this memorandum will consider possible conflicts of interest assuming arguendo that Mr. Thomason also attained special government employee status with respect to the Travel Office. As with his assignment with respect to the staging of presidential events, that status would have been attained sometime in late April or early May, when he attended several White House meetings on the subject.

III. Application to the Conflict of Interest Laws

If Mr. Thomason was not a special government employee, no question of a violation of the conflict of interest laws arises because he would not have been subject to those laws. On the other hand, if he was a special government employee, then we must assess whether there were violations of applicable laws. Two statutes are considered: 18 U.S.C. § 205, the representation statute, and § 208, the financial interest statute.

A. 18 U.S.C. § 205

Section 205 prohibits a federal employee from personally representing another before a federal agency, with or without compensation. Specifically, § 205 prohibits a federal employee from acting as "agent or attorney" for anyone before any federal agency in connection with any particular matter in which the U.S. is a party or has a direct and substantial interest.[4] Its application is limited, however, in the case of special government employees. First, special government employees may not represent anyone in any particular matter involving specific parties in which they also participate personally and substantially in their capacities as government employees. Second, after a special government employee actually works 60 days (counting each part of a day as a day), the representational limitation applies to all particular matters involving specific parties pending in the employee's agency, whether or not the employee participates for the government in such matters.

That is, § 205 recognizes that special government employees may continue to represent the interests of others before the government, which regular employees may not do. The

[4] Section 205 also has a prohibition on assisting in the prosecution of claims against the United States, but there is no issue here of a claim against the United States.

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statute limits those representations only with respect to particular matters involving specific parties (1) in which the employee participate personally and substantially as part of his official responsibilities; and (2) after 60 days of actual service, that are pending before the employee's agency.

1. If Mr. Thomason Were a Special Government Employee Only for the Staging of Presidential Events

If Mr. Thomason were an employee by virtue of his assignment to consult on the staging of presidential events, the interests of TRM and Mr. Martens--even understood in their most damaging light as interests in ultimately obtaining White House Travel Office business through competitive bidding--were not the same matter on which Mr. Thomason was working in an official capacity.

Second, Mr. Thomason began this assignment in late April. His service therefore could not have extended to the 60-day mark necessary to trigger the prohibition on acting as agent or attorney in a particular matter involving specific parties before his agency.

2. If Mr. Thomason Were a Special Government Employee for the Travel Office Matter

Section 205's limitation for special government employees to particular matters involving specific parties excludes from its coverage general policy decisions. That is,

> Such a matter typically involves a specific proceeding affecting the legal rights of the parties or an isolatable transaction or related set of transactions between identifiable parties. Rulemaking, legislation, the formulation of general policy, standards or objectives, or other action of general application is not such a matter.

5 C.F.R. § 2637.201(c) (1993) (interpreting same statutory language, but for 18 U.S.C. § 207).

On the one hand, the Travel Office decisions were general policy decisions involving consideration of how to structure an Office and whether to open the business up to competitive bidding. Since no particular airline contract was at stake, Mr. Thomason could be said not to have participated in a particular matter involving specific parties. On the other hand, if his assignment included providing advice on the firing of the Travel Office staff, that would appear to be a particular matter involving specific parties. There is no indication he ever made representations before federal officers on behalf of TRM or Martens with respect to that assignment, however. The representations, if they occurred, seem to have been earlier--in February--when Mr. Thomason could not be said to have been given an official assignment with respect to the Travel Office and when the matter, in any event, involved general considerations of Travel Office structure, not

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Etc on behalf of TRM

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specific parties. Even Martens' asserted interest in obtaining TRM business at that time was expressed in the context of opening up travel charters to competitive bidding--a policy decision that would not constitute a specific party matter.

As with the presidential events assignment, there is no indication that Mr. Thomason could have spent 60 days on any conceivable Travel Office assignment, so the second prong of § 205 would not apply.

B. 18 U.S.C. § 208

Section 208 prohibits government employees from officially participating personally and substantially in particular matters in which they have a financial interest. For purposes of § 208, the interests of an employee's general partner, as well as the interests of any organization in which the employee serves as officer, director, trustee, general partner, or employee, are imputed to the employee as if they were the employee's own interests. Section 208 applies equally to regular and special government employees.

1. If Mr. Thomason Were a Special Government Employee Only for the Staging of Presidential Events

Section 208 is a prohibition on *official* participation by an employee in matters in which he or she has a financial interest.[5] Mr. Thomason's assignment to advise on the staging of presidential events does not therefore raise a § 208 question with respect to the Travel Office. Only official participation in a matter can bring someone within the scope of § 208.

2. If Mr. Thomason Were a Special Government Employee for the Travel Office Matter

Even assuming arguendo that Mr. Thomason had official responsibility for the Travel Office--an assumption that appears unwarranted under the facts and law--§ 208 has some important limitations. It prohibits participation only with respect to "*particular matters*" that have a "*direct and predictable effect*" on the employee's financial interest.

Particular Matter: "The term particular matter encompasses only matters that involve deliberation, decision, or action that is focused upon the interests of specific persons, or a discrete and identifiable class of persons." A particular matter "does not extend to the

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[5] *See* Manning, *supra*, at 117 (§ 208 forbids " a government employee who has an economic interest in an outside private entity *to act for the federal government* in dealings with that entity") (emphasis added); Federal Personnel Manual, Ch. 735, App. C (§ 208 "prevents a Government employee from participating *as such* in a particular matter in which, to his knowledge, he . . . has a financial interest") (emphasis added).

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consideration or adoption of broad policy options that are directed to the interests of a large and diverse group of persons." 5 C.F.R. § 2635.402(b)(3) (1993).

Adoption of a general policy, or recommendations regarding general changes in government operations normally would not be considered particular matters. Subsequent decisions implementing adoption of such recommendations might constitute particular matters. Policies or operational considerations affecting a discrete group normally would be considered particular matters.

Direct and Predictable Effect: "A particular matter will have a direct effect on a financial interest if there is a *close causal link* between any decision or action to be taken in the matter and any expected effect of the matter on the financial interest." 5 C.F.R. § 2635.402(b)(1) (1993) (emphasis added). That is, attenuated effects, as well as effects that are contingent on the occurrence of speculative or unrelated events, are *not* direct. Effects that are only speculative are not predictable. *Id.*

Even if Mr. Thomason were said to have been a special government employee for purposes of the Travel Office matter, and assuming that the matter constituted a particular matter for purposes of § 208, it does not appear to have been a matter that could be said to have a direct and predictable effect on his financial interests. A number of steps would have been required between the recommendation for operational changes--whether the recommendation is understood as opening up the Office to competitive bidding, firing the existing employees, or some combination thereof--and the identity and award of particular contracts that could have a financial effect on Thomason, Martens, or TRM.

IV. Application to the Standards of Conduct

[A late Saturday thought: I should probably address the standards, particularly the appearance standard, and the use of public office for private gain.]

V. Conclusion

Harry Thomason may have been a special government employee with respect to the assignment he was given to consult on staging presidential events, but this did not convert him into a special government employee for other matters, including the Travel Office. Even if we assume that he was a special government employee for the Travel Office matter, his behavior did not violate 18 U.S.C. § 205 or § 208.

Nonetheless, it should be noted that we would normally recommend that a special government employee avoid even personal advice to government employees about any matters in which the special government employee, his firm, or any of his partners, are involved, during the period of government service. This recommendation is designed to avoid just the kind of unfortunate appearances that arose in this matter. Such

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appearances may impair public confidence in the integrity of government services, cast a cloud over the merits of government decisions, and consume vast amounts of government time as their effects are addressed. All of these consequences have been felt in this matter. But to say that Harry Thomason, or White House staff members who listened to his concerns about the Travel Office, should have been more attentive to the appearances that were being created is simply not the same as saying that he violated the criminal conflicts laws. It does not appear that he did.

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DATE: 7/14/93

TO: Cliff Sloan

FROM: BETH NOLAN
Associate Counsel to the President
Room 136, OEOB, x6229

____ FYI

____ Appropriate Action

____ Let's Discuss

____ Per Our Conversation

____ Per Your Request

____ File

____ Please Return

COMMENTS:

CGE 043265

CGEPR 08216

July 13, 1993

DRAFT

Preliminary Thoughts on Travel Office Report re Harry Thomason

The report on the management review of the White House Travel Office has raised questions about whether Harry Thomason was a special government employee and, if so, whether he violated any conflict of interest laws. This is a preliminary analysis, based on the facts provided in the Travel Office Report.[1] To the extent other facts may be relevant, the analysis obviously could change.

I. Facts

These facts are taken from the Report:

> Darnell Martens is President of Thomason, Richland & Martens (TRM), a small, aviation consulting firm based in Cincinnati, Ohio. TRM is one-third owned by Martens, one-third by Harry Thomason, and one-third by Dan Richland, an associate of Thomason.
>
> Martens had done billing and consulting during the Clinton-Gore campaign for Air Advantage, the campaign's charter broker. After the election, Martens was interested in helping Air Advantage and certain campaign charter carriers learn how to bid on the White House press charter business.
>
> In early February, Martens sought Thomason's help in contacting the White House. Thomason called Press Secretary Dee Dee Myers and asked whether the White House charter business was subject to competitive bidding. Myers assumed that it was, and Thomason told Martens to contact Myers. Subsequently, Martens called Myers and Myers forwarded his call to Billy Dale, the long-time Director of the Travel Office.
>
> Martens asked Dale about the possibility of bidding competitively on the White House press charter business. According to a memo that Martens wrote to the file following the phone call, Dale told Martens that he had served in the Travel Office for 31 years, that no one had seen fit to replace him with a commercial operation and that no combination of price or service could win White House business for Martens. (See Martens Memo, Exhibit G.)[2]

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[1] White House Travel Office Management Report (July 2, 1993).

[2] The Martens memo set forth as Exhibit G indicates that Martens approached the Travel Office by expressing an interest in obtaining White House Press Corps charter

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Martens mentioned the call to Thomason. He also called Air Advantage owner Penny Sample to tell her about his conversation with Dale. In that call, he discovered that the White House Travel Office had, for a long time, basically used only one charter carrier for domestic travel. The traditional White House carrier had been Pan Am. Several months after Pan Am went out of business, the Travel Office began using a new carrier, Airline of the Americas (which now does business under the name UltrAir), started by former Pan Am employees.

In early March, Martens, on a trip to Los Angeles, told Thomason about the Dale call in greater detail. He also told Thomason that he had heard a rumor suggesting that there was corruption in the Travel Office.

Thomason was concerned that the White House charter business was not competitively bid and that the Travel Office might also be engaged in wrongdoing. In passing, he mentioned to the President in late March that he thought there was trouble in a White House department having to do with travel, but did not give the President any details.

* * * * *

At the end of April, Thomason returned to Washington. He had been asked to consult on the staging of presidential events and was provided with an access pass of the kind issued to staff, allowing him open passage throughout the

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business for TRM. The memo as a whole discloses Martens' interest in opening up the Travel Office to competitive bidding, without particular regard to possible business for TRM. Thus, the memo refers to "operators and aircraft . . . out there . . . capable and deserving of some of the business. Why can't they compete for the business?"

Both Martens and Thomason subsequently stated that they had no interest in obtaining business for TRM, but were instead concerned that the White House business was not open to competitive bidders. Martens also was interested in seeing that his friends in the industry be able to compete for White House business that had been closed to competitive bidding. The Report tends to credit these statements that TRM was not seeking White House business, and I defer to the fact-finders' conclusions in this regard. Moreover, in May, Thomason apparently explicitly disclaimed any present or future interest in Travel Office business.

Nevertheless, the Martens memo shows an explicit interest in business for TRM, at least in February, although that interest was apparently abandoned. Because of the presence of this expressed interest, this memorandum considers Mr. Thomason's conduct in two possible lights: that TRM was not interested in obtaining business for itself, as the Report apparently concludes, and that TRM was interested in obtaining business for itself, as the Martens memo initially suggests.

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White House complex. He was permitted temporary use of an office in the East Wing.

On May 1, at the White House Correspondents Association Dinner, Thomason heard George Condon, President of the Correspondents Association, address the growing expense to the press of travelling on Presidential trips, a particular problem for smaller news agencies. Thomason viewed the no-bid practices of the Travel Office as part of the problem.

On May 10, Thomason asked Watkins about the status of the Travel Office. Watkins said he had placed [Catherine] Cornelius in the Travel Office and, following his meeting with Thomason, called Cornelius to ask her to meet with Thomason. Thomason asked Martens to fax his February memo to the White House.

* * * * *

On May 12, . . . Cornelius met with Thomason. They discussed their respective concerns about the Travel Office and concluded that persons there might be engaged in wrongdoing.

Following their meeting, Thomason and Cornelius met with Watkins to report their suspicions. Martens, who was in Washington at the time, joined the meeting and recounted his conversation with Dale.

In the early afternoon of May 12, Watkins set up a meeting with Deputy White House Counsel Vincent Foster. Watkins was accompanied by Cornelius and Thomason. [The meeting reconvened later that day, at which time Associate Counsel William Kennedy was designated to identify a course of action to pursue the allegations of financial mismanagement.]

* * * * *

On May 13 and 14, Thomason, Cornelius and [Jeff] Eller urged that the Travel Office matter be dealt with promptly. At a meeting of Thomason and Cornelius on the morning of May 13, Eller had been called to give guidance on handling the press. . . .

II. Employment Status

The first question that has arisen is whether Mr. Thomason was a special government employee. The answer to this question is not certain. It is possible, however, that Mr. Thomason was a special government employee during April and May of this year.

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A volunteer or uncompensated consultant or other person who is not a full-time government employee may nonetheless be considered an employee for purposes of the conflict of interest laws. The conflict of interest statutes define a special government employee as "an officer or employee of the executive or legislative branch of the United States . . . who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days, temporary duties either on a full-time or intermittent basis . . . ." 18 U.S.C. § 202(a). The term "employee" itself is not defined by the conflict of interest statutes (or elsewhere in title 18). For this reason, the definition of employee found in title 5 of the United States Code is frequently the starting point for analyzing whether the conflict of interest laws apply to a particular person. *See* OGE Op. 82x22; Federal Personnel Manual, Ch. 304-1-4.

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The second and third criteria--that the person be engaged in performance of a federal function under authority of law and be subject to the supervision of a federal officer or

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employee--also suggest a formal relationship. That is, outsiders may render personal advice from time to time, without thereby being converted to special government employees. Moreover, they may advise not as individuals providing independent advice to the government but rather as representatives of outside interests; when this is the case, they are not expected to render impartial advice and therefore are not subject to the conflict of interest laws.[3] Finally, they may be independent contractors, rather than employees, and thus not subject to the conflict of interest laws.[4]

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In 1977, the Office of Legal Counsel of the Department of Justice (OLC) opined that a person identified as "Mr. A" who "advised the President almost daily, principally on an informal basis," was not a special government employee by virtue of that relationship. 1 Ops. Office of Legal Counsel 20, 22 (1977). OLC emphasized that "given the largely personal relationship between the President and Mr. A, apparently based on mutual respect rather than an assignment of duties, it seems doubtful that Mr. A ordinarily consults with the President under the latter's supervision, direction, or control as that concept is applied in the conflict-of-interest and similar laws or engaged in the type of work ordinarily performed by Government employees." *Id.* at 21-22. OLC determined, however, that Mr. A's work on one current issue had gone beyond that informal role when he called and chaired a number of meetings with federal employees and assumed

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responsibility for coordinating the Administration's activities on that matter. As to that matter, OLC concluded that Mr. A should be designated a special government employee. *Id.* at 23. OLC did not conclude, however, that Mr. A's personal consultations with the President on other matters were also thereby converted into official matters. *Id.*

The OLC opinion is useful in considering Mr. Thomason's employment status, although also not conclusive. The Report recites facts that could support a conclusion that *de facto* appointment and employment occurred: Mr. Thomason was asked to advise on the staging of presidential events, was provided a badge, and was given temporary office space. Without knowing more about how he was asked to provide the advice and the conditions under which he reported his views to federal employees, however, it is impossible to be certain whether Mr. Thomason was a special government employee. Mr. Thomason clearly has a personal relationship with the President that permitted him to provide informal advice of a personal nature. It is simply unclear whether his "assignment" on the staging of presidential events was an assignment of a nature that led to *de facto* appointment and to carrying out federal functions under the supervision of federal employees. The clear indicia present with Mr. A--calling and chairing meetings with federal employees and coordinating Administration activities on a matter--are not present in this case.

As can be seen from the OLC opinion, the rendering of advice to the President or even White House staff members is not conclusive of employment, because advice may properly be rendered in a personal rather than official capacity. Possession of a badge and even daily contact with the White House also are not determinative of employment status, but someone with a badge and such access who is performing federal functions under authority of law, and under the supervision of federal employees and officers, would normally have such status. Temporary assignment of an office in a federal building could support a conclusion of employment status, but there may be occasions when someone is offered temporary space but is not an employee. The facts must be viewed as a whole.

When viewed as a whole, the facts revealed in the Report could support a conclusion that Mr. Thomason was an uncompensated consultant with the status of a special government employee, by virtue of his assignment to consult on the staging of presidential events. Under this view, Mr. Thomason's consulting on that one matter went beyond providing personal advice to the President or others. On the other hand, it is possible that Mr. Thomason had access to the White House as friend and personal adviser to the President and that even his advice on staging events was personal rather than official. It is in fact difficult to determine exactly which category Mr. Thomason fits, but in light of the particular assignment he received, it seems prudent to proceed under the assumption that he attained special government employee status for the purpose of that assignment. That is, the matter is not free from doubt, and we should proceed to analyze Mr. Thomason's conduct as if he were a government employee.

CGEPR 0821h

If Mr. Thomason had employment status, it is undoubtedly as a special government employee. The assignment undoubtedly was a temporary one that was not expected to exceed 130 days actually worked.

Moreover, if Mr. Thomason was a special government employee, it appears that he was one only for purposes of consulting on the staging of presidential events. The Report indicates that Mr. Thomason commented several times on the status of the Travel Office to various persons in the White House, and attended several meetings addressing the Office, but these facts do not necessarily lead to a conclusion that Mr. Thomason had been given an assignment to work on Travel Office matters, or that he otherwise had official authority with respect to the Travel Office. He started out, in essence, as an "officious interloper," whose advice was not officially sanctioned. It appears that once he provided information about the Travel Office, the information was conveyed to several government employees, sometimes at the request of other government employees. Even so, the role he played is not inconsistent with the role of a private person providing personally held knowledge and views to government officials. Mr. Thomason does not appear to have been assigned official responsibilities with respect to the Travel Office, or otherwise to have performed as a consultant or employee.

The Office of Government Ethics has addressed this kind of situation:

> A Federal official may occasionally receive unsolicited, informal advice from an outside individual or group of individuals regarding a particular matter or issue of policy that is within his official responsibility. Or he may himself bring up an agency matter or policy issue informally with one or more outsiders in order to obtain their views. An incident of this sort sometimes prompts the inquiry whether the outsiders have becomes SGE's of the agency. In general, the answer is that they have not, for they are not possessed of appointments as employees nor do they perform a Federal function.
>
> However, as so often happens in considering the applicability of the conflict-of-interest laws, a generality is insufficient here and a *caveat* is in order. An official should not hold informal meetings more or less regularly with a nonfederal individual or group of individuals for the purpose of obtaining information or advice for the conduct of his office. If he does so, he may invite the argument that willy-nilly he has brought them within the range of 18 U.S.C. §§ 202-209.

OGE Op. 82x22.

There may be an argument that Mr. Thomason was a special government employee with respect to the Travel Office matter, but on balance it does not appear that this was so.

CGE 043272

III. Application to the Conflict of Interest Laws

If Mr. Thomason was not a special government employee, no question of a violation of the conflict of interest laws arises because he would not have been subject to those laws. On the other hand, if he was a special government employee, then we must assess whether there were violations of applicable laws. Two statutes are considered: 18 U.S.C. § 205, the representation statute, and § 208, the financial interest statute.

A. 18 U.S.C. § 205

Section 205 prohibits a federal employee from personally representing another before a federal agency, with or without compensation. Specifically, § 205 prohibits a federal employee from acting as "agent or attorney" for anyone before any federal agency in connection with any particular matter in which the U.S. is a party or has a direct and substantial interest.[5] Its application is limited, however, in the case of special government employees. First, special government employees may not represent anyone in any particular matter involving specific parties in which they also participate personally and substantially in their capacities as government employees. Second, after a special government employee actually works 60 days (counting each part of a day as a day), the representational limitation applies to all particular matters involving specific parties pending in the employee's agency, whether or not the employee participates for the government in such matters.

That is, § 205 recognizes that special government employees may continue to represent the interests of others before the government, which regular employees may not do. The statute limits those representations only (1) with respect to particular matters involving specific parties in which the employee participates personally and substantially as part of his official responsibilities; and (2) after 60 days of actual service, with respect to particular matters involving specific parties that are pending before the employee's agency.

If Mr. Thomason were an employee by virtue of his assignment to consult on the staging of presidential events, the interests of TRM and Mr. Martens--even understood in their most damaging light as interests in ultimately obtaining White House Travel Office business through competitive bidding--were not the same matter on which Mr. Thomason was working in an official capacity. The first § 205 limitation would thus be inapplicable. If he were a special government employee for the Travel Office matter, there would be a factual question whether he was acting as Martens'/TRM's agent with respect to the same matters in which he was participating.

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[5] Section 205 also has a prohibition on assisting in the prosecution of claims against the United States, but there is no issue here of a claim against the United States.

Second, Mr. Thomason began this assignment in late April. His service therefore could not have extended to the 60-day mark necessary to trigger the second prohibition on acting as agent or attorney in a particular matter involving specific parties before his agency.

B. 18 U.S.C. § 208

Section 208 prohibits government employees from officially participating personally and substantially in particular matters in which they have a financial interest. For purposes of § 208, the interests of an employee's general partner, as well as the interests of any organization in which the employee serves as officer, director, trustee, general partner, or employee, are imputed to the employee as if they were the employee's own interests. Section 208 applies equally to regular and special government employees.

Section 208 is a prohibition on *official* participation by an employee in matters in which he or she has a financial interest.[6] Mr. Thomason's assignment to advise on the staging of presidential events does not therefore raise a § 208 question with respect to the Travel Office. Only official participation in a matter can bring someone within the scope of § 208.

Even assuming arguendo that Mr. Thomason had official responsibility for the Travel Office--an assumption that appears unwarranted under the facts and law--§ 208 has some important limitations. It prohibits participation only with respect to "*particular matters*" that have a "*direct and predictable effect*" on the employee's financial interest. "A particular matter will have a direct effect on a financial interest if there is a *close causal link* between any decision or action to be taken in the matter and any expected effect of the matter on the financial interest." 5 C.F.R. § 2635.402(b)(1) (1993) (emphasis added). That is, attenuated effects, as well as effects that are contingent on the occurrence of speculative or unrelated events, are *not* direct. Effects that are only speculative are not predictable. *Id.*

Even if Mr. Thomason could be said to have been a special government employee for purposes of the Travel Office matter, and assuming that the matter constituted a particular matter for purposes of § 208, it does not appear to have been a matter that could be said to have a direct and predictable effect on his financial interests. Mr. Thomas apparently explicitly disclaimed any interest in present or future travel office business. These disclaimers were not sufficiently emphasized in the Report, but would

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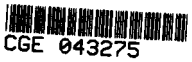
[6] *See* Manning, *supra*, at 117 (§ 208 forbids " a government employee who has an economic interest in an outside private entity *to act for the federal government* in dealings with that entity") (emphasis added); Federal Personnel Manual, Ch. 735, App. C (§ 208 "prevents a Government employee from participating *as such* in a particular matter in which, to his knowledge, he . . . has a financial interest") (emphasis added).

be important in considering a possible violation. The possible financial benefit from good will of friends who got business also would be insufficient to make out a § 208 violation: A number of steps would have been required between the recommendation for operational changes--whether the recommendation is understood as opening up the Office to competitive bidding, firing the existing employees, or some combination thereof--and the identity and award of particular contracts that could have a financial effect on Thomason, Martens, or TRM.

IV. Conclusion

Harry Thomason may have been a special government employee with respect to the assignment he was given to consult on staging presidential events, but even if he was, this did not convert him into a special government employee for other matters, including the Travel Office. It does not appear that he was an employee for that matter.

Nonetheless, it should be noted that the better practice would be for a special government employee to avoid even personal advice to government officials about any matters in which the special government employee, his firm, or any of his partners, could be said to be involved, during the period of government service. Such a practice would avoid just the kind of unfortunate consequences we have had to attend to with respect to this matter: impaired public confidence in the integrity of government services, a cloud over the merits of government decisions, and consumption of vast amounts of government time as their effects are addressed. But to say that Harry Thomason, or White House staff members who listened to his concerns about the Travel Office, should have been more attentive to the possible consequences is simply not the same as saying that Mr. Thomason violated the criminal conflicts laws.



PS

Employment Status: Same question as for HT, although it seems clearer that PS was asked to serve as a volunteer in the White House to perform a federal job, and as such probably was a special government employee.

Alleged Violations: 18 U.S.C. § 208.

PS is the president of a charter broker, Air Advantage. She arranged for Air Advantage to forward a fee to Midwest Express to cover official White House expenses. Even though there seems to have been no financial advantage to Air Advantage in this transaction, its forwarding of a $52,000 fee probably had a financial effect on Air Advantage. Section 208 requires neither that the financial effect be positive, nor that the financial effect be substantial (there is no de minimis exception).

CGE 043348

HT

Employment Status: It is possible, but certainly not a given, that Mr. Thomason was a special government employee during some of the time that he was discussing Travel Office matters with members of the White House staff. The report states that as of the end of April, Mr. Thomason was consulting with the White House on the staging of presidential events, and that he was given a hard badge for access to the White House, and a temporary office in the East Wing. The report does not specify who asked Mr. Thomason to assist in this matter, or if he worked under the direction of a White House staff member other than the President. Moreover, the report does not indicate if Mr. Thomason had earlier assignments.

Depending on the facts, Mr. Thomason **may** have been an uncompensated consultant with the status of a special government employee. A volunteer or uncompensated consultant or other person who is not a regular government employee may nonetheless be a government employee for purposes of the conflicts of interest laws. This is a factual question. If a person is deemed to have been such an employee, a second question is whether he or she is "special" or "regular." Persons who serve without compensation may be special or regular government employees, depending on the amount of time it is expected that they will work. A special government employee is one who is appointed to serve less than 130 days in a 365-day period. By virtue of that designation, a special government employee is subject to a more limited set of conflicts laws than is a regular employee.

As to whether someone is an employee, normally, we look to the presence of three sets of facts: (1) appointment to federal office; (2) performance of a federal function under authority of law; and (3) supervision by a federal officer or employee. *See* 5 U.S.C. §§ 2104, 2105; 1 Ops. Office of Legal Counsel 20 (1977).

Formal appointment to office is the usual indication of having met the first factor, but it is not essential: A special government employee, for example, is anyone "who is retained, designated, appointed, *or* employed" to perform federal duties. 18 U.S.C. § 202(a) (emphasis added). A person who performs work as a federal employee cannot evade the conflicts laws simply by avoiding formal appointment to office. Nonetheless, some formal relationship normally must be intended to meet the first criterion. *See* 1 Ops. Office of Legal Counsel 20, 21 (1977).

The second and third criteria--that the person be engaged in performance of a federal function under authority of law and be subject to the supervision of a federal officer or employee--also suggest a somewhat formal relationship. It is important to note, however, that the lines are often fuzzy. Bayless Manning notes, in his important book explaining the conflicts laws, *Federal Conflict of Interest Law*:

> In the ordinary situation, a person will not be considered to be a consultant-employee if he does not bear a formal appointment, is not enrolled on the personnel roster of the relevant agency, has no government personnel file in his

CGE 043349

> name, and has not been sworn in or signed the customary oath of a government employee. Other factors that might be relevant can be conjectured. *Is the person's advice solicited frequently? Is it sought by one official, who may be a personal friend, or impersonally by a number of persons in a government agency that needs expert counsel? Do meetings take place during office hours? Are they conducted in the government office, and does, perhaps, the adviser maintain a desk or working materials in government facilities?*

Bayless Manning, Federal Conflict of Interest Law 29-30 (1964) (emphasis added). *See also* OGE Op. 82x22.

In a relevant opinion, OLC opined in 1977 that a person identified as "Mr. A" who "advised the President almost daily, principally on an informal basis," was not a special government employee by virtue of that relationship. It determined, however, that Mr. A's work on one current issue had gone beyond that informal role when he called and chaired a number of meetings with federal employees and assumed responsibility for coordinating the Administration's activities on that matter. As to that matter, OLC concluded that Mr. A should be designated a special government employee, but concluded that Mr. A's personal consultations with the President on other matters were not therefore converted into official matters. 1 Ops. Office of Legal Counsel 20, 23 (1977).

Whether one is an employee can be a complicated factual question, as can be seen from the above discussion. It seems clear, however, that possession of a badge and daily contact with the White House are not determinative of employment status. One must instead assess whether someone with a badge and such access is performing federal functions under authority of law, and under the supervision of federal employees and officers. The rendering of advice to the President, First Lady, or even other federal employees is not conclusive, because advice may properly be rendered in a personal rather than official capacity. Assignment of an office in a federal building could support a conclusion of employment status, but it would not be conclusive of such status in the absence of other important factors.

On the one hand, Mr. Thomason might be viewed as OLC's "Mr. A," without the one matter that made Mr. A a special government employee. Under this view, Mr. Thomason had access to the White House as friend and personal adviser to the President. While he occasionally gave advice to others, that advice was rendered in a personal capacity. He apparently had no authority to direct other employees, and took no direction from them either.

On the other hand, one could argue that his role in consulting on matters of staging presidential ~~image~~ only went beyond advising the President to taking on an assignment under the auspices of other federal employees. Ultimate resolution of this question may depend on facts I do not have.

CGE 043350

If HT had employment status, it is undoubtedly as a special government employee. The 130 days is days actually expected to work, not elapsed time. The only glitch in this analysis is that the designation usually must occur at the time of the appointment. Without a formal appointment, there surely was no designation. Nonetheless, in these situations, it is likely sufficient to show that the position is one in which the special government employee designation was entirely appropriate, and not a close question.

Alleged Violations: 18 U.S.C. § 205, 208.

If HT was not a special government employee, no question of violation of the conflict of interest laws arises. On the other hand, if he was, then we must assess whether there were such violations.

18 U.S.C. § 205: As discussed under CC, § 205 prohibits employees from representing others before the government. Its application is limited, however, in the case of special government employees. First, special government employees may not represent anyone in any **particular matter involving specific parties in which they also participate** personally and substantially as a government employee. Second, after a special government employee **actually works 60 days** (counting each part of a day as a day), the representational limitation applies to all **particular matters involving specific parties pending in the employee's agency** (here, the Executive Office of the President (EOP)), whether or not the employee participates for the government in such matters.

If HT were an employee by virtue of his assignment to consult on the staging of presidential events, the interests of TRM and Mr. Martens--even understood in their most damaging light as interests in obtaining White House Travel Office business--were not the same matter on which Mr. Thomason was working in an official capacity. Only if HT were said to have official responsibility for the Travel Office would a question arise about the first § 205 application to special government employees. As far as I can tell, the Report does not suggest that HT had been asked to perform any official duties with respect to the Travel Office.

Second, Mr. Thomason's service apparently did not extend to the 60-day mark, since he would have had to perform 60 days of work (including any part of a day) to reach that mark. The facts of which I am aware do not suggest this was likely, but those who are more familiar with his status and comings and goings since January 20 would have to make that assessment. Assuming that I am correct, there does not appear to be a violation of § 205 by virtue of any representations on behalf of Martens and TRM with respect to particular matters in which they were parties, but for which Mr. Thomason had no official responsibility.

As a rule of thumb, however, we would normally recommend that the best course of action would be to avoid advising government employees about any matters in which the SGE, his firm, or any of his partners, are involved, during the period of government

service. This would also be our recommendation under the regulatory requirement to maintain impartiality, discussed below, and financial conflicts, discussed above.

5 C.F.R. § 2635.502: If an employee has a personal or business relationship with someone (such as a relative, employer, or partner), normally he should not participate for the government in matters affecting that person's interests without obtaining permission from the Counsel's Office. Mr. Thomason does not appear to have been acting in a government capacity on behalf of TRM or Mr. Richland, but the roles certainly became confused.

18 U.S.C. § 208 prohibits government employees from participating personally and substantially in particular matters in which they have a financial interest. For purposes of § 208, the interests of an employee's general partner, as well as the interests of any organization in which the employee serves as officer, director, trustee, general partner, or employee, are imputed to the employee as if they were the employee's own interests.

Section 208 has some important limitations. It prohibits participation only with respect to "particular matters" that have a "direct and predictable effect" on the employee's financial interest.

> *Particular Matter*: "The term particular matter encompasses only matters that involve deliberation, decision, or action that is focused upon the interests of specific persons, or a discrete and identifiable class of persons." A particular matter "does not extend to the consideration or adoption of broad policy options that are directed to the interests of a large and diverse group of persons." 5 C.F.R. § 2635.402(b)(3) (1993). Adoption of a general policy, or recommendations regarding general changes in government operations, normally would not be considered particular matters, although subsequent decisions implementing adoption of such recommendations might constitute particular matters. On the other hand, policies or operational considerations affecting a discrete group would normally be considered particular matters.
>
> *Direct and Predictable Effect*: "A particular matter will have a direct effect on a financial interest if there is a *close causal link* between any decision or action to be taken in the matter and any expected effect of the matter on the financial interest." 5 C.F.R. § 2635.402(b)(1) (1993) (emphasis added). That is, attenuated effects, as well as effects that are contingent on the occurrence of speculative or unrelated events, are *not* direct. Effects that are only speculative are not predictable. *Id.*

Recommendation for changes in government operations, therefore, could well be a recommendation about something other than a particular matter. Even if the matter were "particular," it might not have a direct and predictable effect on the federal employee's financial interests, given the number of steps between that recommendation

CGE 043352

for operational changes and the identity and award of particular contracts. Direct recommendation that one's own company be awarded a specific contract, on the other hand, would fall within the § 208 prohibition. As with the question of employment status, the question is highly fact dependent.

[Discuss Martens' memo]

CGE 043353

CC

Employment Status: CC is a FTE, subject to the full range of COI laws.

Alleged Violations: 18 U.S.C. § 203, 205.

Section 203 prohibits a federal employee from receiving compensation for anyone's (self or other's) representational activities before a federal department or agency. Section 205 prohibits a federal employee from personally representing another before a federal agency, with or without compensation. These are general intent crimes, which do not require proof of specific intent, willfulness, or a knowing and corrupt intent.

Allegation is that CC was representing the interests of WW before the gov't while she was a federal ee, i.e., acting as WW's "agent." I am aware of no financial connection between WW and CC, including any compensation or sharing of fees. Without indication of compensation or sharing of fees for alleged representation, § 203 falls aside. Remaining Q: is there a violation of § 205?

§ 205 prohibits a federal employee from acting as "agent or attorney" for anyone before any federal agency in connection with any particular matter in which the U.S. is a party or has a direct and substantial interest. White House is a federal agency. Obtaining business before such agency would normally be a particular matter in which U.S. is a party or has an interest, although general discussions about reconfiguration of an office might not rise to the level of a particular matter. Even assuming the existence of a particular matter, however, a critical question remains: Was CC acting as WW's agent or attorney?

CC arranged for WW to step in to the Travel Office when Travel Office employees were dismissed. Prior to this time, CC suggested that WW be used a number of times. E.g.'s: The 2/15 memo included a proposed organizational chart showing WW as the out-sourced travel agency for both official and political trips. CC's 1/26 memo refers frequently to WW's role in the campaign with the suggestion that it would have a similar role in a newly configured travel operation.

These facts do not necessarily mean that CC was acting as WW's "agent." CC worked with WW during the campaign. It is therefore not surprising that she thought of using WW during her recommendations for changes in the Travel Office, or during the chaos surrounding the dismissal of the travel employees. Note that CC's 12/31 memo explicitly recognized that the out-sourced agency in a new travel office would be selected by competitive bidding. Her subsequent memos do not indicate that she abandoned that idea.

No financial connection need be present between the employee and the entity to make the employee an agent of the entity. Instead, we look to see if the employee made communications to a federal agency (or federal employee) for the purposes of influencing a government decision on behalf of someone other than herself. Just

CGE 043354

because a government employee urges that a particular entity be given government business, or even selects that entity for business, however, is not sufficient to make that employee an agent of the entity.

On the whole, it appears that CC's suggestions that WW be utilized, and even her selecting WW to fill in when the Travel Office employees were dismissed, was done in her role as a government employee making decisions in the interests of the government, rather than as a private agent of WW.

CCF 043355

DAILY PHONE LOG DATE: 7/6/93

NAME Roberto Iraola / Carl Rauh Date Time Phone 371-7403	REMARKS ACTION TAKEN – Called & left message
NAME Brian Foucart Date Time Phone	REMARKS ACTION TAKEN Swipe machines – machine again.
NAME Roberto Iraola Date Time Phone 371-7403	REMARKS ACTION TAKEN – works w/ Carl Rauh & Bob Bennett notes of interview – – rep. The Lawn
NAME Date Time Phone	REMARKS ACTION TAKEN – how many interviews? – referred to it as "work product"
NAME Mark Schaffer Date Time 1:20 Phone 965-6565	REMARKS ACTION TAKEN returned his call from 11:50 – left message
NAME Todd Stern Date Time Phone	REMARKS ACTION TAKEN – subscribe to quarterly – 1 Spanish – 1 interview – w/ John & Todd

CGE 037126

DAILY PHONE LOG DATE: [redacted] 7/7/93

NAME Roberto Iraolo Date Time Phone	REMARKS ACTION TAKEN called him & told him — there wa 1 interview
NAME Bruce Brown, IRS Date 7/7/93 Time 8:45 a.m. Phone 615-736-2570	REMARKS ACTION TAKEN Called & left message — return his call
NAME David Margolis Date Time Phone	REMARKS ACTION TAKEN • will consider in interference strongly objected for 2 reasons: (1) [illegible] (2) [illegible] IRS investigat.
NAME Date Time Phone	REMARKS ACTION TAKEN • witnesses - [illegible] trial & [illegible] — • [illegible] control. — [illegible] file re: reassignment
NAME Date Time Phone	REMARKS "[illegible] - killing, tough report" ACTION TAKEN — [illegible]
NAME Bruce Brown, IRS Date 7/7/93 Time 10:15 a.m. Phone 615-736-2570	REMARKS ACTION TAKEN — first he's heard about it

CGE 037127

DAILY PHONE LOG DATE:

NAME: Carl Rauh Date 7/7/93 Time 5:40 Phone 371-7190	REMARKS ACTION TAKEN – left message – returned his call
NAME Carl Rauh Date 7/8/93 Time 10:10 a.m. Phone	REMARKS ACTION TAKEN Harry asked to be interviewed by WH • had it videotaped • not a lawyer • co-op. Rally
NAME Date Time Phone	REMARKS – asked to be interviewed by DOJ ACTION TAKEN – counselled to have lawyer – before he gives interview – have to know what he said before – Could say something
NAME Date Time Phone	REMARKS – would like to see notes ACTION TAKEN → wld like opp. to check abt and only call → wld like to preserve confidentiality • work product not strong basis to maintain confidentiality of work product
NAME Date Time Phone	REMARKS Notes ACTION TAKEN – management review – by, say report → stay objection to confident. waived – privileges → if we get subpoena for DOJ – want to see notes/tape
NAME Date Time Phone	REMARKS ACTION TAKEN → how polit. can we refuse if DOJ wants it – will be tough not to co-op. w/ DOJ –

CGE 037130

DAILY PHONE LOG DATE: July 8, 1993

NAME Date Time Phone	REMARKS ACTION TAKEN • Insisted to let Harry start log / intel until access to nets • maybe tell them to DOJ – no access
NAME Cindy Moraes Date July 8, 1993 Time Phone	REMARKS ACTION TAKEN Called & see if I could call Joe Grayloff re: logistical details / concurrent investigate Said there was no problem – 514-1450
NAME Joe Grayloff Date Time 4 Phone 514-1450	REMARKS ACTION TAKEN left message – on voicemail – asked him to call me back
NAME Bruce Braun, IRS Date 7/8/93 Time 12:15 p.m. Phone 615-736-2570	REMARKS ACTION TAKEN – try to confirm – for 7/14 – Catherine Cornelius → would like to interview her Send copy of report:
NAME Date Time Phone	REMARKS – Intel Review Group ACTION TAKEN Attn: 230 Great Circle Rd Metrocenter Suite 209 Nashville, TN 37228
NAME Pam Bombardi Date 7/9/93 Time Phone	REMARKS ACTION TAKEN Adv. Pam before returning original to Billy Dale. Give to + copy to Perry – Pam will review –

CGE 037131

DAILY PHONE LOG DATE: July 12, 1993

NAME Carl Rauh Date July 12, 1993 Time 3:p.m Phone 371-7140	REMARKS ACTION TAKEN Called & left message —
NAME Carl Rauh Date Time Phone	REMARKS ACTION TAKEN ① [illegible] ② [illegible]
NAME Carl Rauh Date July 13, 1993 Time 11:40 a.m. Phone 371-7140	REMARKS ACTION TAKEN Called & left message
NAME Carl Rauh Date July 14, 1993 Time 3:00 p.m. Phone 371-7403	REMARKS ACTION TAKEN called & talked to him - suggested that we could discuss matter, but I didn't want to turn over docs. He agreed.
NAME Mark Shaffer Date July 14, 1993 Time 3:30 p.m. Phone	REMARKS ACTION TAKEN Richard Sandberg - GSA - Travel Office K - Tammy Riggs - Help WH admin. Travel Office K - 755-0300 - 395-7500
NAME Date Time Phone	REMARKS ACTION TAKEN CGE 037138

Robin Bolsby - 8/18/93 (Brag

→ where personal belongings is -
- Catherine & Andrea Hirsch packed up pers. effects - gave part to Thos

• Farm Goods - bought in somebody for PBI -
• 5/19 or 5/20 -

→ memo - HT: Jennifer O'Connor - new - for Mec to call Sr. Pres. assts -
re: HT -
: deferred HT vote & where sitting -

→ Catherine's stuff - Call Dougherty's atty

→ GAO: Steve's sched.
: Catherine avail. again
- few dates over next 3 weeks -
① next week: no
② 9/31 - or 9/2 -
③ 9/7, 9/8, 9/9 -
④ 9/14, 9/15, 9/17 -

FAX # - 293-1827

CGE 037586

001395

Signed by Roy Neel
& delivered 5-25 [illegible]
TDJ

MEMORANDUM FOR LEON PANETTA

FROM: Roy Neel

DATE: August 25, 1993

I have been advised of a proposal for an audit of federal aircraft by TRM. Although I have been advised of a few meetings and memoranda regarding this proposal, I understand that no government action has been taken with respect to it. I also understand that, last month, the White House advised OMB that no government action should be taken on this proposal.

Let me now reiterate this instruction that no government action should be taken on this proposal.

CGE 017597

THE WHITE HOUSE

WASHINGTON

April 11, 1994

MEMORANDUM FOR LLOYD CUTLER
SPECIAL COUNSEL TO THE PRESIDENT

JOHN PODESTA
STAFF SECRETARY

FROM: W. NEIL EGGLESTON WNE
ASSOCIATE COUNSEL TO THE PRESIDENT

RE: TRAVEL OFFICE REPORT

The GAO's report on the Travel Office will be out within the next two to three weeks. As a result, the GAO is within a few days of closing out its fact gathering.

An area of Congressional attention last summer and fall was the status and activities of Harry Thomason and Darnell Martens. The GAO has generally not done as much in its White House interviews with Thomason as I had thought that it would.

One area that has not been addressed is the effort by Martens to get a contract to conduct an accounting of the federal aircraft fleet. This effort involved a memorandum from Martens to Thomason that went to the President around February 17, 1993, and a meeting between Martens and Linsdey in early April. Lindsey also received several memoranda from Martens on the issue. We also have notes and documents relating to meetings between Jack Kelly, an OMB official, and Martens. Martens' efforts never produced a contract. This episode is not reflected in the Management Report.

I am attaching a copy of the latest GAO request for documents concerning Thomason and Martens.

We had previously decided that the documents were not called for by the GAO request and that we would not provide the documents. You should also know that the Department of Justice refused to permit the GAO to interview Jack Kelly. At the very

CGE 007719

least, I think we would need the permission of David Margolis to provide the documents to GAO.

I think we should have a meeting to decide this issue in the next day or two.

W.N.E.

cc: Todd Stern
Joel Klein

CGE 007720

financial management records would include the general ledger; subsidiary ledgers of cash receipts, cash disbursements, accounts payable and accounts receivable; financial reports; and operating manuals for any automated accounts receivable or other systems used before May. None of these items have been received. Some additional items have been identified from the FBI inventory list, and requested separately. If it is the case that no other items fitting this description exist, please confirm that.

D. Documents, memoranda, or other records which identify the tasks, assignments, or roles to be carried out for the White House by Harry Thomason and Darnell Martens, or information from knowledgeable officials which would inform us about the tasks carried out by Mr. Thomason and Mr. Martens. (Item 12, August 17, 1993)

E. Procedures for the granting of temporary White House access passes, and documents or other records related to the granting of such passes to Mr. Thomason and Mr. Martens. (Item 13, August 17, 1993)

F. A statement of the White House position concerning whether Mr. Thomason and Mr. Martens were considered special government employees during the period from January to May, or a statement that the White House did not take a position on that matter. (January 19, 1994 meeting with Mr. Eggleston and Ms. Kingsbury)

G. Most records concerning the decision to engage the accounting firm of KPMG Peat Marwick to conduct a review of the operations of the White House Travel Office have been provided. One request is still outstanding: a record of payment to Peat Marwick.

H. June 3, 1993, memo from Vincent Foster to Mr. Watkins regarding carriers licensed under 14 C.F.R. 121. (Item 13, oral request during Foucart interview)

I. Notes written by William Kennedy regarding his meetings with the FBI regarding the Travel Office. (Item 33, oral request during Kennedy interview, based on his reference to the notes.)

J. Copies of the bills sent to the press for all trips between March 1992 and May 1993. (Item 34, oral request by Kay Lambert)

CGE 007721

U.S. Depart ıt of Justice

Washington, D.C. 20530

SEP 8 1994

MEMORANDUM

TO: John C. Keeney
Deputy Assistant Attorney General
Criminal Division

FROM: Lee J. Radek
Chief
Public Integrity Section
Criminal Division

SUBJECT: Status of the Travel Office Investigation

The Public Integrity Section intends to seek an indictment of Billy Ray Dale, the former Director of the White House Telegraph and Travel Office (Travel Office), on September 21, 1994 or September 23, 1994. The proposed two-count indictment charges, under 18 U.S.C. § 654, that Dale converted approximately $54,000 in checks and $14,000 in cash that belonged to the members of the White House news media who used the services of the Travel Office.[1] Allegations relating to Harry Thomason are still under investigation, and it is unlikely that investigative steps relating to that inquiry can be completed prior to the target date for the Dale indictment. Steps need to be taken to insure that the White House has produced to us all relevant documents; that all witnesses with some knowledge of the allegations are interviewed; and that all leads are evaluated, and if necessary pursued through grand jury investigation. Because the Dale charges are completely independent of the Thomason allega-

[1]The indictment was previously scheduled for the week of August 15, 1994, but Dale changed attorneys that week, and has executed an agreement tolling of the statute of limitations through September 23, 1994 to enable his new counsel to get up to speed on the case and decide whether to make a presentation to the government. The most recent tolling agreement is an extension of several other such agreements, the first of which was executed on March 11, 1994. The prior tolling agreements were requested by Dale's former counsel to give them additional time to decide whether to make a presentation to the government and to engage in very preliminary plea discussions.

JR:JEG:SMG:bds
Typed: 9/8/94
cts #: 9304933 DOJ #: 186-16-1468

tions, there is no need to link the two by closing the Thomason matter at or near the time of the Dale indictment. Indeed, such a linkage would likely have a negative impact on our ability to convict Dale.

Our investigation of Thomason has focused on whether he may have violated conflict of interest provisions by participating in decisions to fire Travel Office employees and to consider awarding a consulting contract regarding the Federal Government's use of its aircraft. It appears that Thomason, Richland and Martens, an aviation consulting firm in which Thomason has a one-third share, had a financial interest in the outcome of both of those matters.

At this point we are not confident that the White House has produced to us all documents in its possession relating to the Thomason allegations. As part of our investigation, we directed the White House to provide us with all documents relating to Thomason and his associate, Darnell Martens, excluding those documents relating solely to the inauguration. The White House provided documents in response to that request on several occasions, and on June 24, 1994, Neil Eggleston, Associate Counsel to the President, informed us that their document search was complete and that they had produced all documents responsive to our request. Based, in part, on our understanding that all of the documents from the White House had been provided, we reached a preliminary conclusion that there is insufficient evidence that Thomason was a government employee, and that we therefore cannot establish a violation of 18 U.S.C. § 205 or 208.

On August 19, 1994, Eggleston provided the FBI with additional documents regarding Thomason. It is not likely that these additional documents will alter our conclusion that we do not have sufficient evidence to establish that Thomason was a government employee. However, the White House's incomplete production greatly concerns us because the integrity of our review is entirely dependent upon securing all relevant documents. As a first step, on August 30, 1994, we wrote to Mr. Eggleston and asked for an explanation as to how these additional documents were missed in the earlier search, and for a reaffirmation that all documents responsive to our request have now been produced. Should the explanation supplied not be entirely satisfactory, we intend to issue a grand jury subpoena parallelling our previous document request. While we asked Mr. Eggleston to respond by September 8, he has informed the FBI that his response will not be available until September 12. Even if a grand jury subpoena is issued immediately thereafter, the White House will almost certainly request sufficient time to ensure that it has fully complied. Thus it is highly unlikely we will be able to have a White House document custodian before the grand jury prior to September 21 or 23, the target dates for the Dale indictment.

We also believe that given the circumstances of this investigation, we should make every effort to obtain from Thomason his version of the events, both as they relate to the allegations against him, and to allegations that White House employees engaged in some broad criminal conspiracy to wrongfully terminate the Travel Office staff. Thomason's counsel, Robert Bennett, indicated previously that he would not make Thomason available for a proffer because we informed him that Thomason was a subject of the investigation. Bennett has suggested that if Thomason's status changes, he may be willing to make Thomason available. Once we assure ourselves that all relevant documents have been produced by the White House, and if those documents do not change our preliminary conclusion regarding Thomason, we would like to take a shot at speaking with Thomason. If we succeed, we need to be in a position to follow up on any leads that Thomason provides.

Similarly, it is likely that the Dale indictment will cause a flurry of additional accusations and allegations against those in the Clinton White House that participated in the Travel Office firings. To strengthen the credibility of our final conclusions regarding those allegations, we must be in a position to quickly examine those additional charges and, if necessary, conduct additional investigation, including grand jury. That may be difficult if we have already closed the Travel Office investigation and shut down the grand jury. Moreover, any effort to revive the grand jury to look into these charges will almost certainly be characterized by Dale's counsel as grand jury abuse, that is, an effort to use the grand jury solely for the purpose of acquiring evidence related to Dale. That accusation will have little force if we are merely conducting an ongoing investigation regarding the Travel Office after the indictment of Dale on charges that faced a statute of limitations bar.

Our final conclusion regarding whether Thomason was a government employee has no relationship to the charges that we propose to bring against Dale. Indeed, the great majority of Dale's conduct that is the subject of the proposed indictment occurred long before the Clinton administration came to Washington. Especially in light of the investigative steps that need to be completed, we see no prosecutive reason to make or announce any final decision regarding Thomason near the time of the Dale indictment. In fact, we believe that any suggestion that those two actions are connected will damage the case against Dale by fueling his defenses and undercutting our ability to respond to those defenses.

We anticipate that Dale's defense will include an attack on those members of the Clinton administration, including Thomason, who were involved in the firing of the Travel Office staff, and that he will argue that the prosecution is motivated by the Clinton administration's effort to justify its handling of the

Travel Office matter. Dale will point out that those close to the administration, including Thomason and Catherine Cornelius, suffered no consequences for their mishandling of the Travel Office matter, while the career employees of the Travel Office, like Dale, were fired and now prosecuted. If we make or announce a final decision not to prosecute Thomason at or near the time that Dale is indicted, we will unnecessarily bolster Dale's defense and cause unwarranted speculation that the two actions are connected when they are not.

Our primary response to Dale's defense will be that the charges against Dale have nothing to do with the Clinton administration's handling of the Travel Office, and that Dale's thefts were carried out before there was a Clinton administration. It will undercut our response if the Department suggests that there is any link -- through timing, statements to the press, or otherwise -- between the final decision regarding Thomason and the indictment of Dale. There is no such connection, and we should avoid any suggestion that there is.

5703104 7

13062

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EDWARD BENNETT WILLIAMS (1920-1988)
PAUL R. CONNOLLY (1922-1978)

DAVID E. KENDALL
(202) 434-5145

September 5, 1995

BY HAND

Ms. Barbara Comstock
Committee on Government Reform and Oversight
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515-6143

Dear Ms. Comstock:

As I have informed you on the telephone, this firm received on July 27, 1993, twenty-four file folders of documents from the White House ("Foster Documents"):

1. Whitewater Development
2. WJC--Continuing Legal Education
3. HRC--Arkansas Law License
4. Clinton Exploratory Committee
5. Clinton Fund Raiser "Dream Team" Receptions
6. Clinton Physician
7. White House/Brookings Project
8. Executive Residence Security
9. Arkansas Home
10. Presidential Retreat
11. Chenal Property Fact Sheets
12. HRC: Personal & Confidential

13. HRC: Financial
14. WJC and HRC Blind Trust
15. First Family--Form 278
16. Clinton Financial Statements
17. WJC--July Amendment to 1993 SF-278
18. WJC--1993 Chronological File
19. Unlabelled blue folder
20. Unlabelled green folder
21. 1992 Income Tax Returns
22. First Family--1993 Income Tax Returns
23. Clintons: 1992 and 1993 Projected Income Taxes
24. Clinton Blind Trust

We did not receive in the Foster Documents any "notebook on the Travel Office matter" or other documents which appear to me to be documents relating to the "White House Travel Office matter", as that is defined in Chairman Clinger's July 13, 1995, letter. Neither did we receive from the White House any index to the Foster Documents.

Pursuant to the Clinger letter, I am producing herewith for the Committee on Government Reform and Oversight copies of such materials from the Foster Documents as I believe may be responsive. They are stamped DKHCGR01 and DKHCGR02.

There are also three other documents among the Foster Documents which may be responsive to the Chairman's request:

1. One-page facsimile transmittal sheet from Mike Berman to Vince Foster, dated May 18, 1993, transmitting one-page memorandum from Mike Berman to Vince Foster and Mike Berman, and two-page memorandum from Mike Berman to Vince Foster and David Watkins, both dated May 18, 1993, and re "Issues for possible review by OLC."

2. One typewritten page, undated, containing what appear to be draft questions concerning "Scheduling and advance", "Providing volunteers", and "Relationship between organizations and the White House," with certain handwritten marginal notes.

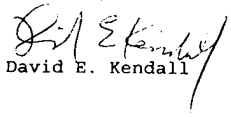
3. Four-page typed memorandum, dated May 23, 1993, from Mike Berman to Vince Foster and David Watkins, re "2nd draft of issues for review by OLC."

I believe that these three documents may be subject to claims of attorney-client privilege, work product privilege, and Executive Privilege by the White House. (Because there was so much publicity about the Foster Documents, we deemed it the more prudent course to retain, preserve, and safeguard any documents like these which we received among the Foster Documents, and such documents are, of course, available to the White House Counsel's Office.) I am sending a copy of this letter to Jane Sherburne, Esq., in the White House Counsel's Office, and I will be guided by her instructions with respect to these three documents.

We have agreed that we will be governed by the same rules of document production as govern the White House. The protocols for handling documents produced by the White House are set out in Mr. Larsen's letter dated August 1, 1995, Ms. Williams' letter dated August 9, 1995, and Mr. Yarowsky's letter dated July 7, 1995.

Accordingly, I designate the documents I am producing today "Highly Confidential."

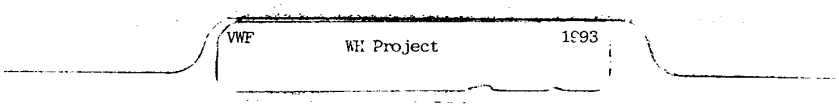
Sincerely,



David E. Kendall

cc: Jane Sherburne, Esq.

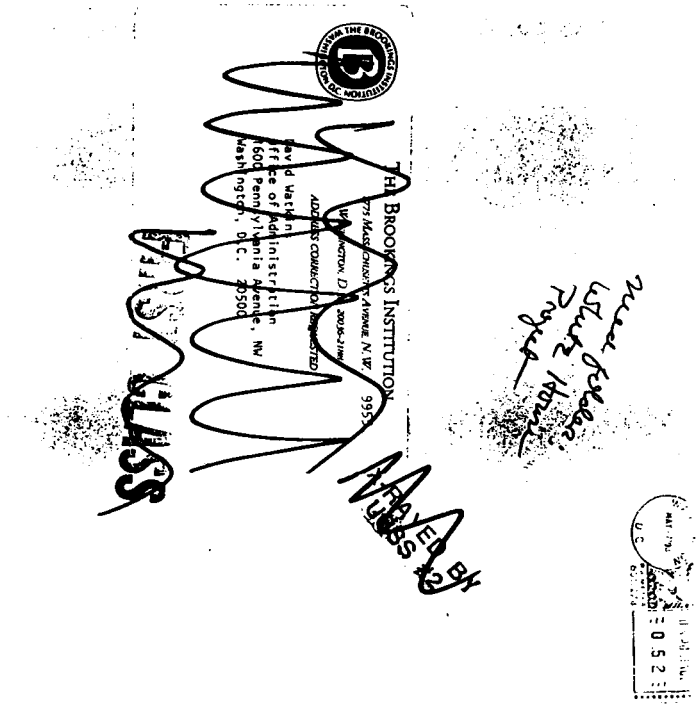
13066



DKHCGR01

13067

VINCE FOSTER
CONFIDENTIAL
(FOR YOUR eyes only)
FROM: WATKINS



Index of Documents From David Watkins,
Mack McLarty, Bruce Lindsey, and Lorraine Voles

PAGE

1 White House Talking Points on the Firings of the Travel Office Staff, dated May 13, 1993, six days before the firings occurred.

2 Handwritten Notes of David Watkins dated 5/14/93

5 White House chronology of events with Mack McLarty's handwritten notes saying, **"May 16 - HRC pressure"** dated 5/23/93.

7 Lorraine Voles Handwritten Notes, May, 1993.

8 Todd Stern Handwritten Notes dated 5/27/93

11 Handwritten Notes of David Watkins dated 5/31/95, **just produced to the committee under subpoena, never provided by the White House.**

16 Handwritten Notes of David Watkins dated 6/2/93

17 Bruce Lindsey Handwritten Notes Describing memo he received about firings and shared with the President (Committee transcription attached) 6/9/93.

23 FBI Interview (FBI 302) with David Watkins in preparation for prosecution of Billy Dale dated 8/11/93.

29 Draft Memorandum written by David Watkins sometime in the Fall of 1993.

38 White House documents containing typewritten questions and answers on Travel Office by David Watkins **produced under subpoena.** Document states, **"We should not release the GAO's questions or Mrs. Clinton's responses."** Date Unknown

41 Mrs. Clinton's Written Responses Submitted to GAO by Mr. Eggleston, dated 4/6/94.

45 Mack McLarty interview with GAO on White House Travel Office dated 3/21/94.

54 Clinton for President Campaign Documents Listing $33,000 in Payments to Watkins after leaving the White House, covering period from 7/1/94 - 9/30/94.

Prepared by the Government Reform and Oversight Committee Majority Staff
Page Numbering Added to Documents By Staff.

Just What Role Did President and Mrs. Clinton Play in the White House Travel Office firings according to David Watkins, and Others?

New Handwritten Notes of David Watkins Dated 5/31/93

5/12 a.m. "Thomason/Cornelius meet with DW [David Watkins] to talk about wrongdoing of WH Travel Office. Watkins says let him think how to proceed."

5/12 p.m. "Thomason comes back in DW's -- says he bumped into Hillary and she's ready to fire them all that day."

5/12 & 5/13 -- "Periodic reports from Vince Foster that First Lady had inquired about Travel Office & why wasn't action being taken -- Report was that they should be fired immediately and out of there by the end of the day."

5/13 - "Watkins/Foster/Thomason met with McLarty 4:00 pm and advised him of situation. McLarty said he was well aware -- had spoken with 1st Lady an 1 hr. before."

5/14 - "Watkins talks to Foster -- who says he's getting more pressure from First Lady to <u>Act.</u> Would Watkins call First Lady and Ellen. Watkins <u>calls</u> First Lady. Describes situation with the Audit team. First Lady says she thinks these people should be out. Harry says 'We can do the job with his assistance'. Watkins says he will get report from Peat Marwick and take appropriate action next week."

5/14 - "<u>Factor of not acting sooner on Secret Service.</u>"

5/17 - "Watkins/Thomason see McLarty in Watkins office -- They're talking about

McLarty's dinner with Pres. + 1st Lady the night before."

David Watkins Fall 1993 Draft Memo

"This is a soul-cleansing, carefully detailing the surrounding circumstances and the pressures that demanded that action be taken immediately. It is my first attempt to be sure the record is straight, something I have not done in previous conversations with investigators -- where I have been as protective and vague as possible."

"Likewise, in this case, the First Lady took interest in having the Travel Office situation resolved quickly, following Harry Thomason's bringing it to her attention."

"Once this made it onto the First Lady's agenda, Vince Foster became involved, and he and Harry Thomason regularly informed me of her attention to the Travel Office situation -- as well as her insistence that the situation be resolved immediately by replacing the Travel Office staff."

"Foster regularly informed me that the First Lady was concerned and desired action -- the action desired was the firing of the Travel Office staff. ...Foster told me that it was important that I speak directly with the First Lady that day. I called her that evening and she conveyed to me in clear terms her desire for swift and clear action to resolve the situation.

"We [McLarty and Watkins] both knew that there would be hell to pay if, after our failure in the Secret Service situation earlier, we failed to take swift and decisive action in conformity with the First Lady's wishes."

Handwritten Notes of David Watkins Dated 6/2/93	**"Hillary telephone conversation with D. Watkins on Friday May, 14. 'Harry says his people can run things better; save money, etc. And besides, we need those people out - We need our people in - We need the slots."** **"Is the real story to be told?"**
Handwritten Notes of David Watkins Dated 5/14/93	**"Normal review has been taking place since April 15 with Catherine Cornelius"** **"What would reaction by press be if do S&L/Bank type audit and no improper findings"** **"Do we hamper possible criminal investigation i.e. disposal of evidence?** **"Why the rush?"** **"What are negative political consequences if no criminal violations"** **"Is this another correspondence probe all over again -- 30 year Travel service employees"** **"F.B.I. would <u>not</u> ordinarily get <u>in but"</u>**

###

Prepared by the Committee on Government Reform and Oversight Majority Staff

May 13, 1993

FOR INTERNAL USE ONLY
NOT FOR DISTRIBUTION

Talking Points on Changes in White House Travel Office

* In response to requests concerning the cost of press travel, the White House has undertaken a review of the White House Travel Office. As a result of that review, the current employees of the White House Travel Office have been dismissed effective today.

* Concurrent with that, the FBI has begun an audit of the press fund that is maintained by the White House Travel Office.

* Future charter and press travel services will be provided on an outsource basis with coordination by White House staff. The White House believes this will reduce costs.

* Accounting and billing procedures will be upgraded, allowing for improved accountability and more accurate tracking of press expenses.

* Current employees of the White House Travel Office are:

Billy Dale
John Drellinger
John McSweeney
Barney Brasseux
Gary Wright
Robert Van Eimeren
Ralph Maughan

CGE 007932

White House Travel 5/14/93

- What is objective —
  a) Press Story
  b) Reduction of staff + efficiency in operations
  c) Validation of suspected criminal activity

- Normal review has been taking place since April 15 with certain conclusions
- White House Performance Review in this area scheduled to begin on May 17 scheduled to last 2 weeks
- Normal Policy in reduction is to work only retirement or reassignments or outplacement by Sept 30

Issues

- ~~Questions~~ —
  What will reaction by Press be if we do a S+L / Bank Type audit + NO improper findings

24 hrs Can we ~~fire~~ close the Blonde operation on 5/15 and continue to operate in the short term with supervision on the same or better level of servic

CGE 007989

What is different if normal course of ~~action tal~~ events + action takes place

Do we hamper possible criminal investigation ie disposal of evidence —

Why the rush ? —

What are political benefits if correct that there are criminal violations occurring by immediat action vs. ~~discovery~~ 1 month from now — ~~What are beg~~

What are negative political consequences if NO criminal violations —

~~Same~~

Is this another correspondence probe all over again — 30 yr. + senior employees

CGE 007990

Proceed with Normal course of Review - Performance - Review with Expanded

- F.B.I would not ordinarily get in but

CGE 007991

CGEPR 0563

(6)

CHRONOLOGY OF TRAVEL OFFICE FIRINGS (as of 5.25.93)

Early February -- Dee Dee Myers talks to Harry Thomason and Darnell Martens about press charter business. Martens contacts Billy Dale in the White House travel office and is told there is "no chance" TRM will get White House business. Martens writes memo about conversation to his file.

February 15 -- Catherine Cornelius and Clarissa Cerda write memo to David Watkins proposing reorganization of travel office.

April 05 -- Catherine Cornelius goes to work in the Travel office, acting as a liaison to scheduling and advance and arranging hotels and flights for White House staff.

May 10 -- Harry Thomason and Darnell Martens meet with Watkins, describe Martens encounter with Billy Dale. Thomason calls Martens Cincinnati office and has memo faxed to White House. Thomason makes copies for David Watkins, Catherine Cornelius and himself.

May 12 -- Bill Kennedy (and others?) meet with representatives (who?) of the FBI, seeking guidance on disturbing information discovered in the travel office. FBI confirms that there may be enough information to warrant further investigation.

May 13 -- David Watkins contacts Larry Herman of Peat, Marwick and asks the company to review travel office files.

May 14 -- Larry Herman and five other Peat, Marwick accountants begin review. Interview several members of the travel office (which ones?)

May 15 -- Peat, Marwick auditors brief members of White House counsel's office, administrative staff and FBI about their findings. Based on information provided during the briefing, the FBI determines they have "predicate" to investigate.

May 19 -- David Watkins meets with four or five members of the travel office in Washington, including Billy Dale. Tells them they have been dismissed and asks them to clear out their belongings by day's end. Jeff Eller briefs Al Kamin of the Washington Post and George Condon of the White House Correspondents' Association. Dee Dee Myers briefs White House press corps at 2 p.m., confirms that FBI has been called and further investigation is "likely." Later that afternoon, George Stephanopoulos, Dee Dee Myers, Jeff Eller, David Watkins and

Larry Herman hold background briefing for wires and nets to provide more details. POTUS answers question during photo op; telling reporters inquiries should be directed to Mack McLarty.

May 20 -- George Stephanopolous briefs White House press corps. Later that evening, Gene Gibbons of Reuter and Wolf Blitzer of CNN notify George that they have obtained the Cornelius/Cerda memo on restructuring the travel office. They agree to hold the story until George, Dee Dee and David can meet with their bureau chiefs the following morning. Sen. Christopher Bond releases letter, calling for a full accounting of travel staff firings before the Government Ops committee.

May 21 -- George, Dee Dee and David meet with Bill Headline, Wendy Walker and Wolf Blitzer of CNN and Bureau Chief and Gene Gibbons of CNN. Following meeting, they run story. George, Dee Dee, David, Bernie Nussbaum, Vince Foster, BILL Kennedy, David Dryer, and John Collingwood of the FBI then meet in George's office to review details surrounding dismissal. At the end of the meeting, John Collingwood returns to his office to update statement. Meanwhile, Peat, Marwick agrees to produce final draft of report. Meanwhile, Ann Devroy and Ruth Marcus notify George and Dee Dee that they have obtained copy of Martens memo. Dee Dee contacts Harry in Florida. He explains circumstances, says he will track down Darnell Martens. At 4:15, press staff hands out Peat, Marwick report, Cornelius/Cerda memo and the FBI statement. George briefs White House press corps. Later, Martens comes to the White House at Dee Dee's request. Calls Ruth Marcus from Dee Dee's office to discuss memo. POTUS is questioned during photo op with President of Cyprus, says change will save press 25 percent on first trip. Finally, George issued a statement late in the day, stating the World Wide Travel had voluntarily given up the White House business.

May 22 -- POTUS travels to New Hampshire, talks extensively about the travel office during a session with local radio and television reporters. Press office distributes Martens memo to traveling reporters.

May 23 -- William Saffire accuses White House of "politicizing" FBI during appearance on Meet the Press.

May 24 -- Saffire column appears, outlining charge that White House politicized the FBI to justify firings. George briefs White House press corps. Press follows briefing with questions about Janet Reno's statement that proper procedures were not followed.

May 25 -- POTUS is asked during photo session about allegations that White House politicized FBI. He repeats answer that change in travel staff has saved press and taxpayers money and that further questions should be referred to McLarty.

CGEPR 0564

21084

p 3035

p Gwen ~~left~~ lfil

- DNC canceling
  event story

- Members of the Cabinet
  provided briefing
  for bpg

MK Briefing 13 or 14 people
  100s of briefing

Tam - no coffee
  or food served

- S Thomas
  went to Mac
  Hillary want these
  people fed
  Mac wouldn't do it
  DW didn't want to do it

TODD STERN'S NOTES

21531

DEPARTMENT OF THE TREASURY
Washington

5-27

(1) Why CC still there

(2) Document handling
terrible
no documents secured
But FBI may not want this --
prejudice case

Who drove it & who knew

CGEPR 0679

CGEPR 0682

(v) Wrong channels used in calling FBI (i.e. not Zuno)

(vi) Appearance of cronyism in use of Arkansas agency to pick up business & in possibility that FBI Thompson had ground state

(vii) Improper use of FBI after stormy broke (meeting with Georgia coordination of press release)

(viii) Improper reference to FBI investigation by OO

(ix) Quick use of outside review to give impression other of trying to suppress rather than bring truth fully out & analyzing any mistakes made

③ What this doesn't ensure is:

(i) who knew about firings?

(ii) who ordered it & who approved?

(iii) who pushed it? Why?

(iv) what did President know?

④ Problem is that if we do any kind of report & fail to address these Qs, press jumps on you wanting to know answers; which if you give answers that aren't fully honest (e.g. nothing re HRC) you risk humiliation compounding the problem by getting

CGEPR 0683

caught in half-truths. You run risk of turning this into a "cover-up."

⑤ Finally -- the factual issue that doesn't compute for me at all is why everyone (Elkes, Rickey, HRC?) was in such a hurry? Why didn't it matter if it was done in week 1 or 2 or 4?

⑥ I agree with Mark that people see this as incompetence & doesn't want to blame us. But I also think they fundamentally will want to get to the bottom of it. It's their nature.

We need to think seriously about whether or not it won't be better to come clean. ~~In some of staying~~ even to point of conceding that HRC ~~Thomason said this, wanted we had consider whether this sort untrue (not simply problem; various people making this same here~~

had some interest

5/31/93

White House Travel Office

Factors:

Mon-Thurs. • ~~May~~ From May 10 + 13 Samuel relayed conversations from Harry

Wed + Thurs. • May 12 + 13 ~~A.M. Meeting~~
Periodic Reports from Vince Foster That First Lady had Inquired About Travel office + why wasn't action being taken — Report was that They should be fired immediately + out of here by the end of the day

May 12 A.M. — Thomason/Cornelius met with DW to talk about wrong doing of WH Travel Office Watkins says Thomason now to proceed

May 12 P.M. Thomason comes back w DW's - says he bumped into Hillary + she's ready to fire them all that day

May 13 - A.M.
Watkins had a meeting with Thomason, Cornelius + Ellen. ~~said~~ Ellen + Thomason talked About What a great story the firing of WH Travel Office was + that we had to stay ahead of the story we couldn't get behind on This one.

Watkins/Foster/Thomason met with McLarty 4:00 p.m. + Advised him of ~~p~~ situation. McLarty said he was well aware - had spoken with 1st Lady ~~a~~ an 1 hr. before

Decision made to call in Peat Marwick

PM 000169

Thurs. - May 13 - Watkins in L. Rock gets a report from Thomason

Fri. - May 14 - Watkins in L.R. - gets ~~15 or more~~ 10 or so reports from Patsy Thomason about how Audit is proceeding

Watkins talks to Foster - who says he's getting more pressure from First Lady to Act - ~~Atty~~ Would Watkins call First Lady & Ellen.
Watkins calls First Lady. - Describes situation with Audit Team
FLady says she thinks these people should be out. Hamby says "We can do the job with his assistance -
Watkins says he will get report from Peat Marwick & take appropriate action next week -

- WWTS - Small contributor
  Volunteered to come in on interim basis -
- Catherine Cornelius - RW did not know she was coming -
- WWTS / Watkins - A small client relationship
- Factor of not acting sooner on Secret Service

May 17 - Watkins / Thomason see McLarty in Watkins Office - They talking about McLarty's Dinner with Pres. + 1st Lady the Night Before

PM 000171

(24)

- Billy Dale was allowed to Retire
- Others put on Administrative leave
- Catherine Cornelius not Mgr. – Brian Foucart – responsible for Finance
- First 2 trips since taking over have saved over 25% –
- Gergen says Clinton Campaign was one of best run in history –

WH
- Travel Review was part of VP's National Performance Review
- Mention Panetta's Experience with Interviewing the Press

Catherine Cornelius 6-2-93

since ~~[illegible]~~ working in WH Travel Office:

1). Failed to call DW on Sat. 5/22 to say Press Flight from N. Hampshire was O.K.

2) Did not tell DW or Brian about Need of Advance Payment to Mid-West Express thus creating the Penny Sample story & commission problem with Penny

3) Failed to follow DW's instructions ~~the~~ that he made 4 or 5 times about serving food at ~~the~~ at least the same quality & serving manner as Ultra Air – i.e. N. Hampshire Milwaukee

4) Periodic Unexplained absences from WH Travel Office – too many smoke breaks, etc.

5) Left trip folder for New Hampshire trip with David Dwyer for at least 1 wk. – Did not go and get it until Watkins asked where it was on June 1st.

6) Insubordinate – Told Brian no one could ask her to leave or be transferred but POTUS & MACK

7) Watkins has defended her week of May 23-28 when Mack, George, Neel & Cleaver all wanted her to go

- Penny Sample - 6-1-93

- Midwest Express - Jay Sorenson 414-747-3651

Air Advantage 3 yrs.
Used 28,000 + to Midwest Express
for the Operation -

< Contract for the Operation -
No Commission - >

Air Advantage - CEO Sole Proprietorship
Broker Charters -
Voluntary -
Volunteered -

Thurs. May 20 Darrell/Harry asked to come up here -

2-3 wks to work on charter

Air Advantage - Campaign
Brokered Charters -

- Account was frozen -

- No contribution to Campaign -
N. Hampshire -
N. Hampshire trip on May 22 -

- Until FBI -
Could + Couldn't write checks

Bid Sheet
New Mexico
Texas
Va. -

WH Travel Office 6-2-93

- Hillary telephone conversation with D. Watkins on Friday, May 14
  - "Hillary says his people can run things better; save money, etc. And besides we need those people out — ~~we'd~~ — We need our people in. — We need the slots —
- POTUS real relationship with Catholic Council
- Travel Office Review has become an inquisition —
  Neel, Podesta, Gearan, McLarty
  Panetta —
  * No Teamwork
  * Attitude of guilty or stupidity
  * Need ~~[illegible]~~ War Room to house — computers, etc.
- Is the real story to be told?

BRUCE LINDSEY

* **Sometime in Feb-March-April HT said to me that travel office - demanding kickbacks.. BL says: "We're looking into it" (331)**

* **Weekend in Calif. (5/15/-5/16) Eller comes to ask if I know what's happening in travel office...I asked if involved with HT's concern, Jeff said yeah, all that. ~~On same day Jeff came back and showed~~ me Mack Memo. (331)**

* **Dinner that night - mentioned to President, he asked what it's about, I repeated back what I'd read in memo (audit, cash in drawers, etc.) ["Mack memo?" Is this another memo or the Watkins memo? Watkins memo isn't dated until 5/17 so this is probably a different memo] (331)**

* **In 8a.m. meeting shortly after this we were talking about need for statement from FBI...I chimed in that we needed to be careful with this, not to dig deeper, I think Christine agreed immediately. Next I know is that we're in Mark's office (or Mack's office) doing chronology after FBI has blown-up (331)**

* **Bernie came to see me at one point to complain that counsel's office and he had been hurt...assumption that because counsel there, OK for FBI to be there is wrong (332), etc....he came to the meeting because invited, not because he blessed, etc.**

* **"HT probably called me, told me he had assoc. who had proposal for cheaper way to do govt. airplanes, wanted meeting**
  "I said fine"

* **Darnell came in and met with GSA that morning (don't know how he got mtg. maybe Harry. I don't know. I didn't do it)**

* **Said we did account well, didn't use well, could re-do and save money and might revive small aircraft industry in the process**

* **I got the impression he.....He wanted a study**

* **Said he needed an executive order to authorize ICAP to do the study...don't have any recollection that he said we should hire them to do study...I told him to put down on paper what he thought we ought to do (he sent memo)**

* **1 paragraph made me think I ought to kick this over to VP - call Elaine Kamarck**

* **between 4/12 and 4/26 Darnell called and said HT would be in town and wants to talk to Bruce about it...Darnell sent memo again as a follow-up...then one day when I was leaving for a trip, HT and DM caught me on the way to Marine 1. I told them I thought this should be kicked to Elain/REGO.**

* **Talking to Harry there was 1) call to BL re: mtg with Darnell and 2) on that day on the way to Marine 1 (333)**

* **Doesn't know Penny Sample**

CGEPR 0331

Sunday, Feb. ... April

(H.T. said to me the final office

" we'd not communicate that various offices

(He said, "I'm disgusted that they were detaining Kissinger

"leave him out of it"

- general conversation, background noise

Didn't know CC was

Next I knew is on phone ... Mrs Nixon - CA

(Iff comes on and if I know what happening in final office

(I asked if involved w/HT's conversation. Iff said yes, all that.

Our conv. long. Iff came back and stated we long Mack meeting

Dinner that night ... at Kissinger's

conversation w/ Pamela

I talked about he's also

(I repeated back what I'd said in meeting [earlier / with Kissinger / etc.

Next I heard was comment of Iff speaker (HT said.)

(I got concerned with what she was saying because it sounded like disaster

(I went to Nixon or Haig to express concern that we might have gone further than

In 8am mtg. thirty after, we were talking about need for resume from FBI

- I stated to that we needed to be most careful with this, not a big leaper

- I think decision agreed immediately

Next I know is that we were at in Mitchell's office late, discussing after FBI he leaving

(2)

CGEPR 0332

Bernie came to see me & made point to emphasize that counsel's office could be should have been here
- assumption that the counsel there, ok for FEE to be there "very
- the same to the very bdc invited, not because he invited, etc.

o Did you know what WHITE does?

- Didn't really know. I thought it was some general office
- And I think I thought maybe it was a gov. place.

ICAP

- HT pretty called me. told me he had issue who had proposal for chapter way to do gov. employees. wanted meeting
  - I said Fine
- I know about Thomas Division, I don't know if I had any sense that Hong is connected with TRM.
  (this cont said

this

the Donnell case is
  said not with GSA the money (don't know how in gov't org. anything. I don't k
  I didn't do it)
  I said we did some well, didn't use well, could've done — some money
  could maybe now review small business industry in the process
I got the impression he
He wanted a study
Said he needed an Executive order to authorize ICAP to do the study
  I don't have any recollection that he said we should have them to do it.
  I Told him to put down on paper what he thought we ought to do
  the same name

B

- B 1 paragraph made me think I ought to kick this over to VP
  - I don't think I capital it to Elmer. I'm I want to talk with he about.

③

B/w 4/11 and 4/21, Dowell called and said HT would be in town, w/ wants to talk to Bruce about it
- Dowell asked for a follow-up.

Then one day, when I was having for a trip, HT & DW caught me on the way to meeting. I told them I thought they should be kicked to Claim/REC.

C. Filing to theory, there was
1: call to BC was only work Dowell
2: on those days the way to Mexico!

Dowell knew Percy Simple
Did you understand what we were charging for?
no. I knew it was Air Advantage
we started using HT's airplane. Paying first class air fare.
Bookouts can and said cuz didn't contemplate this, decided to switch.
We used a couple internal planes, then went to Air Adv.
- I think I thought Air Advantage w

- Any Financial incentive?
- no.
- Anything corporate?
- no
- Did have about pass paying fare

I don't know relationship was only b/w TEA and Air Advantage. [illegible]
Lucrative Ad-, got commission, pass out luck a TEA- that's what I heard

- Doesn't think he was given more to Claim when it was good work, was kind of a power.

CGEPR 0333

22

BL indicated to S

talk to Henry
mentioned to BL

ICAB means to blame?

CGEPR 0334

D-302 (Rev. 3-10-82)

PUBLIC INTEGRITY STMT
(DALE INVESTIGATION)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/11/9:

W. DAVID WATKINS, Assistant to the President for Management and Administration, The White House, (202) 456-2861 was advised of the identities of the interviewing Agents and the purpose of the interview. He was interviewed in the presence of TY COBB, Attorney, HOGAN & HARTSON (HH), (202) 637-5600, 555 Thirteenth Street, NW, Washington, D.C. and KATHRYN WEBB LOVILL, Attorney, HH. He thereafter provided the following information:

WATKINS began to work for the CLINTON campaign in May 1991. In October 1991, he became the Deputy Campaign Manager. After the election, WATKINS became the Director of Operations in the Transition Office before starting at the White House in his current position. Prior to becoming involved in the CLINTON campaign, WATKINS operated an investment banking firm, THE WATKINS GROUP.

WATKINS first met CATHERINE CORNELIUS in September or October 1991 while she was working on the CLINTON campaign. CORNELIUS was an assistant to the field manager and then the travel coordinator for the campaign. CLARISSA CERDA began working for the campaign in late June 1992 handling press reimbursables. After the election, CORNELIUS worked in the transition office in Little Rock, Arkansas and CERDA worked for the transition office in Washington, D.C.. WATKINS asked CERDA if she would stay at the White House and assist in establishing the new Administration. He offered her a six month position as one of his assistants.

Sometime during January 1992, BARBARA YATES contacted WATKINS and asked him if there was a position for CORNELIUS at the White House. YATES is a Certified Public Account who had worked for the firm BEARD, KURTZ & DOBSON, Little Rock, prior to her working on the campaign. Because of YATES' request, WATKINS offered CORNELIUS the same position he had offered CERDA. WATKINS told both CERDA and CORNELIUS he would try to find them other positions at the White House after six months.

Investigation on 8/10/93 at Washington, D.C. File # 46A-WF-186522 Sub E - 28

by SA PAMELA BOMBARDI and SA DANA M. GILLESPIE Date dictated 8/11/93

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FD-302 (Rev. 11-13-83)

SA-WF-182613

Continuation of FD-302 of W. DAVID WATKINS, On 8/10/93, Page 2

WATKINS was aware that CORNELIUS was interested in working on travel related matters. CORNELIUS had submitted a memo dated December 31, 1992 to both WATKINS and YATES outlining her role in the travel portion of the campaign. She was not asked to prepare the memo. In January 1993, CORNELIUS prepared another memo addressing the White House Telegraph and Travel Office (WHTTO). WATKINS could not recall if he asked CORNELIUS to prepare that memo or if he had discussed its contents with her.

While CERDA and CORNELIUS were working in WATKINS' office, he asked MATT MOORE to prepare a memo outlining the operation of the WHTTO. He had not asked CERDA or CORNELIUS to write the memo because they were both very busy with other duties. CERDA told WATKINS he had insulted CORNELIUS by asking MOORE to write the memo. WATKINS then stated they were free to write their own memo if they choose to do so and thus CERDA and CORNELIUS produced their own memo.

In late March 1993, CORNELIUS made it clear she was "miserable" in her job. WATKINS attempted to find a position for CORNELIUS with the Department of Defense but it could not be arranged. WATKINS then talked to BILLY DALE, Director, WHTTO, about having CORNELIUS work in the WHTTO. CORNELIUS had begun handling travel arrangements for the new staff at the White House, a role not handled by the WHTTO. WATKINS told DALE CORNELIUS was to work and be integrated into the function of the WHTTO. DALE suggested CORNELIUS be sent to Dallas, Texas to learn a travel computer system. WATKINS told CORNELIUS the position was not necessarily permanent and because of the anticipated twenty-five percent reduction of staff in October, she might again be transferred. CORNELIUS began working in the WHTTO in the beginning of April. WATKINS requested that she prepare a memo by May 15 concerning the operation of the WHTTO with suggestions for improvement.

In early April, WATKINS received a telephone call from HARRY THOMASON. WATKINS knew THOMASON since sometime during the 1970's. WATKINS had very litle dealings with THOMASON through the years but was aware THOMASON had worked on the CLINTON campaign. In addition, WATKINS knew THOMASON, RICHLAND, and MARTINS (TRM), an air charter broker, had helped to arrange travel for the campaign and THOMASON had leased his private jet to the campaign.

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FBI (Rev. 11-15-93)

6A-WF-182613

Continuation of FD-302 of W. DAVID WATKINS, On 8/10/93, Page 3

During the conversation between WATKINS and THOMASON in early April, THOMASON stated DARNELL MARTENS, a partner in TRM, had unsuccessfully attempted to solicit business with the WHITO through DALE. THOMASON further stated he had heard from others in the air charter business DALE was not interested in accepting new business. In addition, THOMASON told WATKINS many people in the industry knew individuals in the WHITO had been "on the take" for years. WATKINS took no notes of the conversation. He told THOMASON all of the White House offices were under review and CORNELIUS was working in the WHITO and he would discuss the situation with her. THOMASON stated the individuals working in the WHITO should be fired. He further stated that by terminating the individuals from employment, the result would be favorable news stories showing wrongdoing had being discovered and handled.

WATKINS instructed CORNELIUS to "keep her eyes and ears open", meaning that she should pay attention to conversations in the WHITO. WATKINS did not instruct CORNELIUS to look through records or make copies of any documents. CORNELIUS told WATKINS she thought the individuals in the WHITO were living lavish lifestyles, but WATKINS did not give those remarks much credence.

In May, THOMASON started working at the White House on a project for improving the staging image of the CLINTONs. On May 12, THOMASON went to WATKINS' office and asked him what had been ascertained about activities in the WHITO. WATKINS told THOMASON that CORNELIUS was due to make a report about the activities in the WHITO by May 15 and he should speak with her. THOMASON telephonically contacted MARTENS and requested that he facsimile a memo concerning the attempts of TRM to obtain White House business. Later that same day, THOMASON went back to WATKINS' office and told him he, THOMASON, had seen HILLARY CLINTON in the hallway and they had discussed the situation in the WHITO. HILLARY CLINTON told THOMASON the matter should be handled quickly and the individuals in the travel office should be fired.

As a result of that conversation with THOMASON, WATKINS called VINCE FOSTER, Associate White House Counsel and a meeting was set up between THOMASON, CORNELIUS, FOSTER and WATKINS. During the meeting, it was discussed that ULTRAIR was the sole source provider for the WHITO. Furthermore the allegations of kickbacks and the large amount of money in the WHITO account was discussed. CORNELIUS stated she had copied

26 (Rev. 11-15-83)

A-WF-182613

Continuation of FD-302 of W. DAVID WATKINS, On 8/10/93, Page 4

documents from the WHITO and was maintaining them at her residence. FOSTER instructed her to get the documents and bring them to the White House.

Subsequently, the meeting was reconvened with THOMASON, CORNELIUS, FOSTER, WATKINS and WILLIAM KENNEDY, Associate Counsel to the President. WATKINS explained the White House did not have audit capability; thus an outside agency would have to conduct an audit. There was discussion as to whom to contact for advice on an investigation of financial wrongdoing. The IRS, FBI, CIA, and Treasury Department were all mentioned as possibilities. WATKINS felt there was considerable pressure being placed on the individuals in the meeting to take action.

The next day, FOSTER asked KENNEDY if any action had been taken. They discussed the possibility of destruction of evidence. KENNEDY said he had not yet heard from his inquiry to the FBI. FOSTER stated he had spoken to HILLARY CLINTON and she had inquired as to the status of the matter. Later that day, FOSTER, WATKINS, and PATSY THOMASSON, WATKINS' Assistant, met with THOMAS F. "MACK" MCLARTY, Chief of Staff, to discuss the matter. MCLARTY stated he was already aware of the situation because he had been informed by HILLARY CLINTON. WATKINS advised taking a slow approach to the matter. He contacted LARRY HERMAN, KPMG PEAT MARWICK, to discuss having a review conducted on the operations in the WHITO. HERMAN was contacted because he had training in connection with the National Performance Review. WATKINS explained the situation to HERMAN. It was agreed the review would begin at 7:30 am the next day, May 14.

On May 14 WATKINS left Washington, D.C. to attend his daughter's graduation. He was contacted numerous times during the day and informed the accounting review revealed abysmal record keeping and missing petty cash. Late in the day, THOMASSON told WATKINS that JEFF ELLER, Deputy Communications Director, had meet with MCLARTY and told MCLARTY the Administration was losing an opportunity by not releasing the story to the press. ELLER insisted action be immediately taken.

WATKINS was told by THOMASSON that HILLARY CLINTON and THOMASON wished to speak to him, WATKINS, concerning the action in the WHITO. WATKINS called HILLARY CLINTON and advised her of the findings of the review. She stated action need to be taken immediately to be certain those not [illegible]

FD-302 (Rev. 10-15-93)

6A-WF-182613

Continuation of FD-302 of W. DAVID WATKINS, On 8/10/93, Page 5

Administration were removed and replaced with trustworthy individuals. WATKINS and HILLARY CLINTON discussed the impending twenty-five percent reduction in staff by October 1993 and the idea of replacing the individuals with an outsource agency to reduce costs. WATKINS reached THOMASON around midnight and gave him a summary of the events which had transpired and told THOMASON no action would be taken until the completion of the review.

On May 17, after WATKINS returned to Washington, D.C., he discussed the situation with THOMASON and MCLARTY. MCLARTY stated the matter was in the hands of HILLARY CLINTON's mind and action should be taken. WATKINS prepared a memo stating that the individuals would be terminated as of the next day. On May 17, BILLY DALE submitted papers indicating he intended to retire. WATKINS told DALE there would be a meeting with all WHITO employees the next day. WATKINS subsequently postponed the meeting until May 19 when more WHITO employees were present. They were informed at that time of their dismissal. Talking points for press inquires were prepared which included a reference to the FBI involvement. They were given to ELLER and DEE DEE MYERS, Press Secretary. After discussion with FOSTER, it was decided to remove the reference to the FBI. However, MYERS, unaware of the revision, informed the press of the FBI investigation.

WATKINS was unaware of how the records and petty cash log were secured while he was away, but it would have been the responsibility of THOMASON. After the termination of the WHITO staffers, BRIAN FOUCART, was responsible for operation of the WHITO. WATKINS had no knowledge of the existence of a petty cash system prior to the review. He had heard no rumors concerning lavish lifestyles on the part of WHITO employees from anyone other than HEMPELING and THOMASON. He was not aware of any allegations concerning the existence of more than one WHITO account.

After the dismissal of the WHITO employees, WORLD WIDE TRAVEL, Little Rock, a travel agency, was brought in on an interim basis. CORNELIUS had spoken to BETTA CARNEY prior to the dismissals to discuss availability. WATKINS called CARNEY and told her he needed her to do a good job. THOMASON or MARTENS contacted PENNY RAMPLE, a charter broker, and asked her to assist in the operation at the WHITO.

WATKINS believed the benefits the press corps received from the WHTTO included aid in shipping cases of wine, arraigning for the press corps not to have to clear a U.S. Customs inspection upon arrival in the United States, and orchestrating their travel in a lavish fashion. For example, the type of acholic beverage consumed by the individuals in the press corps members, regardless of price, was available upon their arrival on a flight. The individual press agencies were billed for the alcohol as a cost of the flight.

WATKINS had little knowledge concerning the problems FOSTER had with the Usher's Office other than estimates for renovations to the residence in the White House were considerably less than actual costs. WATKINS did not discuss the matter in any depth with FOSTER.

The following is descriptive and biographical data concerning W. DAVID WATKINS based on observation and interview:

Also Know As	WILLIAM DAVID WATKINS
Date of Birth	July 30, 1941
Sex	Male
Race	White
Place of Birth	Hope, Arkansas
Social Security Account Number	[redacted]
Address	[redacted]
Telephone Number	

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DRAFT

DRAFT DRAFT

PRIVILEGED AND CONFIDENTIAL

CGE 012286

MEMORANDUM FOR

FROM: DAVID WATKINS

SUBJECT: Response to Internal White House Travel Office Management Review

In an effort to respond to the Internal Travel Office Review, I have prepared this memorandum, which details my response to the various conclusions of that Report. This is a soul cleansing, carefully detailing the surrounding circumstances and the pressures that demanded that action be taken immediately. It is my first attempt to be sure the record is straight, something I have not done in previous conversations with investigators -- where I have been as protective and vague as possible. I know you will carefully consider the issues and concerns expressed herein.

As a preliminary matter, the procedure followed in finalizing the report was needlessly unfair. Even in the context of General Accounting Office audits and reviews, the reviewed agency is afforded the opportunity to respond to the report and criticisms prior to release and publication. This is an important step which allows inaccuracies or erroneous conclusions to be addressed and corrected prior to publication, and more importantly, allows the criticized party to respond to the contents of the report. Unfortunately, in this case, neither I nor others directly involved were afforded any opportunity to rebut the contents and conclusions of the internal Review.

In this case, I was notified of the forthcoming reprimand around 10 a.m. on July 2. But I received a copy of the report shortly after noon the same day, and at get exact time from that briefing the report was publicly released. I was never afforded the opportunity to respond, and until this memorandum, I have never responded to the report or its contents.

With the recent release of GAO audits and the resultant press coverage and criticism of my office, setting the record straight on the Travel Office occurrences is important.

BACKGROUND

?

As you recall, an issue developed between the Secret Service and the First Family in February and March requiring resolution and action on your's and my parts. The First Family was anxious to have that situation immediately resolved, and the First Lady in particular was extremely upset with the delayed action in that case.

Likewise, in this case, the First Lady took interest in having the Travel Office situation resolved quickly, following Harry Thomason's bringing it to her attention. Thomason briefed the First Lady on his suspicion that the Travel Office was improperly funnelling

(3C)

DRAFT

business to a single charter company, and told her that the functions of that office could be easily replaced and reallocated.

Once this made it onto the First Lady's agenda, Vince Foster became involved, and he and Harry Thomason regularly informed me of her attention to the Travel Office situation – as well as her insistence that the situation be resolved immediately by replacing the Travel Office staff.

Foster regularly informed me that the First Lady was concerned and desired action – the action desired was the firing of the Travel Office staff. On Friday, while I was in Memphis, Foster told me that it was important that I speak directly with the First Lady that day. I called her that evening and she conveyed to me in clear terms that her desire for swift and clear action to resolve the situation. She mentioned that Thomason had explained how the Travel Office could be run after removing the current staff – that plan included bringing in World Wide Travel and Penny Sample to handle the basic travel functions, the actual actions taken post dismissal and in light of that she thought immediate action was in order.

On Monday morning, you came to my office and met with myself and Patsy Thomasson. At that meeting you explained that this was on the First Lady's "radar screen." The message you conveyed to me was clear: immediate action must be taken. I explained to you that I had decided to terminate the Travel Office employees, and you expressed relief that we were finally going to take action (to resolve the situation in conformity with the First Lady's wishes). We both knew that there would be hell to pay if, after our failure in the Secret Service situation earlier, we failed to take swift and decisive action in conformity with the First Lady's wishes. You then approved the decision to terminate the Travel Office staff, and I indicated I would send you a memorandum outlining the decision and plan, which I did.

I have never stated all this so clearly before, but to form a complete and accurate picture it must all be kept in mind while reading the specific criticisms of the Podesta Management Review. I will now address those criticisms directly.

<u>RESPONSE TO SECTION II "DISCUSSION OF PRINCIPAL ISSUES" OF TRAVEL OFFICE REVIEW</u>

"Travel Office Management" (Page 14):

> "The review conducted by KPMG Peat Marwick uncovered serious financial mismanagement." At _.

At the strong recommendation of myself and others in my office, KPMG Peat Marwick was brought in – instead of having the FBI take over immediately – to review the financial practices of the Travel Office. I concurred in Peat Marwick's analysis and conclusions: Management of the Travel Office was abysmal.

(31)

DRAFT

CGE 012288

"Treatment of the Travel Office Employees" (Page 15):

> "While all White House Office employees serve at the pleasure of the President, the abrupt manner of dismissal of the Travel Office employees was unnecessary and insensitive." At __.

In the conversation with the Travel Office staff notifying them of their termination, I explained that a review of the Travel Office operations had always been planned to conform to the general review process implemented across the White House administrative offices and the Office of Administration. I further explained my decision to terminate them; I explained that from a management perspective, in this case it was best to relieve them all immediately from their jobs and provide them an additional two weeks in pay. I informed them of this and asked them to leave immediately. The tone was firm, with emphasis on the mismanagement recounted in the Peat Marwick report. I explained that in light of that mismanagement, it was best to dismiss the entire office.

The allegation in the report that this was insensitive is wrong. These employees work at the pleasure of the President and all in the White House Office should understand that there is extremely low tolerance for the severely negligent and unaccountable procedures followed in that office. In light of the First Lady's insistence for immediate action and your concurrence, the abrupt manner of dismissal, from my perspective, was the only option.

> "Moreover, the Peat Marwick report did not furnish sufficient cause for terminating the employees without financial authority. As a legal matter, the White House has the right to terminate an employee without cause. In this case, however, the White House asserted that the termination of all seven was for cause. Based on the information available, this assertion was inappropriate with respect to the employees who did not exercise financial authority. . . . Absent cause, a more humane approach was in order. For example, even if it were decided that the Travel Office would operate more efficiently with a reorganized, smaller staff, an effort could have been made to locate other federal employment for those who would be displace." At 15.

After Report [illegible] TO [illegible]

As early as February, the intent of Management and Administration was to review and reorganize the Travel Office before October 1 into a leaner operation -- just as with every other office within the domain of Management and Administration, from the Photo Office to the Telephone Office to the Travel Office. That remained the plan until the intense pressures surrounding this incident arose in May. If given time to develop, the original plan to reorganize the Travel Office for a smooth transition in September would have allowed the Travel Office employees to seek other federal placement, along with other Executive Office of the President staff, in anticipation of the end of the fiscal year staff cuts; however, when pressure began to build for immediate action in the Travel Office, the long-term plans were short-circuited.

> "The other major White House mistake in the treatment of the former Travel Office employees was in tarnishing their reputations. This resulted, as discussed above, from the inappropriate disclosure of an FBI investigation into potential wrongdoing in the Travel Office. (p. 15) . . . It was a mistake for the White House to publicly discuss FBI involvement, which led to the disclosure of the FBI investigation. . . . [illegible] Watkins' office for the press office stated that the

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DRAFT

> White House had asked the FBI to investigate. Eller had also mentioned the FBI in an earlier draft of talking points. In making that reference, Watkins and Eller were insensitive to the effect such reference can have on the reputation of an innocent person. ¶This mistake was compounded when Foster's and Kennedy's instruction to eliminate the FBI reference was not carried out. Watkins did attempt to reach Myers, and Eller himself omitted the FBI reference in his own background press briefings the morning of May 19. However, neither ensured that Myers avoided the reference." At 18.

Revealing the ongoing FBI investigation was insensitive, but that fact comprised one sentence in a draft version of talking points drafted by one of my staff and distributed for comment on the morning of May 19 – the day of the termination. The talking points were distributed to Foster, Kennedy, Myers, and Eller with the expectation that we would have until the 2 o'clock press briefing to get the kinks worked out of the talking points. As soon as the suggestion came to delete the reference to the FBI, it was done. I immediately went to see Myers to inform her of the change and sensitivity to the ongoing investigation, but she had gone to the Hill with the President. I struck that sentence from Eller's copy and asked him to inform Myers. As soon as Myers returned from the Hill, prior to noon – more than an hour before the press briefing – I proceeded to her office and told her not to mention the FBI investigation. She informed me that it was too late. She had already responded by phone to a reporter's inquiry by phone.

Thus, this was a mistake made on my part because I was not intuitive enough to take the talking points drafted by one of my staff and realize that the FBI investigation should not be mentioned – despite the strong support this provided for White House actions.

> "Catherine Cornelius also played a role in the dismissal of the Travel Office employees, and she too had a personal stake in the outcome. As the three memos she wrote on the Travel Office attest, she was eager to work in and, if possible, manage the Office. Her proposal to reorganize the travel office was appropriate and would be considered usual to any transition process. But her role in the decision-making process after she became, in effect, an 'accuser' of the Travel Office employees, by collecting documents and alleging possible wrongdoing, was inappropriate. . . . [E]very effort should be made to insulate the federal government's management decisions from even the appearance that personal interests have played a role in the outcome of those decisions." At 20.

Catherine Cornelius had no part in the dismissals. I put no stock in most of what Cornelius told me except to the degree it was factual. Her arguments for dismissal and reorganization had absolutely no bearing on the final decision to terminate the employees. If her input had been respected, the need for Peat Marwick would have been negligible, but in light of her self-interest and her tendency to exaggerate, I decided to rely exclusively on a professional accounting firm. Catherine Cornelius, despite the Review's suggestion to the contrary, had absolutely no role in the decision-making process, and was in no danger of being placed in charge of the Travel Office. My intent all along was to put a trained financial manager over all the White House administrative operations, including the Travel Office.

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When I assigned Catherine to the Travel Office, I did ask her to provide a report to me on May 15 based on her previous experience and actual experience in the Travel Office. She was placed in the Travel Office because of her prior experience in that area and a need to move her out of my immediate office – where she had become a liability to daily operations. Having had extensive experience with Catherine, I knew that her report would contain unworkable recommendations, but as I have in the past, I expected to distill those with which I disagreed from those I thought helpful. Unfortunately, due to her desire to revamp the Travel Office in her own likeness, Catherine may have ignored my intent to carefully review and scrutinize any recommendations made.

After Catherine became an "accuser" of the Travel Office staff, her input was merely on a factual level. I interviewed her to derive the factual basis of her allegations and for facts about the tasks performed by the Travel Office staff, but never asked for other, non-factual input other than the May 15 report I was expecting. All views she expressed were evaluated in light of her known bias. To put it simply, she had no impact on the decision-making process other than by providing factual information.

> "The White House took several actions that demonstrated an insensitivity to the appearance of favoritism. "Hiring World Wide Travel on a no-bid basis – even as an interim, stop-gap measure – created the appearance of favoritism toward a local friend from the campaign. World Wide's president, Betta Carney, is a long-time acquaintance of Watkins. Watkins' Little Rock advertising agency was a client of World Wide in the 1970s and World Wide was a client of Watkins' agency during that time period." At 20.

Part of the plan for immediate replacement of the Travel Office staff was use of World Wide Travel Service to book commercial flights for the Office. This aspect of the plan was discussed with all interested parties, and all concurred with knowledge that World Wide had been the campaign's travel agent. This made the most sense due to the fact that we could not have publicly solicited bids in light of confidentiality concerns and when we had ongoing business needs that had to be taken care of immediately following the terminations.

As for the my longtime acquaintance with Betta Carney and World Wide Travel, I must point to my experience in the business world. There, reliance on a firm from whom one has received exceptional service is the rule.

As well, since the time I was a client of World Wide's and since World Wide was a client of my advertising agency in the 1970s, I have personally and professionally used at least half a dozen other travel services. So, any suggestion that calling them in this case derived from that history is absurd, and the media suggestions of improper favoritism were likewise absurd.

We had recent experience with World Wide, and based on that experience I knew we could rely on them for confidentiality in handling and preparing to handle the Travel Office business, until the business could be subject to full and open competition.

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"None of this implies any improper conduct by World Wide, which is a well-established, successful travel agency, twenty-third largest in the country. World Wide executives understood that they could secure White House business only through an open, competitive bidding process. But the impression of favoring a local supporter was impossible to dispel."

At this point in the sequence of events, with the current plan approved by the First Lady and the yourself including resort to World Wide Travel, it would have unnecessarily heightened confusion to recruit an unknown travel service. Again, a primary source of the problem was the abruptness caused by the calls for immediate action in the Travel Office and the at least daily inquiries. If my plan to slowly shift as the fiscal year came to a close had remained intact, a travel agent would have been procured in a more transparent fashion. However, since at the time of hiring World Wide it was known that they had a GSA contract, hiring World Wide was not as questionable or "non-competitive" as the Report or the press would have one believe.

"Bringing in Penny Sample, President of Air Advantage, to handle press charters on a no-bid, volunteer basis furthered the appearance that the White House was trying to help its friends. Sample was the Clinton-Gore campaign's charter broker and a close associate of Darnell Martens. This implies no improper conduct on Sample's part, but, again, created an appearance of favoritism." At 20.

Like World Wide Travel, Penny Sample was part of the short-term plan for running the Travel Office after the terminations. Since she was willing to volunteer her services without her or her company receiving any compensation -- because we realized, like they did, that they would be conflicted out of virtually all White House business -- we believed the conflicts and appearance of favoritism issue had been sufficiently addressed. Again, we did not believe it to be favoritism to have a former service provider for the campaign volunteer to assist the White House.

"White House Management" (Page 21):

"The White House made a number of management mistakes in handling the Travel Office."

"Lax Procedures"

"The responsibility for Thomason's influence on the Travel Office incident must be attributed to White House management. Thomason should have avoided continued involvement in a matter in which his business partner and his friends in the charter business stood to benefit and in which there was an appearance of financial conflict of interest. But lax procedures allowed his continued participation in the process. . . . There should be better management control with respect to the mission that any non-White House staff person is brought in to carry out. Permitting Thomason -- or any non-staff person who comes in on special assignment -- to work on problems outside the scope of his or her assignment is not a good practice." At 21.

Management and Administration had no part in bringing Thomason into the White House. In fact, the responsible office failed or intentionally neglected to inform Management and Administration of the nature of his work. Contact with this Office on the subject consisted only of the First Lady's Office calling to insist on immediate access for Thomason.

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"Placing Cornelius in Travel Office."

"Given Cornelius' personal interest in running the Travel Office, Watkins should not have placed her in the Office to make recommendations on how the Office should be structured."

As stated above, Catherine was placed in the Travel Office because of her experience in travel and to allow her to make a meaningful and significant contribution to this Administration. The original assignment was made to see if she would work there permanently – if she liked that work and if it likewise suited her. The report I asked her to draft and provide on May 15 was in no way the driving force for her assignment to the office, it was simply a way to help determine her long-term suitability. She was placed in that office because of her extensive experience since October 1991 in coordinating travel for then-candidate Bill Clinton. She was not placed in the Travel Office primarily to make recommendations on its future structure.

"Watkins compounded the problem when, in response to Thomason's complaints, he asked Cornelius to be alert to possible wrongdoing or corruption. Cornelius lacked the experience or preparation for this role. Nor was she given any guidance." At 21.

Catherine was not asked to investigate or document wrongdoing by the Travel Office staff. I understood that she lacked experience to perform such a task. Catherine was merely asked to observe what transpired in the Travel Office – nothing further was requested or expected. Special training is not needed to keep one's eyes and ears open, to observe. I never asked her to collect documents or other information; she undertook this of her own volition.

"If, in April, Watkins thought the allegations reported by Thomason should be looked at more seriously, he should have done so in a more professional manner." At 21.

The suggestion that this could be more professionally handled is absurd. I noted the allegations, but thought they could wait for review – and knew they would be examined – during the course of the planned internal review of the Travel Office. For that reason, no action was taken other than to ask to Catherine to "keep her eyes and ears open."

"Poor Planning."

"There was no adequate plan in place to manage the Travel Office in the aftermath of the dismissals." At 21.

Harry Thomason indicated that he could put a more efficient structure in place in an hour's time to handle all the tasks of the Travel Office. While I believed that my original plan to carefully review the Travel Office would best serve the White House, when I spoke with the First Lady on Friday night, May 14, she cited Thomason's plan as support for the need for immediate action. That action involved utilizing World Wide Travel and Penny Sample in the short them. As well, in my memo to you on May 17 explaining my intent to terminate the Travel Office employees the next day, the intention to use World Wide Travel was outlined. You approved this action based on this memo prior to the actual terminations.

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"For example, no one in the decision-making chain spoke to the White House press and press advance staff members who worked closely with the Travel Office employees, knew the employees there, understood the services they provided and the degree to which they were relied upon by members of the travelling press and other considerations. None was contacted by Watkins." At 22.

In light of the need for absolute confidentiality, it would have been foolhardy to consult the press or press advance staffs. From the staff review and Catherine Cornelius' experience (this is the primary area where her factual expertise was relied upon), we in fact did know the services that the Travel Office staff performed. Catherine Cornelius and Harry Thomason regularly and repeatedly reassured me that the press charter function could easily be assumed with the assistance of Penny Sample. Thus, plans to replace these aspects of the Travel Office functions were in place prior to the dismissals. Then, when the need for immediate replacement became evident, I committed to provide whatever manpower was needed to perform the services the Travel Office staff had performed.

Immediately following the dismissals, meetings were held with the press and press advance staff to make all necessary arrangements for upcoming trips. These discussions came after the fact, but were accompanied with a commitment from my office for all necessary resources to perform the job.

"The absence of a plan prompted the last-minute use of World Wide Travel and Penny Sample of Air Advantage, which fueled the charges of favoritism already discussed." At 22.

As explained above, the plan was to use World Wide Travel and Penny Sample; there was no absence of a plan. Because of the need for confidentiality and the need for quick action, reliance on those with whom we had experience seemed the only rational decision. Having performed superbly in the campaign and in light of our need for immediate travel agent support – due to the pressure for immediate action from several quarters – we decided the plan would include short-term reliance on World Wide Travel.

I would have much preferred to have my staff carefully review the Travel Office and make a detailed business plan for the new fiscal year. This proved impossible, though, when the pressure for action from the First Lady and you became irresistible. This demand for immediate action forced me to accept hastily formulated plans for hasty, inadvisable action.

"Overview."

"The management problems in the handling of the Travel Office extended beyond the White House Office of Management and Administration. The Chief of Staff and the White House Counsel's Office had the opportunity to contain the momentum of the incident, but did not take adequate advantage of this opportunity." At 22.

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> "The process should have been handled in a more careful, deliberate fashion. Before any decision was made, the Travel Office employees should have been interviewed and other White House staff who understood the operations of the Travel Office should have been consulted. If dismissals were deemed appropriate, a new structure should have been designed and readied for implementation before any action was taken. Throughout, the process should have treated the Travel Office employees with sensitivity and decency." At 22.

As stated above, I too would have much preferred to have my staff carefully review the Travel Office and formulate a detailed business plan for the new fiscal year. This proved impossible, though, when pressure for action became irresistible. If forced me to accept hastily formulated plans for hasty, inadvisable action.

CONCLUSION

I think all this makes clear that the Travel Office incident was driven by pressures for action originating outside my Office. If I thought I could have resisted those pressures, undertaken more considered action, and remained in the White House, I certainly would have done so. But after the Secret Service incident, it was made clear that I must more forcefully and immediately follow the direction of the First Family. I was convinced that failure to take immediate action in this case would have been directly contrary to the wishes of the First Lady, something that would not have been tolerated in light of the Secret Service incident earlier in the year.

For this reason, I was forced to undertake the Travel Office reorganization without a business plan firmly in hand – something I had never before done in years as a management consultant, where such plans were my business.

All failings outlined in the Podesta Management Review were either mistaken and groundless criticism, or were based on actions dictated by the need for instant action. This reorganization required more careful review, but in this case that possibility was foreclosed. Delaying action was beyond my control.

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QUESTIONS AND ANSWERS

White House cooperation.

Question: Did the White House cooperate with the GAO? Did the White House refuse any interviews or refuse to produce any documents that the GAO requested?

Answer: The White House did not refuse to let any witness be interviewed by the GAO. Any White House official that the GAO requested was made available.

The GAO requested that the First Lady respond to written questions, and she did so. To the extent that her answers were relevant to their investigation, those answers are reflected in the GAO report.

* [We should not release the GAO's questions or Mrs. Clinton's responses.]

Question: Why did it take the GAO so long to complete its review? Was it because the White House was dragging its feet?

Answer: The GAO's report makes clear that it conducted an exhaustive review, interviewing scores of witnesses both in the government and private citizens. The GAO evidently also reviewed thousands of documents gathered from numerous sources. The GAO's comprehensive review apparently took some time to complete. The White House did whatever it could to assist the GAO in its investigation.

White House pressure on other agencies.

Question: What about the FBI and the IRS? Did the White House put pressure on those agencies to cover up a political decision that the White House made to get rid of career employees in the Travel Office?

Answer: The GAO's conclusions on these issues closely tracks the conclusions reached by the White House Management Review. The GAO concluded that the circumstances were such that it could have created an appearance of pressure on the FBI. But the GAO quotes the FBI agents involved as saying that they did not feel under pressure from the White House. As to the IRS, the GAO concludes that the White House did not contact the IRS at all in connection with this matter.

4

Harry Thomason

Question: What about the role of Harry Thomason in all of this?

Answer: The GAO's conclusion on this issue closely tracks the conclusions of the Management Review. The GAO concludes that the White House erred in permitting Mr. Thomason, as an outsider, to remain involved in this issue after he first brought it to the attention of people in the White House.

GAO
United States
General Accounting Office
Washington, D.C. 20548

General Government Division

March 16, 1994

Mr. Neil Eggleston
Associate Counsel to the President
The White House

Dear Mr. Eggleston:

As part of our review of the White House Travel Office, we have identified additional information we need from a few individuals. We would appreciate your assistance in having the following individuals provide responses to me addressing the questions indicated in the enclosures: Mrs. Clinton, Mr. Panetta, Ms. Williams, and Ms. Thomasson.

We would appreciate receiving this information by March 25, 1994. Unless the responses raise other unresolved issues, these questions would close our outstanding requests for interviews with these individuals. We appreciate your immediate attention to this request and recognize the short timeframe we are requesting. If you have any questions regarding this request, please call me at (202) 512-5074.

Sincerely yours,

/s/ Nancy

Nancy Kingsbury
Director
Federal Human Resource Management
Issues

Enclosures

GAO QUESTIONS FOR MRS. CLINTON

The White House Management Report describes, on page 9, the following:

> "That afternoon [May 13], before Foster talked to Watkins about Peat Marwick, Foster went to see the First Lady on a matter unrelated to the Travel Office. The First Lady told Foster that she had heard about problems in the Travel Office. Foster replied that Kennedy was looking into it. Late that afternoon, she saw McLarty and inquired about the situation in the Travel Office. Foster subsequently informed her that Peat Marwick was going to conduct a review of the Office."

In our interview with Mr. David Watkins, he stated that (a) on May 14, Mrs. Clinton (through Mr. Foster) had expressed an interest or awareness of the situation in the Travel Office; and (b) that it was Mr. Watkins' understanding that Mr. Harry Thomason asked to have an update on the situation. Mr. Watkins reported that in a subsequent conversation on the same day, Mrs. Clinton (a) mentioned the 25 percent (White House) staff reduction goal; (b) said it would be good to have "our people" working in the Travel Office; and (c) said that the administration had been criticized at the time for being slow in filling positions, and had delayed too long. We also note that the White House Travel Office Management Review contains a copy of a memorandum from Mr. Watkins to Mr. McLarty which was marked as "cc" to Mrs. Clinton, and which describes the steps taken to review the Travel Office matter and the decisions made to remove the employees and carry out the functions with other staff.

We respectfully request Mrs. Clinton's official response to the following questions:

1. How would you describe and to whom would you attribute the origin of the decision to remove the Travel Office employees?

2. How would you characterize your role in that decision?

3. Did you ask or direct that any action be taken by anyone in regard to the White House Travel Office?

4. Is Mr. Watkins' characterization of his discussion with you, as recorded by us, accurate? If not, how would you describe the discussion?

5. Did you participate in any other discussions with White House staff or Mr. Thomason concerning the White House Travel Office matter during the period leading up to the removal of the Travel Office employees on May 19, 1993? If so, when and how would you describe those discussions?

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THE WHITE HOUSE

WASHINGTON

April 6, 1994

Nancy R. Kingsbury
Director
Federal Human Resource Management Issues
General Government Division
General Accounting Office
Washington, D.C. 20548

Re: GAO Requests for Responses to Written Questions.

Dear Ms. Kingsbury:

Attached please find written responses to the questions that GAO posed to Mrs. Clinton.

Very truly yours,

W. Neil Eggleston

W. Neil Eggleston
Associate Counsel to the President
(202) 456-7901

RESPONSES TO GAO QUESTIONS FOR MRS. CLINTON

1. Mrs. Clinton does not know the origin of the decision to remove the White House Travel Office employees. She believes that the decision to terminate the employees would have been made by Mr. Watkins with the approval of Mr. McLarty.

2. Mrs. Clinton was aware that Mr. Watkins was undertaking a review of the situation in the Travel Office, but she had no role in the decision to terminate the employees.

3. Mrs. Clinton did not direct that any action be taken by anyone with regard to the Travel Office, other than expressing an interest in receiving information about the review.

4. Mrs. Clinton does not recall this conversation with the same level of detail as Mr. Watkins. She recalls that on Friday, May 14, she had a very short telephone call with Mr. Watkins. Mr. Watkins stated that Mr. Foster had mentioned that Mrs. Clinton was interested in knowing what was going on with the Travel Office. Mrs. Clinton knew that Mr. Watkins was out of town. Mr. Watkins conveyed to her that even though he was not in Washington, his office was taking appropriate action.

5. Mrs. Clinton has a general recollection of having conversations with Mr. Foster and Mr. McLarty about the Travel Office situation prior to the termination of the Travel Office employees. She has no specific recollection of any particular conversation with Mr. Thomason on this issue at that time.

Mrs. Clinton believes that she spoke with Mr. Foster about the Travel Office before her telephone call with Mr. Watkins. She also believes that she had a very brief conversation with Mr. McLarty sometime before she spoke with Mr. Watkins. In that conversation, she told Mr. McLarty that she had heard about problems in the Travel Office and wanted Mr. McLarty to be aware of it.

Mrs. Clinton does not recall seeing the May 17 memorandum from Mr. Watkins to Mr. McLarty until after the Travel Office employees were terminated.

White House Travel Office
(966604)

B. Homan
3-23-94
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Record of Interview with Thomas "Mack" McLarty, The White House

Date: March 21, 1994

Participants:

GAO:
Nancy Kingsbury, Director, FHRMI
John Baldwin, Assistant Director
Bob Homan, Senior Evaluator
Mike Volpe, Assistant General Counsel

The White House:
Neil Eggleston, Associate Counsel to the President
Mack McLarty, Chief of Staff

Mr. McLarty said the following:

On the Thursday after the travel office employees were fired, Mr. McLarty gathered in his office a large group of all the White House staff who had participated in the travel office matter to obtain a "deeper understanding of what occurred." It was a "very serious meeting" that lasted about 2 hours. Both he and Mark Gearan agreed after the meeting that the White House should conduct a very objective, thorough, and prompt internal review of the travel office matter. Mr. McLarty decided that John Podesta should head the effort since he had not been involved in the decision to fire the employees and had the right background. Mr. Podesta commissioned Todd Stern to help him prepare the report. Mr. McLarty imposed a 6-week time limit on preparing the report. Mr. Podesta and Mr. Stern did the daily work on the report. Mr. McLarty monitored their work but did not participate in any

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interviews. Mr. McLarty agreed with Mr. Podesta's comment to us that he hadn't become very involved in the management review until the week before it was issued.

Mr. McLarty involved Leon Panetta in the management review because of OMB's management responsibilities. Mr. Panetta was also considered to be objective because he had no involvement in the firings and had good standing.

Mr. McLarty did not place any limits on Mr. Podesta about who he could interview. Mr. McLarty did not know that the Justice Department would ask that they not interview the former employees.

Mr. McLarty decided that the internal review be done out of concern that they "made the right decision in the wrong way" and that they may not have treated the former employees appropriately.

Mr. McLarty walked Mr. Podesta into the Oval Office to interview the President about the travel office, but did not stay. Mr. McLarty did not attend any of the management review interviews.

Mr. McLarty learned after May 19, when he was considering reinstating the travel office employees, that Billy Dale and Gary

Wright had primary financial responsibility for the travel office. He does not recall who told him.

The travel office matter could have been handled in a more "orderly, thoughtful, sensitive manner."

Mr. McLarty did not approve David Watkins' decision not to allow the travel office employees an opportunity to rebut the allegations against them.

The travel office employees were dismissed because of the findings contained in the Peat Marwick report. Mr. McLarty did not change his opinion on why they were fired after the management review was completed. Mr. Watkins proposed firing the employees in a memo to Mr. McLarty (dated May 17--exhibit H of the management review), which Mr. McLarty approved on the same day. Peat Marwick confirmed the allegations of very poor management practices in the travel office. Mr. McLarty and Vince Foster decided to have Peat Marwick complete the audit of the travel office, rather than fire the employees on the basis of the allegations immediately.

Mr. McLarty never discussed the travel office matter with Darnell Martens or Catherine Cornelius. He didn't discuss the travel office matter with Harry Thomason until after the dismissals. He never met Mr. Martens.

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On May 14, 1993, Mr. McLarty discussed firing the travel office employees with Jeff Eller who came to Mr. McLarty's office to discuss the matter. Mr. Foster joined the meeting. Mr. Eller expressed the strong opinion that there was mismanagement in the travel office and that the White House needed to act quickly. However, Mr. Foster suggested that Peat Marwick complete the audit before the employees were fired and Mr. McLarty agreed. Mr. Eller was not happy with this decision. Mr. McLarty did not initiate the meeting with Mr. Eller; Mr. Eller came to Mr. McLarty's office without invitation or appointment. When we asked why Mr. Eller asserted himself in this matter, Mr. McLarty said that Mr. Eller dealt with the press, is very energetic, has strong opinions, and was not acting out of character. He did not know, however, how Mr. Eller learned about this travel office matter. Mr. McLarty was not aware at that time of Mr. Eller's relationship with Ms. Cornelius. If he had known of the relationship, it might have made some difference, but he would have reached the same decision about the travel office employees.

The White House goal of reducing staff by 25 percent was of secondary importance in firing the employees. The staff reduction goal was not unimportant, but the primary reason for the firings was fiscal mismanagement--very poor cash management and accountability. The firings were not done out of a desire to "get our own people" into the office.

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Mr. McLarty was aware through Mr. Watkins' memo of the plan to install World Wide Travel in the travel office, but he didn't raise any concerns about it. He wanted to make sure that the travel office continued to provide its service. Mr. McLarty never met Mr. Martens or Ms. Sample. He never got the impression that Mr. Watkins had a plan to use World Wide and Ms. Sample before the travel office employees were fired. No one met with Mr. McLarty to get certain people in place for the travel office. The travel office was Mr. Watkins' responsibility.

Mr. McLarty was aware of the allegations of kickbacks in a general way. He is unaware whether the allegations have been substantiated. The decision to fire the employees was independent of the allegations concerning kickbacks.

Mr. McLarty was not involved in the decisions that World Wide and Ms. Sample should leave. He may have been informed that they were leaving.

Mr. McLarty did not give Mr. Thomason an opportunity to review the management review. He called Mr. Thomason the night before the review was released to notify him that it was "objectively critical" of his involvement, but did not discuss any of the details. Their conversation was not a debate or discussion. Mr. Thomason expressed his disappointment.

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Mr. Eller, Ms. Cornelius, Mr. Watkins, and Bill Kennedy all received reprimands. Mr. McLarty discussed the plan to issue reprimands with Mr. Panetta, who agreed that this was the proper course to take. The public announcement of their reprimands was a negative experience for them. Issuing the reprimands was a difficult and serious matter. Their actions deserved the reprimands, but there was not clear cut delineation of who was responsible for what. All four individuals may disagree with the reprimands. He met with each of the four individually about the reprimands. They had emotional reactions to the reprimands. The reprimands were not documented in their personnel files, but the reprimands are clearly on their "records."

Mr. Watkins is much more involved in the travel office operations now than before the firings. Mr. McLarty interviewed Steve Riewerts for the travel office director job. Mr. McLarty discusses the travel office operation with Mr. Watkins and Mr. Riewerts on a regular basis. Mr. McLarty has not required Mr. Riewerts to produce any written reports or audits.

Mr. McLarty did not discuss the travel office with the President until after the firings, when he informed him about the management review. On the Thursday afternoon before the firings, the First Lady stopped by Mr. McLarty's office to say that she had heard about inefficiencies in the travel office and asked him to look into it. The meeting lasted about 10 minutes and covered

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3 or 4 subjects. She told Mr. McLarty that she had spoken to Mr. Watkins about this. Mr. McLarty walked Mr. Podesta to interview the First Lady about the travel office for the management review. These are the only meetings the President and First Lady had on the White House travel office.

The White House has issued new procedures with respect to access to the White House by nongovernment employees. Mr. Eggleston said he would obtain these procedures and provide them to us.

It is difficult to say whether Mr. Thomason influenced the decision to fire the employees. The decision to fire the employees was based on the Peat Marwick report. Mr. Thomason was working in the White House to help stage events and to use the White House better for that purpose. Mr. Thomason was well qualified to help visually portray events in the residence. Mr. McLarty did not see Mr. Thomason in the White House during the period he was there and did not know what he was doing. Mr. McLarty was unaware that Mr. Thomason had participated in some meetings about the travel office. Mr. McLarty did not know that Mr. Martens was working in the White House. Mr. Thomason and Mr. Martens did not participate in any policy discussions and never met with Mr. McLarty. Mr. McLarty would be present at any policy discussions. He is unaware of any documents that would explain what Mr. Thomason and Mr. Martens were doing in the White House.

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Mr. Thomason could have requested a meeting with Mr. McLarty and Mr. McLarty would have met with him, but he did not.

The travel office incident has sensitized the White House about access to the White House by nongovernment employees. "Floppy" access passes that must be turned in at the end of the day are used now for individuals not a part of the official White House staff, rather than "hard passes"--which are good for a longer time period. Mr. Podesta may have documented these new procedures, but Mr. McLarty is not certain.

Mr. McLarty does not know if Mr. Thomason and Mr. Martens were interested in the travel office business.

Mr. McLarty was not aware that Ms. Cornelius wanted to be the travel office director.

Mr. McLarty does not know what type of personnel support Mr. Thomason or Mr. Martens may have been given in the White House.

When asked why the White House revised procedures for dealing with IRS, Mr. McLarty said this was done as a good position to take, not that anything improper had occurred in this matter. With respect to the new White House policy about contacting the FBI via DOJ, Mr. McLarty does not recall any discussion about which specific DOJ officials should be contacted.

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We asked Mr. McLarty whether he decided that Mr. Foster's office should be searched after his death. However, Mr. McLarty did not answer that question on the advice of Mr. Eggleston, who said that it conflicts with what Robert Fiske, the special counsel, is investigating. Mr. Eggleston feared that our report would be issued with information about this issue before Mr. Fiske could look into it. We did not press the question.

Ms. Maggie Williams may have more information about what Mr. Thomason was doing in the White House.

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SCHEDULE BP

CLINTON FOR PRESIDENT
ITEMIZED DISBURSEMENTS
July 1, 1994 - September 30, 1994

PAYEE/ADDRESS PURPOSE	DATE	FOR	AMOUNT
Public Office Corp. 911 2ND STREET, N.E. WASHINGTON, DC 20002 Legal/Accounting	08/25/94	PRIMARY	2000.00
Unishippers Associations P O Box 2386 Columbus, MS 39701 Shipping	08/26/94	PRIMARY	609.28
Today's Office P.O. Box 34194 Little Rock, AR 72203 Office Supplies	08/29/94	PRIMARY	427.24
Ciao 405 W 7th Street Little Rock, AR 72201 Legal/Accounting	09/01/94	PRIMARY	31.91
Shannon Tanner 1511 Skyline Drive North Little Rock,, AR 72116 Reimbursement	09/01/94	PRIMARY	31.28
Worthen National Bank 200 West Capitol Little Rock, AR 72203 Payroll Taxes	09/01/94	PRIMARY	3778.37
The Watkins Group 10800 Financial Center Pkwy Little Rock, AR 72200 Legal/Accounting	09/13/94	PRIMARY	3000.00
SUBTOTAL of Expenditures this page -		9878.08	

94039275063

94039275064

55

SCHEDULE BP

CLINTON FOR PRESIDENT
ITEMIZED DISBURSEMENTS
July 1, 1994 - September 30, 1994

PAYEE/ADDRESS PURPOSE	DATE	FOR	AMOUNT
The Watkins Group 10800 Financial Center Pkwy Little Rock, AR 72200 Legal/Accounting	09/13/94	PRIMARY	3000.00
The Watkins Group 10800 Financial Center Pkwy Little Rock, AR 72200 Legal/Accounting	09/13/94	PRIMARY	3000.00
Worthen National Bank 200 West Capitol Little Rock, AR 72203 Payroll Taxes	09/19/94	PRIMARY	396.21
Intermezzo 103 West Capitol Little Rock, AR 72201 Legal/Accounting	09/26/94	PRIMARY	35.97
Department Of Finanace & Admin P.O. Box 9941 Little Rock, AR 72203-9941 Payroll Taxes	09/25/94	PRIMARY	1055.42
I C L, Inc. 9801 Muirlands Blvd. Irvine, CA 92718 Other Comptr. Rental,Supplies	09/27/94	PRIMARY	10038.39
Oldaker, Ryan & Leonard 818 Connecticut Ave NW Washington, DC 20006 Legal/Accounting	09/27/94	PRIMARY	15417.06

SUBTOTAL of Expenditures this page - 32943.05

9 4 0 3 9 2 7 5 0 6 4

4039275066

SCHEDULE BP

CLINTON FOR PRESIDENT
ITEMIZED DISBURSEMENTS
July 1, 1994 - September 30, 1994

PAYEE/ADDRESS PURPOSE	DATE	FOR	AMOUNT
W.P. Malone Inc. 518 Clay Arkadelphia, AR 71923 Legal/Accounting	09/28/94	PRIMARY	15000.00
Baird, Kurtz, & Dobson P O Box 3667 Little Rock, AR 72203-3667 Legal/Accounting	09/29/94	PRIMARY	23775.90
Today's Office P.O. Box 34194 Little Rock, AR 72203 Office Supplies	09/29/94	PRIMARY	57.43
The Watkins Group 10800 Financial Center Pkwy Little Rock, AR 72200 Legal/Accounting	09/30/94	PRIMARY	3000.00
Copy Systems 1121 South Spring Street Little Rock, AR 72202-4803 Copy & Fax Rental	09/30/94	PRIMARY	610.21
Public Office Corp. 911 2ND STREET, N.E. WASHINGTON, DC 20002 Office Rent/Facility	09/30/94	PRIMARY	525.00
Central Records 1600 East Gregory North Little Ro, AR 72115 Office Rent/Facility	09/30/94	PRIMARY	610.87

SUBTOTAL of Expenditures this page - 43579.41

5039621074

(53)

SCHEDULE BP

CLINTON FOR PRESIDENT
ITEMIZED DISBURSEMENTS
October 31 - December 31, 1994

PAYEE/ADDRESS PURPOSE	DATE	FOR	AMOUNT
The Watkins Group 10800 FINANCIAL CENTER PKWY LITTLE ROCK, AR 72200 Legal/Accounting	10/27/94	PRIMARY	3000.00
Worthen National Bank Capitol Avenue Little Rock, AR 72203 Payroll Taxes	10/27/94	PRIMARY	357.95
Unishippers Associations P O Box 2386 Columbus, MS 39701 Shipping	10/28/94	PRIMARY	66.90
Central Records 1600 East Gregory North Little Ro, AR 72115 Office Rent/Facility	10/31/94	PRIMARY	555.32
Unishippers Associations P O Box 2386 Columbus, MS 39701 Shipping	10/31/94	PRIMARY	29.40
Grueny's Rubber Stamp Works 210 S. Gaines St Little Rock, AR 72201-2218 Office Supplies	10/31/94	PRIMARY	24.27
Department Of Finanace & Admin P.O. Box 9941 Little Rock, AR 72203-9941 Payroll Taxes	11/01/94	PRIMARY	124.06
SUBTOTAL of Expenditures this page -		4157.90	

9 5 3 9 2 1 0 7 4

)5039621076

(56)

SCHEDULE BP

CLINTON FOR PRESIDENT
ITEMIZED DISBURSEMENTS
October 31 - December 31, 1994

PAYEE/ADDRESS PURPOSE	DATE	FOR	AMOUNT
Oldaker, Ryan & Leonard 818 Connecticut Ave NW Washington, DC 20006 Legal/Accounting	11/17/94	PRIMARY	8283.85
W.P. Malone Inc. 518 Clay Arkadelphia, AR 71923 Legal/Accounting	11/17/94	PRIMARY	15000.00
The Watkins Group 10800 FINANCIAL CENTER PKWY LITTLE ROCK, AR 72200 Legal/Accounting	11/28/94	PRIMARY	3000.00
Worthen National Bank Little Rock, AR 72203 Payroll Taxes	11/30/94	PRIMARY	357.95
Worthen National Bank Little Rock, AR 72203 Payroll Taxes	12/13/94	PRIMARY	196.10
Department Of Finanace & Admin P.O. Box 9941 Little Rock, AR 72203-9941 Payroll Taxes	12/13/94	PRIMARY	124.06
Public Office Corp. 911 2ND STREET, N.E. WASHINGTON, DC 20002 Legal/Accounting	12/15/94	PRIMARY	2000.00

SUBTOTAL of Expenditures this page - 28961.96

5029621078

69

SCHEDULE BP

CLINTON FOR PRESIDENT
ITEMIZED DISBURSEMENTS
October 31 - December 31, 1994

Line 26

PAYEE/ADDRESS PURPOSE	DATE	FOR	AMOUNT
Laura Shachoy 891 High Street Dedham, MA 02026 Legal/Accounting	12/20/94	PRIMARY	1522.50
Laura Shachoy 891 High Street Dedham, MA 02026 Legal/Accounting	12/20/94	PRIMARY	1837.50
The Terrace 200 Academy Drive Austin, TX 78704 Legal/Accounting	12/20/94	PRIMARY	109.72
Worthen National Bank Little Rock, AR 72203 Payroll Taxes	12/23/94	PRIMARY	351.24
Worthen National Bank Little Rock, AR 72203 Payroll Taxes	12/23/94	PRIMARY	437.33
Wright, Lindsey & Jennings Attorneys At Law Little Rock, AR 72201-3699 Legal/Accounting	12/30/94	PRIMARY	2377.04
The Watkins Group 10800 FINANCIAL CENTER PKWY LITTLE ROCK, AR 72200 Legal/Accounting	12/30/94	PRIMARY	3000.00
SUBTOTAL of Expenditures this page -		9635.33	

95039740817

60

SCHEDULE BP

CLINTON FOR PRESIDENT
ITEMIZED DISBURSEMENTS
January 1 - March 31, 1995

Line 26

PAYEE/ADDRESS PURPOSE	DATE	FOR	AMOUNT
Laura Shachoy 891 High Street Dedham, MA 02026 Legal/Accounting	01/31/95	PRIMARY	1987.50
World Wide Travel 2228 Cottondale Lane Little Rock, AR 72203-2701 Air Travel	02/02/95	PRIMARY	2318.00
United Parcel Service (AR) P.O. Box 10001 Little Rock, AR 72295-0001 Shipping	02/06/95	PRIMARY	31.53
Central Records 1600 East Gregory North Little Rb, AR 72115 Office Rent/Facility	02/07/95	PRIMARY	551.14
Public Office Corp. 911 2ND STREET, N.E. WASHINGTON, DC 20002 Legal/Accounting	02/07/95	PRIMARY	2000.00
The Watkins Group 10800 Financial Center Pkwy Little Rock, AR 72200 Legal/Accounting	02/07/95	PRIMARY	3000.00
MCI (TX) Drawer #99450 Ft. Worth, TX 76199-0450 Phone Long Distance	02/07/95	PRIMARY	770.53

SUBTOTAL of Expenditures this page - 10658.70

95039740819

(61)

SCHEDULE BP

CLINTON FOR PRESIDENT
ITEMIZED DISBURSEMENTS
January 1 - March 31, 1995

Line 26

PAYEE/ADDRESS PURPOSE	DATE	FOR	AMOUNT
Unishippers Associations P O Box 2386 Columbus, MS 39701 Shipping	02/17/95	PRIMARY	37.70
Sherry Curry 4223 So. Lookout Little Rock, AR 72205 Legal/Accounting	02/24/95	PRIMARY	100.00
Target 4000 McCain Blvd. No.Little Rock, AR 72116 Office Supplies	03/08/95	PRIMARY	77.98
Pulaski County Tax P.O. Box 8130 Little Rock, AR 72203-8130 Property Taxes	03/08/95	PRIMARY	61.15
Cheers On Broadway First Federal Savings Plaza Little RocK, AR 72201 Legal/Accounting	03/10/95	PRIMARY	12.42
The Watkins Group 10800 Financial Center Pkwy. Little Rock, AR 72200 Legal/Accounting	03/13/95	PRIMARY	3000.00
Laura Shachoy 891 High Street Dedham, MA 02026 Legal/Accounting	03/15/95	PRIMARY	1545.00
SUBTOTAL of Expenditures this page -		4834.25	

95039842688

(62)

SCHEDULE BP

CLINTON FOR PRESIDENT
ITEMIZED DISBURSEMENTS
April 1 - June 30, 1995

Line 26

PAYEE/ADDRESS PURPOSE	DATE	FOR	AMOUNT
The Watkins Group 10800 Financial Center Pkwy Little Rock, AR 72212 Legal/Accounting	04/07/95	PRIMARY	3000.00
Rawleigh Ralls 12901 Southridge Little Rock, AR 72212 Salaries	04/13/95	PRIMARY	5.72
Oldaker, Ryan & Leonard 818 Connecticut Ave NW Washington, DC 20006 Legal/Accounting	04/20/95	PRIMARY	29582.98
The Watkins Group 10800 Financial Center Pkwy Little Rock, AR 72212 Legal/Accounting	05/08/95	PRIMARY	3000.00
MCI (IL) P. O. Box 2238 Bedford Park, IL 60499-2238 Phone Long Distance	05/08/95	PRIMARY	791.22
Laura Shachoy 891 High Street Dedham, MA 02026 Legal/Accounting	05/12/95	PRIMARY	487.50
Laura Shachoy 891 High Street Dedham, MA 02026 Legal/Accounting	05/12/95	PRIMARY	1560.00

SUBTOTAL of Expenditures this page - 38427.42

95U39342638

DOCUMENT INDEX FOR VINCE FOSTER RECORDS

1 Vince Foster Travel Office notebook (CGE 895-1240 - note: pages which were blank were omitted)

2 July 1995 (date of May 15, 1996 on the documents indicates when document printed out for production, not when document created), Foster chronology "prepared in anticipation of Congressional Hearings (DF 781054-781095, DF 781066-67 refers to Craig Livingstone arriving at the White House at 7:15 or 7:20 a.m. on July 21, 1993).

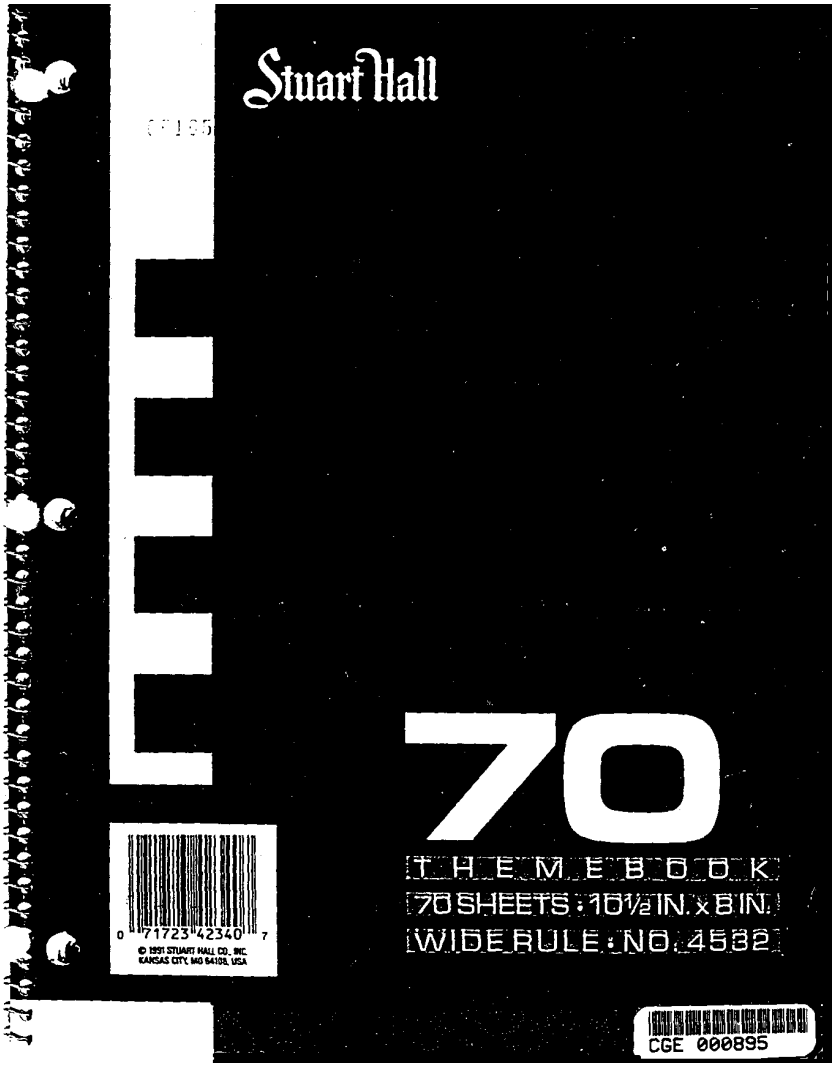
3 July 15, 1995 Memorandum to the File from Jane Sherburne, Subject: Senate Deposition of Craig Livingstone, DF 781649-781650).

4 July 9, 1995 Memorandum to Jane Sherburne, Re: Foster Travel Office File: Custody and Disclosure Issues (DF 78008-780018).

5 July 10, 1994 Memorandum for Lloyd Cutler, Special Counsel to the President from W. Neil Eggleston, Associate Counsel to the President, Re: Foster File, cc: John Podesta (CGE 5909-5918).

6 July 8, 1994 Memorandum for John D. Podesta from W. Neil Eggleston, Associate Counsel to the President, Re: Reporting on Foster Documents

7 August 9, 1993 Report of Special Agent Scott Salter regarding Vincent Foster, FBI investigation between 7/29/93-8/9/93 (excerpts of report including summary and interviews of Stephen Neuwirth, Bernard Nussbaum, Charles William Burton, Thomas (Mack) McLarty, David Gergen, Clifford Sloan, David Margolis, Roger Adams, Margaret Williams, Patsy Thomasson and David Watkins and Foster "suicide note".)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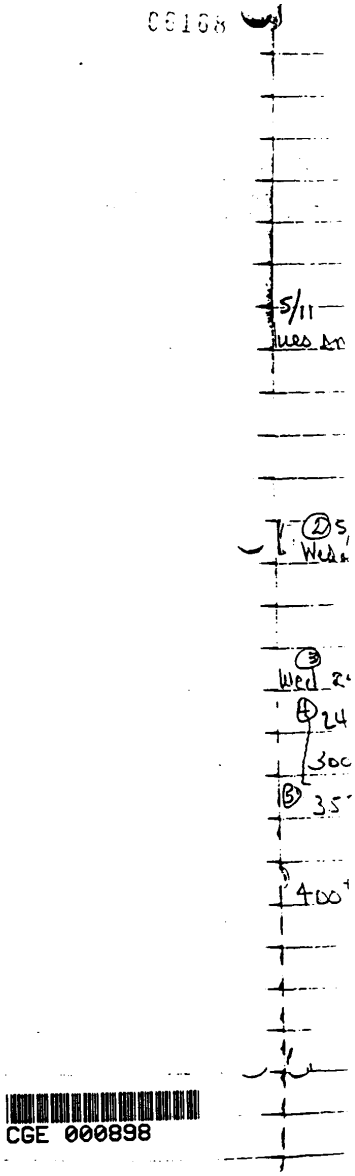


CGE 000898

13147

Attorney Client Privileged
re authorization of litigation

5/30/93

Calendar

① 5/11 Tues am — Mtg w/ Berman, Thomson, Walton in David's office to discuss possible uses of PIC money to support WH goals and/or operations, including correspondence response backlog and advances.

② 5/12 Wed am — Receive call from NT atty, set up mtg. Mtg w/ HT re family issues (Va, Reg)

③ Wed 240 — Call from DW requesting mtg., explain conflict

④ 245 — Mtg w/ DW, HT & CC in my office

300 — LW for haircut, set up mtg w/ CC for 4

⑤ 355 — pick up WK on way back from haircut, describe goal parameters

⑥ 400+ — mtg w/ WK, DW, CC & NT in my office

CGE 000899a

5/13

6/1

-DW-

Kennedy says someone told him that documents
are being thrown away, being a pressure to CC
"WOM home pd off, one EE is leaving @ 4pm on advance

1:15

2:00

10

6/1

(whether advice of rts
may be explanation
WK - still gathering info., how wd expect?

(goes to till **REDACTED**

11

Q - vs PT in this ltr?

12

CGE 000900

06171

5/13
Thurs.

(7) before or after staff mtg — ask WK status – (c/, has to flee to Bowie)

(8) Mid-day — ask WK status –

1:15 lunch — Gerlach, SA, BWN

(9) 2:00+ — HT express concern for CC, scared, 2 Ess leaving

(10) 2:30-3:00 — Jim WK mtg w/ 2 agents re process re how to investigate; discuss concern re not screwing up any subsequent invn; document integrity; FBI mention possibility of undercover, even consider using techniques these officers consider unethical; I expressed view that office staff likely already suspect; they request to interview CC; call DW to request she come to WK office; introduce; WK goes to hall & I return to office while they interview. [c/, 5 min later]

10 min after document

Quietly tell Pete come

(11) Watkins advises re availability of outside auditors and perf SW

(12) DW, VF – discussion w/ Mack – friends, slow down, have come before decide

00172

Q - the stay or leave (13)

Q - mention outside auditors

(14)

(admin lv?)

~~the~~ agents available, interview Ees custody of documents - (15)

"gangbusters" - not there yet - how key interviews

— hearsay

CC credible?

FBI higher profile - [illegible]

if clean, books had not been in order usual

outside auditors "cover" for getting info closer to ordinary course of business

Cover for financial audit never handle (16)

if get evidence, can adjust IV or bring in $500

satisfactory explanation could exist

credible, bright, not puffy, might be plausible explanation

→ puzzled re cash & amt (17)

absence of routine documentation 1100

Q - fed crime (18)

CGE 000902

(13) Return to WK office
interview is being completed
FBI express view have predicate to invn
WK what - allegation of kickback; advise of new alternative
they say will go back to RV w/ supervisors
I say we will discuss internally which route to take

(14) discussion w/ HT re strength of kickback allegation
- source prob not want to go public

(15) WK return, I update, we agree on auditors
He returns FBI call, I get on phone
they contend not admissable if to auditors but is to them
I dispute
WK advises we will go w/ auditors unless call otherwise
(Sometimes WK and Wade talk, admits he wrong on hearsay)
(Sometime DW advises auditors @ 7:30, supposed to be town for good, day of tickets, will be back Sunday, confirm on Mon)
(16) (generally advise PWN here or Wed.?)
800 lv for Israeli dinner
beeped w/ I wants by PT
beeped again there
call, confirm plan w/ auditors ok

(17) 1100 Call PT to find David
(18) put call into David

Prob discuss his keeping on top of it

GE 000903

Q - When 1st advice re delegation to report via Perth advice? Prob Sat Wed. (19) 730

- When 1st advice BOTH re problem? Wed or Thurs? prob Thur (20) 830

- When

(21) 840

(22) 850

(23) 11[illegible]

CGE 000904

UF NOTEBOOK

(19)
730 mtg w/ auditors and pers serv staff in PT office
(Q - call to Land?)

(20)
830 (~~Comm PT goes to the office & DW and group~~)
tell Rickles audit beginning + suspected financial
problems involving cash, use of RV team

(21)
840 Rickles calls me in Mac's office
Ellen pursues for immediate action
I discuss (inaccurate), need to determine cause, auditors
Ellen states need to do by 5 pm
I explain we'll receive interim reports
Mac - may know by 5, do in business-like way, give Ellen a report

(22)
850 BWA discussion re need to inform first
use of outside auditors [in lieu of FOI?]
(refer me to gov/bankers

(23)
11ish initial report (WK? ~~PT?~~) - terrible records
but calm

(24)

lish

(25)

(26)

(27)

Q - Status of report to David then

(28)

CGE 000906

C6177

(24) lish — returned DW Ellen - don't get behind story
has run by / brief Geo & Dede and they agree
VT - what is image re Spin Fn?
JE - next time, will go on background, look
tell him we are just doing univ, need
to be out of middle of how, whether & where of
management decision, suggest he talk to David
(25) HT - understand they can switch over immediately
(26) Tell PT name on Ellen, pass on HT comment While
holding not our role, ask for to have DW call
PT unsure of ability to sub w/o procurement
(27) Tell DW re discussion w/ JE and w/ HT
tell him we must get out of middle
suggest he call Ellen
(28) WK and PT reports at end of day need to continue
- 7 of 17 cks to cash unsupported
$2M / $5 discrepancy in recon

Sometime PT concern whether can put
new grp ~~w/o~~ ~~w/o~~ even on interim
basis w/o procurement

CGE 000908

C6179

5/15
Sat.

(29) Try to call WK @ office, no response
ck. w/ Patsy, going to be noon update, WK home
unexpectedly w/ kids
I offer to call w

Q - keep WK, discussion?

(30) 1 pm briefing by 2 auditors w/ PT (+ Jennifer?) at DOJ office, schedule next for 5pm (Larry Hermann and Jack Miller)

(31) later call BK from office to report highlights
1. no books to speak of, can't audit
2 cash pulled out of drawer (on 10/92 ck)
3 7 of 17 ckr w/o support
4 fluctuation in ~~co~~ avg cash balance
5. billing off estimates, make up next flight w/o regard to occupants
6. kickoff weekend / conduit?
suggest he update FBI, have received 5pm report, I clear

(32) Receive call from Mack - back to NY, give highlights, status

[33 WK mets w/ Larry H, FBI]

CGE 000909

C6181

(34)
5/16
Sun.?

(35) (ate at Jim Bailey's)
– WK update, basin for MWN
but may be explanation for cash balance

(36)
5/17
Mon.?

Sometimes DEW tells me will not be terminating cpty
audit report due Wed

5/18
Tues (37) – about the same, except adds that Ellen
wanted to do release but DW knows something
about PR & he's going to do it & will run it
by us

Q - When discuss w/ Bush wisdom of
DW decision to terminate all 7
instead of 3

Q - what was nego w/ accts over audit

CGE 000912

C6183

5/19
Wed.

(38) draft release & Q&As in box w/ note they are going wild at 900(?) unless hear from us
try to call WK, no answer or busy
hand documents, need WK in hand, argue
reference to FBI not appropriate
Jan/Ly tell DW not to mention
even if asked?
no, sidestep, avoid
only if pushed to wall

(39) Relate to staff (Pete - obligation to report)

(40) later hear from DW? WK? Sys? Dole received barrage of Qs
mentioned FBI
already out now

(41) later hear from? GS got barrage
referred Qs re FBI to them

(42) Somehow discuss w/ BWN

CGE 000913

COPY

This is next week

~~Thur~~ 5/25
~~No - Mon~~
~~in Tues~~
following wk

At staff mtg Bwn raised proposed draft
policy re contacts w/ Justice
- discussed generally, practical
problems, OLC, security, nominations
Asked to have chance to discuss before
finalized
VF / WK raised FBI contact

Later morning Bwn gets tip (?) ~~we call Reno~~
gets background from WK, Bwn/VF call Reno
agree on going forward (don't focus on
security aspect) - Wasser WK for chrono

Later Bwn gets CI - calls for Janet, she says
talk to Phil & Stern
Bwn - 2 line statement to Post

430 political team @ Gelman
Bwn draft statement?
Later debate re vouch for FBI procedure on release
Podesta, Gelman, Ricki

5/26
Wed

Review & Need w/ Pout

E 000915

5/20 [redacted]
See Bond letter —

PT working on
WK help

CGE 000916

C6187

5/20

Thurs?

(Bush discuss c Sr. Staff)

at sleepovers.

(43) WK tells Bush on slippery slope, get involved

terminating though FBI wanted to interview

Thurs or Fri?

(Clarina mentions gt signature on memo

- 1st mention)

5/21

Friday -

Staff - discussion re release of audit report? (or even thus Thurs.)

Bush takes me to Geo's office

sets tests to meet

Wed or Thurs || Am - Bill wants a meeting - wish to finish — counter attack on Larry [Rudolph under

Geo comment re HT - to financial interest - DOJ/IG & Ellen / I disagree

[Geo calls for FBI press officer] [not sure when in sequence]

VF starts, then WK joins & takes over

discussion of chronology & of contact w/ FBI

Beck requests free to join Bx of audit - RS, WK, DW, me @ OEOB

Take draft to Bush on if whether to release

when finished, while awaiting final, meeting next again at Geo's office

(Somewhere Geo gets show HT memo - upset

Comparison to perjury statement)

CGE 000917

CG189

5/22 Sat - DW tells of 1st cluster breakdown, trip re Dale calling re favors
discussion w/ Rick re process, Ellen / as of 1st Friday, story re Ruger.

go to West of ff work

BWN statement, agreed by Pres
remediation of S
internal review

CGE 000919

C6193

① no discussion of TVL office. Al said I till Harry I need to discuss a personal (family?) matter when he gets free. Unclear what his assignment is, but he is obviously motivated to pick up muscle. Buy up advance team, case team. When I don't hear back I may have called & left word to call me.

② discuss on unrelated **REDACTED**

Al and he mentioned may have learned of some scuff in looking around, would let me know. Polite response.

③ Coffee was having appointment. Told him I didn't know but could cancel. DW said let's get started.

④ DW introduced CC. Gave overview. Mentioned HT early conversation, gave copy of memo (I was unsure of source, author, date) I skimmed it. From my perspective it related to non-competitive bid situation, DW said was looking at all offices for better efficiency, downsize, had put CC in this role, longtime (fell?) plan to downsize and consolidate, including assign advance function to office of TVL and advance. CC uncovered suspicious activity — $77M in chs to cash w/no backup — she had been related — NT Has copies of some records. related, Vague story of 3rd party request for kickback/5% — vague. DW ask for advice. Said — if have questions to contact

Some of this may have been only alluded to HK

CGE 000923

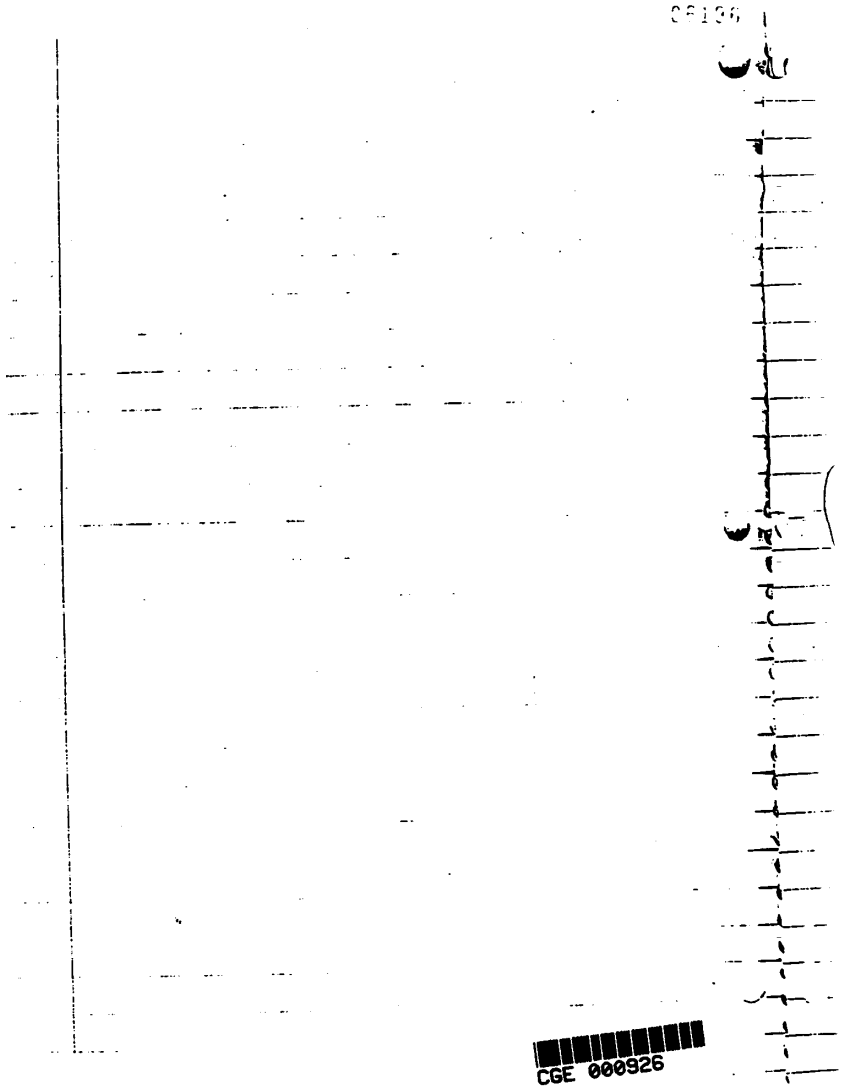
none, not even in Patty's office. Is equipped to do own.
In for hair cut appointment w/ agreement CC will return
w/ whatever "evidence" she has, for further interview — she
reveals they are at home, will fetch.

⑤ In course of giving WK parameters in the way he tells me
he has heard rumors of funny business in the office then "his sources"
(I don't think he explained them, later told me it was Craig h.,
apparently quoting CC, and his 2 FBI contacts on site, but with
nothing other than probably same rumors.)

⑥ Can't recall whether at ④ or ⑥ mtg, DW advises that one
of alternatives is to terminate and whole Waldude on
interim basis while putting out to bid — (unclear to me
whether he intended to put this out to bid, as well as
Charters but assume no ~~answer~~ ~~talked re interim~~) —
In course, whether in response to Q or explication, HT
said he was his company would have nothing to do with
it, wouldn't get near it, very emphatic. Catherine has open
checks payable to cash, endorsed by signatory. Also has
a couple of files with original cancelled checks and misc documents.
Look at but don't study. She said when she went to put
them back with other records, other records had been
locked up so she couldn't return. Mentioned office
worker isolated her in "second prog room" (CGE 925)
Mentioned staff hogged re material possession!

2 of 3 trip files
some nothing
Attorneys
Wanted
Ca

F 000032


CGE 000926

talk turn off w/o telling full truth

which seemed inconsistent with salaries, own race horse, fake names. Mentioned they used racist and sexist language but had not physically harassed her. DW said they could be terminated (at-will), like any other presidential personnel. Someone (CC or DW) mentioned they had good relations with some of press.

We discussed 2 issues – one was management decision whether to exercise option to terminate at-will employees of long-standing with good relations. Second, what is our obligation when faced with info of possible criminal behavior by our employees, got from and explained Bill's role in security. We all asked him how to investigate, noting no audit trail. He said he didn't know. He discussed might consider bringing in help from outside – FBI, FDIC, IRS, GAO. DW warned against one (OMP?) Said he would think about it, "not a word about it" at some point, whether in their presence or afterwards, he said he might/would call his FBI contact for advice on how to handle investigation internally.

Bill says he didn't know how to handle this. Thinks might call FBI

→ Also discussed how best to get info which will show cause and possibly criminal conduct – better to interview while they were still there than after gone

~~Acknowledge lax tool of access~~
Discussed they may have logical explanation for cks even tho procedure violated ~~rule~~ basic rule of control of cash. Discussed personal bank accounts may show cash irregularities. Discussed evidence of kickback scheme would not show [illegible]

may have been in [illegible] business w/ [illegible]

Discussed concern re maintaining integrity of records as they then existed, avoiding either creation or destruction — FSLIC takeover analogy

Agreed CC would return to work while WK came up with plan to investigate

At some point HT said he thought it would be a great story to replace old staff with new staff who could raise money. We said you should see if you have cause given their tenure and relations.

HT or DW or Hum mtg or (4) stressed the $ charters looked to be (CC?) or were believed to be too expensive. (At some point someone mentioned the public complaint (by the incoming president?) of the WH Cave dinner.)

- press overpayment

CC mentioned no contract. CC or HT talk re business follow Counsel

[When management - DW - brings to Counsel's attention allegation of wrongdoing we cannot ignore, can't put back in bottle -

circumstantial evidence:

1. no bid
2. no contract
3. pressure source from Bush Adm
4. $'s to cash - w/o control (vol. ?)
5. kickback
6. Complaints re high costs
7. large & flowery thank-yous
8. lifestyle

(CCE929)
F 000036

C6203

(10) At why my agents I joined
Bill was asking for help but I agreed to
drifting into whether they would investigate or whether prosecute
~~so~~ whereas I, more than he, was trying to
direct discussion to how not to jeopardize any future
crim invn by what we do

CGE 000933

(per orig notes)

C6211

WK
(15) Returned call to Wade from my office.
Allegation of kickback apparent
team available
strong consideration of interviewing EEs before get attys
VF - don't like coming in like gangbusters,
escalation
RW - low key intro
outside auditors available
admin lev?
take possession of documents as evidence
bad auditors
Q - use FBI w/ perf RV team
- no - not higher profile
if clean, looks bad - not ben unusual
Outside auditors draw prof.
ordinary course of business
FBI come in if needed
Wade - heavy - auditors not testify as to what told
couldn't coerce info
Perf RV by Director
financial audit because handle cash
if discover kickbacks or skimming, could bring in
FBI then
we noted there could be reasonable explanation

CGE 000941

C6213

Wh. asked re CC
credible, bright,
but could be plausible explanation
puzzled by large cash & routine documentation

What's fed crime?
use of gov't position for fraud
mail fraud
Announced Decision
outside auditors w/ familiarity to ~~chop~~ shift
WK got phone #s & would try to give report ~~for~~
~~by~~ by mid-day

CGE 000943

C6215

per WK 6/2

(23) (A) no reconciliations
No bank statement

(B) Later report non-cash dev have backup
unusual relation w/ Ultrabu
- tone of interviews chg'd when asked about
When lit contacts @ Ultrabu don't lit mon day
no K
unorganized on ent. basis
don't can prove not there $
No RFP (bad)
odds small - there will be smoking gun -
will broaded audit,
Internal controls, disbu
confirm unusual relationship w/ Ultrabu

CGE 000945

C6217

per WK 1/2

(C) 3:30

Larry PT? Immyer?

Petty cash process (envelope)

1500-2500 do replenishment

decrease bal. by expenditures

17 dis to cash

receipts not there

Dave admits weak documentation

7 of 17 – $2M/$5M discrepancy

all subcontracts thru Ultra

no internal controls

cash distributed by Dale A. Wright

---

need more time

still cooperative

CGE 000947

C6219

(2-6) WK & PT call YF

Eller pre-emptive negative story

When bring in FBI? After talk to Les? When auditors tell or after termination?

Means of carry - need for report to give FBI

Rec WK 6/

FBI wrote

given status report to FBI (Wade & Carl)

WK looks suspicious

FBI - fact that private funds not a problem, can establish mail fraud

CGF 000949

06223

per WK 6/2

(33)

avg balance
no $ on govt books
Ultram always booking agent
company actual v billed
spot chks
Findings:
poor quality of records
no system, incomplete
no controls
~~may~~ could not produce financial reports
no contract
$6M/mo rule of thumb
petty cash notebook w locked cabinet
1/92 to present
7/17 not fit – Billy signed
10/92 $2M/$5M – $2800 out of desk
4/92 $3M – no entry
4/92 $2500 – " "
2/92 $3000 – " "
3/91 3 chks – pp missing from book
Avg balance
timing theory – tied into campaign
Nunberg Air Force 1
5-4 no delay on disbursement

[redacted]

C6225

Chks written to 3d parties w/o invoice

theory – possibility of Ultratec sending bills for trips not taken

"oral history" by Dale –

don't know how to support 2 pending trips w/o them

* when bill is pd by press, transaction is deleted from computer

no boundary controls

PT – public records search

TWA – Volume of business – Ultratec

not furnished, have to have them tomorrow

Put in systems on going forward basis

All chks handled by Gary or Polly –

possible – never deposit

FBI run traps, Off of Public Integrity of DOJ

Going to produce report, FBI will assist

Per WK 6/6

(36) Monday

DW, JOC, PT, Lam, Miller, WK

accts: Look @ personal bank acct

~~Contact~~

no time to go back before 1/92

no financial accountability

all dement U Health

no K

* New ck

1/93 $2500 w/o doc

building in need of repairs

contract could get report done noon Wed

$18M mortgage

WK - is it worthwhile to conduct mtg

C6231

(38)

WK TCW FBI - re termination

WK CFW DW - FBI doesn't want you to terminate - going ahead

F meets WK in hall

CGE 000961

06235

7

2 possible constructions:

A) If was SGE who violated ethics rules (criminal?)

or promoting his Company

at least in getting goodwill (– by promoting process by which there would be competitive bidding?)

B) CC trying to get business as expert for Worldwide

Q – Corr pp for Martin memo

Issues:

Wattkin counsel debriefing Ws interviewed

possession of documents

Who responsible to GAO when it concerns our office possibly?

CGE 000965

00234

Possible inquiries:

Resolution re inquiry in House Judiciary

GAO www - scope?

DOJ referral to public integrity section?

Tort claim for? slander

Need for coordinating litigation

knowledge of documents (instrumentality)

Analysis of legal issues and possible claims

awareness of any inconsistencies

formulate response to doc request

CGE 000966

C6237

7/8 DW 9b

tape?

choice between 2-4 who serve

90% administrators would make same decision

(Administrators, not lawyers [students] should evaluate action

Call from students strongly disagreement with exam

conclusion

CGF 000967

FBI numerous interviews

Refused to provide "guidance"

Q - offer to send someone from field office

Apple & Foran:

WK offers 3 options 1) fire 2) recall & send home

3) send ½ home & have sent to do audit

they claim refused to give advice but if any prosecution wanted they could investigate

Wade & Carl

still asking for guidance

Foster - "Quick action was necessary as they feared the matter would become public"

Q - was this in context of there being authority possibilities including undercover

& J said they already ~~[illegible]~~ supply information ~~[illegible]~~ supply ~~[illegible]~~ wrongdoing was up?

Q - and J began to have found in person? May have been in context of concern they would take to press ~~[illegible]~~ if we investigated & run opportunity for getting to truth of records.

★ We entrusted to Wade - No!! They asked if they could

interview

★ Kennedy & Foster saw were there only approved to be prosecution

Wrong - Kennedy not present

Foster said we would have peer review by outside auditors

Wrong - this was our current strong consideration

[redacted]

F 000075 IFGE 963

"my concern is Fraud, not the wrongdoing based"

Some discussion re agents Rose wing, then I called
Wrong –
this was in the call

in a subsequent call to Wade, Fritz said
he did not ask for agents to be involved

Wrong – Kennedy returned his call to me
I got on ~~off~~ line
we explained presence ——

5/21

10 min @ outset
i don't recall anyone talking besides Geo

I didn't understand the point

000969

96

1st discussion - attempt to reconstruct
go to see re-NO, entire case has virtually possibly
Q - when will HC analysis be finished

~~To the effect what's going on w the TVL off thing~~
~~Are you working off it~~

DK whether brought up segment or wrongdoing
or both | or she brought up segment and brought up wrongdoing | or she brought up guilt trips and brought up 2 segments wrongdoing | segment wrongdoing |
What's going on? Are you on top of it?
Trying to determine if there is actual wrongdoing
Assigned to WK
~~guilt unpleasant (worry and)~~
guilt frustration - I supposed to just be headed out yesterday
(prob made me mad at auditors and frustrated no auditors
Q did HC say anything?
2d conv
H Case?
What's going on
will use outside auditors - let's see what's there
guilt frustration w/ segment diff
I wanted - unidentified
(thought more of a combination of
segment concerns, HC resolution problems
guilt frustration, prob aggravated by
spring

CGE 000971

C6273

2 conversations w/ HRC on Thurs

1st after late lunch
go to see her re med malpractice issue
- could be on viability of entrepreneur liability
(was conducting analysis of proposed reforms)

Q - how tvl office come up?
Eg, do you know anything re any problems w/ tvl office
or ever heard something about " " " "

told her had some (not?) info, assigned to WK

Q - anyone else present
don't recall
when SS in hall & door open I go in
sometimes other person present, sometimes not

CGE 001003

Monday

11 Tuesday
131-234

12 Wednesday
132-233

13 Thursday
133-232

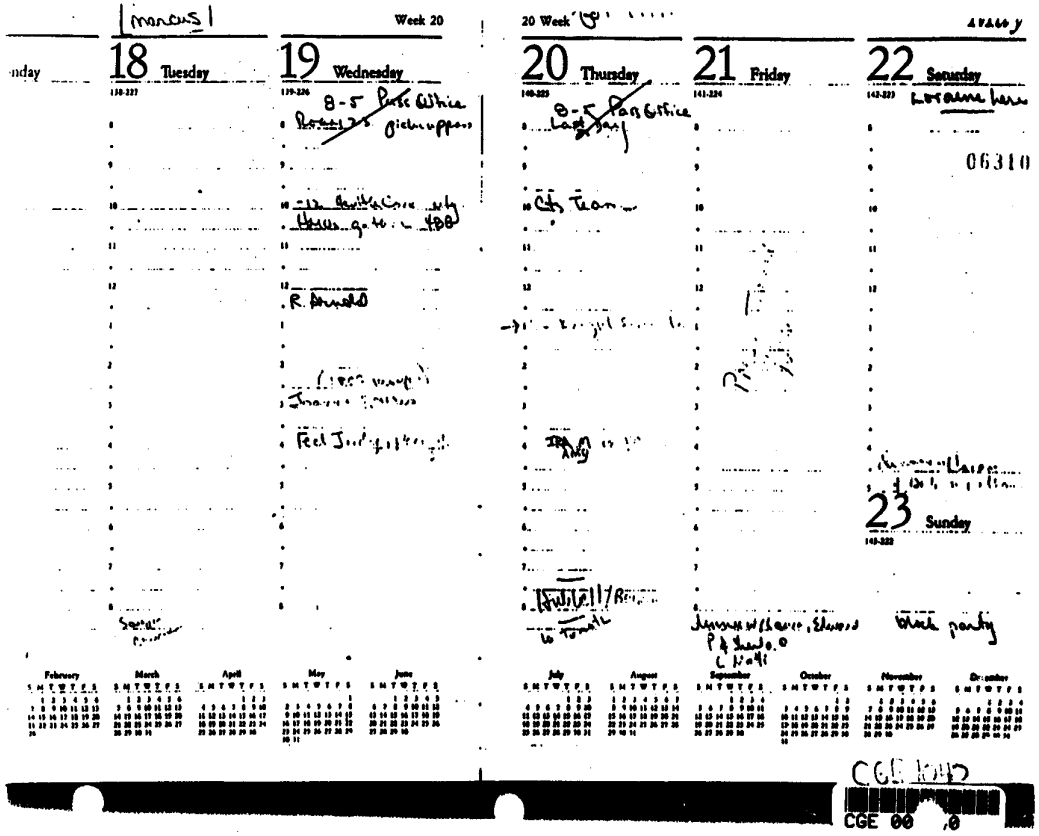
14 Friday
134-231

15 Saturday
135-230

06309

16 Sunday
136-229

February | March | April | May | June | July | August | September | October | November | December


Week 20
18 Tuesday
19 Wednesday
20 Thursday
21 Friday
22 Saturday
23 Sunday
06310
CGE 00 ,0

May

Week 21

4 Monday	25 Tuesday	26 Wednesday	27 Thursday	28 Friday	29 Saturday
Day C 144-221	145-220	146-219	147-218	148-217	149-216
	McLarty / TVL	cancelled Maggie/Gary		Laura & friends	
					30 Sunday
					150-215

CGE 1641

F 00014

r 000152
(CGE 1045)

Privileged – in anticipation of litigation

Opponents theories (false but will try to concoct fact issue

1. Plot to fire employees so could operate office in a fashion to allow HT or TRM to profit directly
(or indirectly thru good will)

A. Violation stems from him being alleged SGE

1. Could become one for unusual Rahm assignment to improve image, by expanding image to TVL office fact
a. endorsement by expansion Rahm, DW or other
b. ratification?
certainly not directed, approved or controlled + did not assume responsibility for coordinating the Admin activities – tho what role did he have in design replacement?

~~B. Aiding and abetting violation~~?

2. acting as agent for TRM or Mentors to get business – § 205

3. participating personally and substantially in a particular matter that has a direct and predictable effect on his financial interest – § 208

B. Aiding and abetting

Used to be 8½ x 14

Q7 Yes – Volunteer – independent contractor

Q7 No – they were not in the business

CGE 001046

2. Wrongful assertions of motive / attempt to use public office for private gain.

06313

(CGE 1047) F 000154
363-3020
Rowland Pl

—Coordination—

BWN
? respond to future

at 34th - becomes Rmo @ Pntz
Rowland only to Pt
Ed on left
WA pocket
3321

defend | my must decision
thereby defend | HRC role whatever is
was in fact or might have been
misperceived to be

Bob Bennett

A) ~~Harry~~ Daniel memo —
prerogatives

John Culver, Grant P

Bill Taylor, Zuckerman (Crew

Q-arrangement of HT

Offense strategy

Hill
GAO

Avoid forcing DOJ

BWN Guidance

CGE 001048

Privileged
in Prep for Litigation

1. Authority to hire
   independent contractor
   procurement
   SGE

2. Reporting

3. Internal ethics
   - collateral decisions, eg PIC resignation timing

4. Privileges
   A. Pre release; waiver
   B. Post-release

5. Communication by joint defense
   - application to Bernie seeking for WH

6. Witnesses by virtue of participation in management review

* 7 Personnel decisions

8 Attendance at WH interviews by FBI

9 Accumulation of add'l evidence
   eg HT tape
   News is the office news file

10 Offense
   Hill strategy
   '88 invn
   request to Archives

11 Communication of top 2

12 Overton

13. Does everyone who edited report have a witness
   - evidence of drafts

14. Difficulty of operating prep w/ 3-4 WS in office

5/11 Berman/DW HT

PRIV

CGE 001049

5/12 HT-family

245 DW, HT, CC

Sole source — ultimate RN, possible streamline

recent inquiry - no bail — no assurance to audit

'72M clear - no backup

possible kickback

internal audit — none

ogt WK - summoned

4p WK, CC - later HT? DW?

follow some pattern

CC — aware of some cks -

some orig files, Q-back, tabbed

endorsed by signatory, even-outs — NO control

bookkeeper

wife Atty, recent f accept-trans-ag

DW - subject to trans @ wk - W

2 as - signed: implore assume?

- obligation of complaint? cannot be ignored or covering - large f

Adams - how determine if substance in absence of procedures handbk

might have legal approach, concern re safety of records

DW pass to assay quickly on return

new hand, CC good part, W/Adams on other

HT - wouldn't touch

put on WK lap

Note
inquiry interrupted
large amt cks to cash
w/o control
no apparent backup
follow some pattern
complaints & file cards
signature of bkp cards
large $ flowing thru
bookkeeper

Then

CC w/ WK status - seeking advice.

CC scared

WK - 2 agents; Wade/Cook

10 min interview

asking advice re proceed, suggestion assume no problem

Concern not screw up better possible more

integrity of documents; recall to return

prob. alerted - Q whether st or fed

will go back & read of suspicions, which have can inform CC

Watson address re avail of outs auditors

pay for scheduled for Mon - could run up

Mack - immediate appr

back to WK gg -

info complete

could be easy - kickback?

Possible auditors -

go back, we will consider

HT - backback weak

WH + I, he agrees

discussion w/ wife

team ready - but plausible cupl possible - too big people of wrong, prayer and counsel

prayer audition, w/ attorney, & already to chg.

CC credibility

reason

DW

730, chg locks, be back Sunday, deal w/ them.

Fri

730 and mtg. - interim reports

Richie

~~Jeff/Mark/Richie~~

1st rept back records

2d

Eller due

don't get behind story

5pm meeting

discuss w/ Dec & DD

get measure & middle

PT - unless [illegible] permanent!

more DW call

DW - discuss w/ Eller whether has other

3d report

7/17 ck

7/5 dep exp

dept. asking to report

Sat

1. can't audit
2. 7/17
3. cash from drawer (10/92 ck)
4. cash bal. flux - long & ?
5. bill of estimating adds up
6. all in head - must keep whole debating

Call WK

Update Mack

Mon & Tues

WK lengthy debrief

DW action on Wed

will show release

Wed.

release / ref. to FBI

later anyone

CGE 001050

7/8 CGE 001051
Bath, Cliff

CC

203, ~~205~~ – receiving comp for representation for fed sc
or sharing fees

205 – acting as agent for 3d party before fed agency
(w/ intent to influence gov't action)

H.T

Q – employment status – SGE
an "employee" then to "special"
(A) – "appointed"
(B) – fed function under authority of law
(C) – supervised

A – avoided formal appointment cannot evade "appointed"
cannot evade
Q – does this require conscious evasion
of appointment

18 USC 202 defines SGE as "retained ... to
perform formal duties"
– utilized

B – if person advises Pres. daily on informal basis
Goes beyond formal role when calls mtg
& assumes responsibility for that matter

CGE 001052

Rahm asked for advice re staying.

indicia

1. desk
2. badge
3. solicited frequently
4. sought by one officials who has pen relat

If an SGE for a limited assignment not including the office

205 - representations

limited if SGE to
A) can rep on matter you working on eg staying - involving specific parties
but not prevent from rep after agency on other matters

B) 60 days after - any action after agen

208 - official participating in matter in you have a financial interest -
A) outsider giving advice

B) if not a direct and predictable effect

CGE 001055

Penny Sample

– 208

COMMON

Midwest Express

→ disadvantage advance $52M

CGE 001056

Memorandum

68323

To The Attorney General

Date 5/28/93

From Director, FBI

Subject: AN INTERNAL REVIEW OF FBI CONTACTS WITH THE WHITE HOUSE AS RELATED TO THE INVESTIGATION OF THE WHITE HOUSE TRAVEL OFFICE

ACTION MEMORANDUM

Please find enclosed a comprehensive report of the Federal Bureau of Investigation's (FBI) internal review of its contacts with the White House as related to the investigation of the White House Travel Office.

This internal review was directed by Associate Deputy Director - Administration Weldon L. Kennedy.

The FBI's review determined there is no specific policy that provides guidance in what was apparently a unique situation, i.e., the White House initiating contact with the FBI to ask for guidance or assistance in a potentially criminal matter. However, I believe the FBI acted correctly. FBI personnel declined to offer "guidance", restricted their interest to the parameters of a possible criminal investigation, and did not commit to conducting a criminal investigation until after consultation with appropriate personnel within the FBI and the Department of Justice.

Existing FBI policies primarily involve contacts by the White House relating to ongoing investigations and the FBI's requirement to keep the Department apprised of investigative matters.

The FBI is taking steps to assure that any direct contact by White House personnel, related to ongoing or potential criminal investigations will be promptly reported to FBIHQ. In addition, the FBI Legal Counsel will work closely with DOJ in the development of procedures and policies involving White House liaison.

Enclosure

CGE 001057

05324

The Attorney General 5/28/93

Director, FBI

AN INTERNAL REVIEW OF FBI CONTACTS
WITH THE WHITE HOUSE AS RELATED
TO THE INVESTIGATION OF THE WHITE HOUSE
TRAVEL OFFICE

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Enclosure

CGE 001058

00325

AN INTERNAL REVIEW OF FBI CONTACTS WITH THE WHITE HOUSE AS RELATED TO THE INVESTIGATION OF THE WHITE HOUSE TRAVEL OFFICE

The internal review of the FBI's contacts with the White House as related to the Investigation of the White House Travel Office is provided in three parts; 1) Existing FBI policy relating to such contacts; 2) A chronology of FBI contacts with the White House May 12-24, 1993; 3) Observations relating to FBI adherence to current polices and procedures regarding such contacts. This investigation was conducted under the direction of Associate Deputy Director-Administration Weldon L. Kennedy by Inspector-in-place Ivian C. Smith.

EXISTING FBI POLICY RELATING TO CONTACTS WITH THE WHITE HOUSE

The Legal Counsel Division, under the direction of Assistant Director Joseph R. Davis, conducted an extensive review of in excess of seventy volumes of files relating to contacts with the White House.

Several Federal statutes, not necessarily inclusive, were located that may be relevant. The citations, and brief description of two are as follows:

- Title 28, C.F.R., Section 0.85a (Criminal Justice

CGE 001059

policy coordination--requires that the FBI report to the Attorney General on all of its activities.

- Title 28, United States Code (U.S.C.), Section 535(b) (any information, allegation, or complaint received in a department or agency of the executive branch relating to criminal violations involving Government officers or employees must be expeditiously reported to the Attorney General by the head of the department or agency).

A comprehensive review of available files failed to reveal a specific policy or guidance that addressed a situation where the White House made direct contact with the FBI for purposes of obtaining guidance, or a request to conduct investigation, in a criminal matter. The information found in this review provides guidance for FBI responses to requests for information for ongoing investigation, not a criminal complaint. For example, in a memorandum of 7/20/72 from D.J. Dalbey to Mr. Felt entitled "Dissemination of Information The White House, Criminal Cases" it was noted ".....from a strict legal standpoint, there is no specific authority for it. The authority and the obligation of the FBI are to keep the Attorney General fully informed...."

CGE 001060

00327

A guiding principle appeared to have been established in a speech given by Attorney General Griffin B. Bell before Department of Justice lawyers on September 6, 1978. As related to insulating Assistant Attorneys General from influences that could affect decisions in criminal cases, Attorney General Bell stated in pertinent part "Thus, all communications about particular cases....(by) members of the White House staff should be referred to my office or the offices of the Deputy or Associate Attorney General." On October 18, 1979, Attorney General Benjamin R. Civiletti noted the principles announced by Attorney General Bell had "worked well" and he intended to continue them.

On February 10, 1981, Attorney General William French Smith, in a memorandum entitled "Outside Contacts" reaffirmed the previous principles and procedures, all of which concerned pending cases, not criminal complaints.

Within the FBI itself, again there is no reference to procedures relating to receiving a criminal complaint from the White House, or a request for "guidance" in a potentially criminal matter. For instance, in a memorandum of 7/3/84 from T.T. O'Connor to Mr. Revell, entitled "Criminal and Foreign Counterintelligence Investigations Involving Presidential Appointment and White House Staff and Access Personnel" the issue related to procedures to notify appropriate personnel at the

White House of ongoing investigations involving individuals with White House access, etc.

Finally, by letter of May 24, 1993, to Senator Joseph R. Biden, Jr. from Deputy Attorney General - Designate Philip B. Heymann, the emphasis is "...on a pending Department of Justice investigation or criminal or civil case....."

Beyond the files themselves, no relevant policy or procedures were located in Attorney General orders, DOJ orders, Executive Orders, the Manual of Administrative and Operational Procedures (MAOP) or the Manual of Investigative Operations and Guidelines (MIOG).

A CHRONOLOGY OF THE WHITE HOUSE CONTACTS WITH THE FBI

Late on Wednesday, May 12, 1993 Unit Chief James A Bourke, Criminal Investigative Division (CID), received a telephone call from William Held Kennedy III, Associate Counsel to the President. Bourke and Kennedy have had frequent contact due to Bourke's position as Unit Chief of the Special Inquiry Unit responsible for White House background investigations and Kennedy's position as it involves White House security. In that telephone conversation, Kennedy advised he was seeking guidance and possibly, assistance in a confidential matter that may involve an embezzlement of funds. Bourke advised Kennedy he

CGE 001062

would determine the appropriate unit with which Kennedy should confer and would recontact Kennedy.

Early on Thursday, May 13, Bourke discussed the matter with Unit Chief Richard B. Wade, Governmental Fund Unit. Based on the virtually non-existent details then available, no determination could be made as to the appropriate unit to which to refer the matter or who should recontact Kennedy. Bourke recontacted Kennedy himself requesting further details, but Kennedy remained vague as to details, and commented the matter had to be handled immediately or he would refer the matter to another agency, specifically mentioning the Internal Revenue Service.

Shortly thereafter, Kennedy was telephonically contacted by Unit Chief Howard B. Apple, Interstate Theft/Government Reservation Crimes Unit. Apple was advised by Kennedy that he wished to speak with someone personally rather than over the telephone. When advised that an agent from the Washington Metropolitan Field Office would be dispatched to meet with him, Kennedy insisted that an FBI Headquarters manager meet with him, noting that the matter to be discussed was both extremely sensitive and being directed by the "highest level" at the White House.

CGE 001063

After consultation with Deputy Assistant Director (DAD) Danny O. Coulson, Unit Chiefs Apple and Patrick J. Foran, Safe Streets/Policy and Planning Unit, were designated to confer with Kennedy. DAD Coulson also advised Associate Deputy Director W. Douglas Gow of the matter, and forwarded a "note" to Assistant Director (AD) Larry A. Potts, Criminal Investigative Division (CID).

Kennedy initially advised Unit Chiefs Apple and Foran that the matter to be discussed was being directed at the "highest level" at the White House and immediate action was required. He requested guidance as to how to best to handle the matter.

He proceeded to provide details of the operations of the White House Travel and Telegraph Office. He discussed such issues as employees living life styles beyond their salaries, checks written from the office's bank account to "cash" in large amounts; how a new female employee (not initially identified) was "shunned" by the original staff, and lack of competitive bidding.

Kennedy presented three options available to the White House Counsel: 1) fire the seven employees: 2) send them home, seal the office and conduct an audit: 3) send half home, and use the remainder to assist in the audit.

CGE 001064

00331

Unit Chiefs Apple and Foran refused to provide Kennedy with advice in this regard but did advise him that if sufficient predication existed, the FBI could conduct a criminal investigation. Kennedy was also advised that an FBI representive would be in contact with him later in the day.

The matter was then discussed with DAD Coulson, who advised DAD Fred B. Verinder of the matter. Unit Chief Richard B. Wade, Governmental Fraud Unit, was briefed and in the early afternoon of May 13th, Unit Chief Wade and Supervisory Special Agent (SSA) Thomas L. Carl met with Kennedy in Kennedy's office. Kennedy explained the functions of the White House Travel Office, outlined the issues he had received from Catherine Cornelius, a recent employee of the Travel Office, and asked for guidance, noting that the current Administration lacked experience in handling this type of situation. He was advised by Unit Chief Wade that in the absence of more specific information it would be difficult to offer such advice.

Kennedy introduced Vincent W. Foster, Deputy Counsel to the President, who advised of the White House concern for the situation stating quick action was necessary, as they feared the matter would become public knowledge.

Kennedy and Foster were advised that the FBI could conduct criminal investigations only with sufficient predication

CGE 001065

that a violation of federal law within the FBI's jurisdiction had occurred, and that, to that point, insufficient information existed.

Kennedy and Foster then introduced Unit Chief Wade and SSA Carl to Ms. Cornelius, who stated her suspicions were aroused due to the alleged life styles of the employees of the Travel Office. She also recounted other concerns, i.e., no competitive bids, checks written to cash, and of the head of the Travel Office, Billy Dale, allegedly demanding a five percent "kickback" from a Miami based airline.

Kennedy and Foster were advised there appeared to be sufficient predication that would allow the FBI to conduct an investigation, however, a final determination would be made once the matter was discussed with the Department of Justice. Foster also mentioned that he intended to have a "performance review" conducted by outside auditors. Some discussion was held about FBI agents observing the auditor's review, however, in a subsequent call to Unit Chief Wade, Foster stated he did not wish for agents to be involved.

Upon returning to FBIHQ, Unit Chief Wade and SSA Carl briefed Section Chief Thomas T. Kubic and provided him with an electronic message outlining the situation. That message was immediately forwarded to DAD Verinder and AD Potts, describing

CGE 001066

03333

the situation, and informing them that an Assistant Special Agent in Charge (ASAC) at Washington Metropolitan Field Office (WMFO) had also been briefed.

On Friday, May 14, Section Chief Kubic discussed the matter with Jerry McDowell, Chief of the Fraud Section, Department of Justice (DOJ). McDowell, after consulting with Jack Keeny, Deputy Assistant Attorney General (DAAG), Criminal Division, DOJ, advised that DOJ's Public Integrity Section should be briefed regarding the matter. Section Chief Kubic directed Unit Chief Wade and SSA Carl to brief Joseph Gangloff, Acting Chief of the Public Integrity Section at DOJ. That afternoon SSA Carl briefed Gangloff who concluded, based on information at the time, that there was indeed sufficient prediction for the FBI to initiate a criminal investigation. Gangloff provided SSA Carl with the names and telephone numbers of two departmental attorneys if need arose to contact a DOJ attorney over the weekend. Section Chief Kubic was provided with an update, and in turn, promptly advised DAD Verinder.

Kennedy contacted Unit Chief Carl on two occasions to provide a status of the review being conducted by auditors.

On Saturday, May 15, Kennedy contacted SSA Carl and requested a meeting to provide Carl with a further update. Carl, and a WMFO Squad supervisor met with Kennedy and another White

CGE 001067

House employee, Patsy Thompson, in the White House. Kennedy, Thompson, and later, auditors from Peat Marwick, provided a briefing of their review of accounts in the travel office. Essentially, that review had determined that the records of the travel office did not meet accepted standards ensuring adequate accountability for funds, and that business was conducted in an atmosphere that could lend itself to abuse.

On Wednesday, May 19, in response to a White House daily press briefing, and inquiries from the media, the FBI press office prepared the following statement:

"We understand that the results of the audit of the White House Travel Office will be referred to the FBI for our review."

This press release had been prepared by the FBI Press Office. The Director indicated his approval with the press release by initialing a copy of the press release that date.

That press release was forwarded by facsimile to both the DOJ Press Office and the White House. It is standard procedure to send copies of press releases to other agencies that are mentioned in FBI press releases-the White House included. No response was received from the DOJ or the White House.

On Thursday, May 20, SSA Carl telephonically contacted Kennedy to obtain a status report of the auditor's review of the

Travel Office accounts. Initially it was thought by Kennedy the report would be available that date; however, he subsequently advised it would not be available until Friday, May 21.

Also on May 20, Inspector-in-Charge John E. Collingwood electronically advised the Director, Deputy Director Clarke, ADD Gow, and AD Potts of the fact that the White House had advised the press that FBI agents had been to the White House regarding this matter. Inspector-in-Charge Collingwood also suggested language in a press response to provide guidance to continued press inquiries. That press response is as follows:

"At the request of the White House, the FBI has had preliminary contact with the White House and the auditors brought in to audit the White House Travel Office. We anticipate receiving the final report of the auditors soon and will analyze their findings and conduct appropriate investigation. Beyond that, we are not in a position to comment."

This May 20th press response had been approved by the Director (with slight modification from the original language offered by Inspector-in-Charge Collingwood) who initialed the hard copy of the electronic mail, and by electronic mail response the following morning. This press response was also sent to the DOJ Press Office and the White House. No response was received from either.

Later, on the afternoon of May 20, the press response was modified to read as follows:

"At the request of the White House, the FBI has had preliminary contact with the White House and the auditors brought in to audit the White House Travel Office. We anticipate receiving the final report of the auditors soon and will analyze their findings to determine the next steps in the investigation. Beyond that, we are not in a position to comment." (changes indicated by underlining)

This modified response was released without formal approval as is standard procedure, but copies were sent by facsimile to the DOJ Press Office and the White House. The modification was made to be more consistent with what was being stated. Inspector-in-Charge Collingwood discussed the matter with Carl Stern, Director of Public Affairs, DOJ, who stated he had no problem with the response.

Also on May 21, Inspector-in-Charge Collingwood, while out of the FBIHQ building, was advised that he had been summoned to the White House Press Office. He went directly there, and was advised by White House Director of Communications George Stephanopolous that he had called for him in order to confirm that the events being described by the White House Press Office

were accurate. Also at the meeting was White House Press Secretary Dee Dee Myers, White House staff member Dave Levy, and several others not known to Inspector-in-Charge Collingwood. The meeting lasted ten to fifteen minutes and essentially consisted of Stephanopolous, and others making statements, and the asking Inspector-in-Charge Collingwood to confirm their accuracy. Stephanopolous also asked if it could be stated the FBI had a basis to conduct a criminal investigation and was advised that it was accurate to make that statement.

On Friday, May 21, SSA Carl recontacted Kennedy regarding the status of the auditors' report, and late that afternoon, a copy was provided by Kennedy after it had been released to the press.

Upon returning to FBIHQ, Inspector-In-Charge Collingwood made another modification to the original press response as follows:

"At the request of the White House, the FBI has had preliminary contact with the White House and the auditor brought in to audit the White House Travel Office. The contact produced sufficient information for the FBI to determine that additional criminal investigation is warranted. We anticipate receiving the final report of the auditors soon and will analyze their findings to determine the next steps in the investigation. Beyond that,

we are not in a position to comment." (changes indicated by underlining)

That modification initiated by Inspector-in-Charge Collingwood was made with a two fold purpose: 1) to reflect the fact the FBI did have a predication for the criminal investigation; 2) to respond to press inquiries to the effect the FBI had been "duped" into supporting a White House decision to fire the staff of the Travel Office and to replace the staff with political appointees and a relative of the President be placed in charge. The modification was forwarded by facsimile to both the DOJ Press Office and the White House. The White House shortly thereafter released the FBI's press response to the media without consultation with the FBI.

Why would WH put out an FBI release.

On Monday, May 24, the WMFO Supervisor with responsibility for the matter telephonically contacted Kennedy and made arrangements to commence an investigation by interviewing travel office personnel on Wednesday, May 26, 1993.

OBSERVATIONS

In the absence of specific policy or procedures, the FBI reacted both correctly and responsibly to the contacts by the White House. For example, the FBI did promptly report the

contacts to personnel at the DOJ which is consistent with requirements of Title 28, C.F.R., Section 0.85a and Title 28, United States Code (U.S.C.), Section 535(b). DOJ was advised of the White House initiated contacts with the FBI on several separate occasions and personal FBI notification was made to three separate DOJ entities, i.e., the Fraud Section, Public Integrity Section, and the DOJ Press Office as well as to DAAG Keeny. Further, no commitment was made to the White House to conduct a criminal investigation until after consultation with DOJ and the FBI personnel, in contact with the White House, refused to provide "guidance" in the matter, restricting their involvement to the parameters of a potential criminal investigation.

This incident, based on the extensive research conducted, would appear to be unique. The FBI will notify employees that any direct contact by White House personnel, related to ongoing or potential criminal investigations, must be promptly reported to FBIHQ.

The travel office fiasco was a hard lesson for former agency head David Watkins.

For Clinton aide Watkins, politics is no kiddie ride

Man behind 'Travelgate' finds D.C. a far cry from Arkansas agency life

By Steven W. Colford

WASHINGTON—It has been a roller coaster summer for David Watkins, the former Little Rock, Ark., ad agency executive who is in charge of making sure the Clinton White House operates smoothly.

Just two weeks ago Mr. Watkins, assistant to the president for management and administration, reveled in his selection as the Arkansas Advertising Federation's Man of the Year.

But three days later, on July 2, the reverie ended abruptly when White House Chief of Staff Thomas McLarty III officially—and publicly—reprimanded the longtime Clinton friend for triggering what some call the "White House Travel Office Mess" and others call "Travelgate."

Mr. Watkins, one of four reprimanded in the affair, says he decided to fire the seven full-time employees of the White House travel office partly to fulfill the president's promise to trim staff by 25%.

On May 19, Mr. Watkins replaced the [illegible] Wood during the Clinton campaign and former client of Mr. Watkins' ad agency.

But an internal management review of the incident, conducted by Mr. McLarty, ripped Mr. Watkins for "not treating the travel office employees with more sensitivity" and for not being sufficiently "sensitive to the appearance of favoritism toward friends" of President Clinton.

It also accused Mr. Watkins of attempting to pressure an independent FBI investigation of possible criminal activity at the travel office. No criminal charges have been filed against anyone at the office.

In an interview with *Advertising Age*, Mr. Watkins said dismissing the travel office's employees for shoddy bookkeeping techniques was a "simple management decision."

Mr. Watkins acknowledged errors in the handling of the episode but maintained that his decision to dismiss the staffers was "justified."

"I understand that there were conclusions drawn in the [White House report] . . . that I disagreed with and that I told [President-

Watkins

(Continued from Page 3)
tial assistant John] Podesta and McLarty about," Mr. Watkins said last week.

"I still think it was a management decision, black and white, with some question about the appearance because World Wide had been the [travel] agency in the campaign, but I disagreed with those questions. World Wide was able to jump in quickly. It was approved," he said.

Mr McLarty's investigation also focused on Catherine Cornelius, a 25-year-old Clinton campaign staffer and distant Clinton cousin who was working in the travel office at the time She was accused of copying and smuggling documents out of the travel office to build a case against the seven dismissed employees, the report said. After the dismissals, she was put in charge of the office.

"I also told them [the report] was wrong about Cornelius, who had been assigned to the travel office," Mr. Watkins said. "That was always her intention and I was trying to help out—placing campaign workers is always done.

"But I was the point man, so I was reprimanded. Its impact? I don't know. Obviously, this is a fishbowl, and I think that . . . there were mistakes made—I agree that there was not ideal handling—but what had happened [before] justified firing the employees.

"We felt that what was being done by the White House travel office could best be done by an independent travel agency and that we could reduce the staff," Mr. Watkins said. "And we also were working under a directive from the president to reduce staff by Oct. 1 by 25%, so in my opinion it was an easy decision . . .

"But I think there was a [public relations] miscalculation because of the fact that the customers of the White House travel office—i.e., the press—were probably satisfied with the service."

"And in marketing or advertising, any time you have a satisfied customer and change the product or service, questions are going to arise as to why things are happening and what is the justification for what's being done and the rationale for it," he said.

On May 21, the White House and World Wide Travel agreed "that it would be desirable for World Wide to leave," Mr. McLarty's report said. American Express Co. is currently handling travel on an interim basis pending the award of a competitively bid contract.

But the travel office fiasco, however embarrassing for a new administration, will fade, Mr. Watkins believes, along with the other recent PR setbacks for the Clinton administration.

Mr. Watkins, 51, has learned the hard way that life in Little Rock and life in the "fishbowl" of the

nation's capital are very different.

The lesson appears to have sunk in deeply enough that the long-time Friend of Bill now says he does not plan to stay in the public sector. Before the media explosion that followed the travel office firings and his public reprimand, Mr. Watkins said his stay in Washington was open-ended.

"I don't plan to be working in the federal sector two years from now," Mr. Watkins said.

Mr. Watkins' advertising career began in 1969 as an assistant account exec at the Faulkner agency in Pine Bluff, Ark., servicing the Worthen Bank account.

Once the owner of Little Rock's Watkins & Associates, which he said was the second largest agency in Arkansas, Mr. Watkins acknowledged that the selling of President Clinton has been wanting.

"To use an advertising analogy, I think the president is unchanged, that the product is the same as ever but that we have not done a complete advertising job with him," Mr. Watkins said. "There have been some good 'ads' —good moments—but the whole campaign so far has not been very good."

Mr. Watkins said he hopes the hiring of veteran political insider David Gergen to take over the White House Office of Communications, as well as related personnel shifts within the Clinton administration, will rectify that shortcoming.

"Any time you have a satisfied customer and change the product or service, questions are going to arise as to why things are happening."
David Watkins

"We have had an agency review and are doing better," he joked. "Our creative strategy is a lot better, and we have a lot better creative team now."

Mr. Watkins said he foresaw some of the marketing problems that have afflicted the Clinton White House but opted not to volunteer advice to a president with plenty of other advisers.

"I like to think of myself as a team player, and most of all I was concerned about the product," he said. "It's easy to be critical, and one thing I always hated was people who took pot shots at my ads or ads of clients when they weren't directly involved in the process.

"And because I was not directly involved in the process, I didn't feel it was appropriate to criticize what was going on."

Mr. Watkins remains fiercely loyal to President Clinton, even if he does not share his boss' views on everything.

For example, restricting the deductibility of advertising as a business expenditure is a frequent topic of discussion at the Office of Management & Budget, where there is a never-ending quest to raise new dollars and reduce the deficit. Mr. Watkins is well aware of those discussions, not to mention the possibility that his boss someday might decide to support such restrictions on advertising.

Nevertheless, Mr. Watkins voices his own opinion on the matter.

"Given my history and background, how could I respond to that in any way other than to say that I don't believe that advertising should be devalued in any way?" he asked. "I know how difficult it is to make a profit in business these days, especially in a service industry like advertising."

Mr. Watkins said President Clinton "loves advertising" and showed a flair for the profession by writing his own campaign ads during gubernatorial races. Mr. Watkins produced ads for Mr. Clinton from 1982 to 1990.

"He was the best copywriter I ever had," Mr. Watkins said. "He tended to write long—a student of the (David) Ogilvy school—but a very good writer. We had a lot of fun back then." □

STATEMENT OF BERNARD W. NUSSBAUM
WHITE HOUSE COUNSEL

By directly contacting the FBI concerning how to deal with allegations of possible wrongdoing by employees of the White House Travel Office, the White House Counsel's office violated no policy, procedure or other requirement. There is presently no requirement that such contacts involving matters of internal White House security be made initially through the Office of the Attorney General. It has been the practice of the White House Security Officer -- in this instance, William Kennedy, Associate White House Counsel -- to be in direct contact with the FBI concerning internal White House security matters.

With respect to matters outside the White House, there is a policy that any initial contact with the Department of Justice concerning any pending Justice Department investigation or criminal or civil case will be made only by the White House Counsel's Office and only with the Attorney General, the Deputy Attorney General, or the Associate Attorney General. That policy has continually been reaffirmed by the White House.

The Attorney General has expressed the desire that in the future, even with regard to matters of internal White House security, to avoid any possible appearance of impropriety, the White House should inform the Office of the Attorney General, the Deputy Attorney General, or the Associate Attorney General before contacting the FBI. Since the White House shares the Attorney General's desire to avoid any such appearance of impropriety, it has assured the Attorney General that such contacts with the FBI in the future respecting

matters of internal White House security will be made initially through the Justice Department, as she requested.

There is nothing more important to this Administration than to preserve the integrity and the appearance of integrity of the Justice Department and the Federal Bureau of Investigation.

The Attorney General has reviewed this statement and is in full accord with it.

May 25, 1993

The White House

Office of the Press Secretary

For Immediate Release **May 25, 1993**

DATE: 5/19/93

TO: Vince Foster

FROM: DAVID WATKINS
Assistant to the President for
Management and Administration

Vince -
Statement we prepared
for Dee Dee Myers
to use - Any comments
[illegible]

Statement on White House Travel Office Changes

In conjunction with the National Performance Review chaired by the Vice President, we have begun, over the past two months, to conduct a performance review of the Executive Office of the President, beginning with the Office of Administration and moving through the White House and other EOP agencies.

As is often the case with such reviews, you sometimes find good news and you sometimes find bad news. In the first few months, we've found room for improvement -- you've heard about some of it already. We're moving towards replacing an outdated phone system and plan to make other technological improvements.

Last week, our review process led us to the White House Travel Office. In the Travel Office, we found a shop that manages money but does not practice sound accounting procedures. For years, this office has kept few records -- and those that have been kept have been kept poorly. A routine accounting review found many discrepancies. These initial findings have been, in my opinion, serious enough to expedite reorganization of the office. We have today replaced the staff.

The good news is that, as a result of our review, we are able today to put into place a new Travel Office, which will be more efficient, more accountable and will serve the White House, the Executive Office of the President and the press better. We will have a combination of outside services and a new, professional and accountable staff. We are confident that we will be able to provide better service, more efficiently.

Thank you, I will now take your questions.

Q & A

1. Are there allegations of criminal wrongdoing? Are your saying Billy is stealing money?

   An independent accounting firm found serious lack of financial controls with a number of discrepancies in financial records. These findings are serious enough to trigger an ongoing investigation. ~~As would be prudent in such a situation, we have asked the FBI to investigate.~~

2. Isn't this just an example of the White House using this office as a scapegoat in order to bring in the President's cousin and bring in Worldwide Travel from Arkansas?

   Absolutely not. Worldwide Travel, a large independent travel agency, which has had experience with us in the past, has been brought in only on a temporary basis, as we put together a bid process for a permanent agency. There are serious concerns and we need to fix the situation right away.

3. But what about the President's cousin?

   We are reorganizing the entire White House Administrative Office and bringing in an experienced financial manager to run it. He's not related to the President.

4. How much money are we talking about?

   We are reticent to fix an exact dollar amount because the review was limited in time and scope.

5. Is this the government's money?

   Nope, it's yours.

6. Is any government money involved?

   At this time, we have not found discrepancies with any government funds.

7. What the hell do you mean it's our money? How the hell do you have control over our money?

   This fund works as a mechanism for the White House to bill press organizations for costs associated with their travel on Presidential trips. Our review determined that this fund has been sloppily managed.

8. Why have you let this go one for four months?

   When we arrived on January 20, we began reviewing the White House and reorganizing it. As you might expect, we began

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with the policy offices, as they were most critical to the President's program. We reviewed the Office of Administration last month. And last week, we got to the White House Travel Office.

9. When will the review be finished? How long will it take you to find all the garbage in your own house?

Our entire review will be completed in the next few months as part of the National Performance Review. We've accelerated the review of all cash accounts.

10. Are there allegations of kickbacks?

We don't know.

11. Why did you have to do it so fast?

In the best case we found abysmal mismanagement. We felt it was our responsibility to correct it immediately.

12. Yeah, but why didn't you just fire the director? Why did you punish the whole office?

Most of the previous staff had been cross-trained and rotated responsibilities. They all were a part of the poor management and helped it to continue. We needed a new staff, with a control consciousness to replace them.

13. How many people did you fire?

All seven will leave the White House Travel Office.

14. How long had they worked there?

More than 10 years each.

15. Are you going to reimburse us for overpayments?

We've found that the fund has been mismanaged and we found discrepancies in the petty cash disbursements. We haven't found evidence that would lead to reimbursements. (Sorry.)

16. When did you become aware of this?

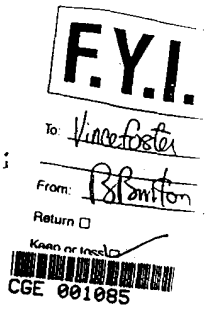
Last week we began our performance review of the office. We discovered the problems at that time.

17. Who is in charge of this operation?

Billy Dale.

18. Yeah but who is his boss?

He's under the Assistant to the President for Management & Administration, David Watkins. David is also the chair of the performance review of the White House, and supervised the review of this office.



LEVEL 1 - 2 OF 22 STORIES

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GANNETT NEWS SERVICE

July 9, 1993, Friday

SECTION: TONY SNOW

LENGTH: 896 words

HEADLINE: TRAVELGATE FAR FROM OVER

BYLINE: TONY SNOW; The Detroit News

DATELINE: WASHINGTON

KEYWORD: SNOW

BODY:

The White House tried to sweep away the Travelgate fiasco recently by issu a report that openly admitted error, named a few names, and promised to sin no more. Administration officials tried to minimize coverage of the document by releasing it on the eve of the Tokyo Summit, when reporters were more concerne about shopping in the Ginza district than hanky-panky in the travel office.

But despite this public-relations wizardry, Travelgate will not die - at least not yet. The affair has a kind of seedy soap-opera quality about it: Whi House officials, over-eager to seize control of the White House Travel Office (which handles flight arrangements for the press and for White House personnel fired the seven-member office staff, concocted allegations of mismanagement, then pressured the FBI and possibly the IRS into harassing victims of the putsch. In attempting to clean up the mess, the administration hired firms wit personal or political ties to the president for such key work as arranging travel, chartering flights and investigating the travel office.

The White House cannot credibly argue that the scandal represents the indiscretion of a few young staffers. The list of people involved reads like a Who's Who of the administration. It includes Chief of Staff Mack McLarty, Whit House Counsel Bernard Nussbaum, Associate Counsel William Kennedy III, senior adviser George Stephanopoulos, Communications Director Mark Gearan, personnel director David Watkins, media affairs chief Jeff Eller, Hollywood mogul Harry Thomason, dozens of lesser stars in the Clinton political universe - and First Lady Hillary Rodham Clinton. Normally, one must throw a state dinner to assem a group with this much political throw weight.

Republican leaders in Congress, dissatisfied with the administration's sha inquiry into the affair, have asked the president to answer a series of detai questions. They also plan to seek a full congressional investigation of Travelgate.

The key questions fall into several categories:

Conflicts of Interest: Harry Thomason promoted the interests of his airlin charter company while serving as a "special government employee" of the White House. Air Advantage, owned by another Friend of Bill, Penny Sample, got Whit House business while she served as a volunteer in the travel office. One or

l) of these Clinton pals may have violated criminal conflict-of-interest statutes by pushing deals that worked to their personal benefit.

Also, Darnell Martens, one of Thomason's partners in the charter company, somehow got into a position to ask Sample to volunteer for travel-office duty.

Cronyism: Travelgate exposes a spider-web of personal and professional entanglements within the administration. Three key players, Hillary Rodham Clinton, Deputy Attorney General Webster Hubbell and William Kennedy III, all worked for The Rose Law Firm in Little Rock. The firm has represented the Worthen Bank, which owns Worldwide Travel, the agency assigned to handle travel arrangments when the Travel Office Seven got the sack.

Mack McLarty and David Watkins both were longtime clients of Worldwide Trave and friends with the firm's owner, Betta Carney. McLarty and Carney also worked together at the Worthen Bank in the mid-1970s. Worldwide Travel, the Worthen Bank and Betta Carney all have contributed significant sums to Bill Clinton's war chest over the years, in his days as governor of Arkansas and later as presidential candidate.

On another track, the administration's "outside" auditor for the travel office was not an outsider at all. Larry Herman, an accountant for the venerabl firm of KPMG Peat Marwick, already was working with the office of the Vice President when asked to help investigate the travel office.

The First Lady: At several junctures in the affair, Chief of Staff McLarty sent carbon copies of memos to Mrs. Clinton. The administration's official review hints that the First Lady took an active, if distant, interest in the matter. This raises the issue of what, if any, limits the law places on Mrs. Clinton's administrative activities.

Corruption: Perhaps the most troubling questions involve William Kennedy III Kennedy clearly pressured the FBI into mounting, then announcing a probe of the travel office. He claimed that he would contact the IRS if the FBI didn't act immediately. And he told FBI officials the matter had aroused what the report calls "high levels of White House interest" - or levels of interest high at the White House.

Just to add to the intrigue, IRS agents pounced on the owner of UltrAir, the charter company that handled flights in the pre-Clinton era, soon after Travelgate became national news.

None of this necessarily adds up to anything, but it's fishy enough to merit a close look. After all, if a host of administration officials will bend the rules over something as trivial as the travel office, what might they do when something truly big is at stake?

The Nixon administration collapsed over something much smaller than a possible attempt to compromise the FBI and IRS by turning them into agents of political influence. The allegations in this scandal dwarf those of Watergate. ricans deserve a fair, probing investigation, not just to answer the questio the administration's report failed to answer - but also the ones it dared not ask.

THE WHITE HOUSE

WASHINGTON

JUNE 3, 1993

MEMORANDUM TO: DAVID WATKINS
ASSISTANT TO THE PRESIDENT FOR
MANAGEMENT AND ADMINISTRATION

FROM: VINCENT W. FOSTER
DEPUTY COUNSEL TO THE PRESIDENT

Confirming our telephone conversation ~~this~~ yesterday afternoon, Dayton Lehman, Deputy Assistant General Counsel of the Department of Transportation, advises that, based on his understanding of the method of operation from the newspaper accounts, the Travel Office may only utilize a carrier which has a license for public carriage under 14 CFR § 121. He mentioned this issue came up during the Presidential campaign as to a Clinton-Gore charter, and a letter (attached) was furnished to the FEC which, he understands, was then furnished to each of the campaigns. He first told me that a carrier under long term contract might qualify as a private carrier if they only transported the press corps but in a later conversation advised that they probably could not qualify since the press made a reimbursement for the carriage. (I do not know whether the carrier previously used had a public carriage license or not.) Lehman understands you or Bruce Overton may call if there are questions.

cc: Mark D. Gearan
Bruce L. Overton (w/attachment)
Cliff Sloan

U.S. Department of Transportation

Jeffrey Course

February 10, 1992

Chairman John Warren McGarry
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Mr. Chairman:

I am writing to you to provide information regarding the economic licensing and operational certification of air carriers by the Department of Transportation (DOT). It is important that each of the presidential candidates be fully aware of this information since they often charter large aircraft to travel to events and apparently some may be chartering aircraft from entities that hold no DOT economic authority and are not subject to the most stringent safety standards and oversight of the Federal Aviation Administration (FAA), a DOT operating agency. Since your commission is in regular contact with the various campaign staffs, we are seeking your assistance in disseminating this information.

Initially, before any U.S. aircraft operator can hold itself out to the public as providing scheduled or charter service, it must have DOT economic authority. In general, such authority is granted to large aircraft operators in the form of an air carrier certificate issued under section 401 of the Federal Aviation Act (49 U.S.C. App 1371). Before granting such authority, this Department must find a carrier to be "fit", which entails a determination that the carrier has adequate financial resources, a competent management team and a proper compliance disposition. This fitness requirement is a continuing one and we monitor certificated carriers to ensure their compliance. In addition, certificated carriers must meet certain DOT economic rules, such as liability insurance requirements (see, 14 CFR Part 205) and escrow requirements to protect charterers (see, 14 CFR §§207.17 and 208.40).

Likewise, the FAA requires that any U.S. aircraft operator holding itself out to the public as providing scheduled or charter service with large aircraft must comply with the safety-related certification and operating rules of Part 121 of the Federal Aviation Regulations (14 CFR Part 121). Those regulations are the most detailed and stringent of any of the FAA's aircraft operating rules and the FAA provides heightened safety surveillance of carriers subject to Part 121.

There are, however, operators of large, jet-powered passenger aircraft that are not required to have DOT economic authority or to comply with 14 CFR Part 121. Provided these aircraft operators do not conduct their transportation business in a manner constituting common carriage (*e.g.*, holding out to the general public in advertisements or telephone listings or through agents or brokers, or otherwise

acquiring a reputation for common carriage), they may transport persons or property for compensation or hire. These operators are regulated by Part 125 of the Federal Aviation Regulations (14 CFR Part 125); however, Part 125 does not contain safety standards as stringent as Part 121. Part 121 safety standards reflect the statutory requirement that all common carriers conduct their operations with the highest possible degree of safety.

We believe it is important that the presidential candidates be made aware of the different regulatory environments in which aircraft operators provide transportation by air and, to effectuate that goal, we request your assistance in providing those candidates likely to charter large aircraft with a copy of this letter. In addition, we request that the candidates advise my office and the FAA if any operator of a large aircraft or its agent solicits their air transportation business and the operator does not have DOT economic authority or an FAA Part 121 air carrier operating certificate.

If you have any questions or desire additional information, please contact Samuel Podberesky, our Assistant General Counsel for Aviation Enforcement and Proceedings, on (202) 366-9342. If you or any of the presidential candidates wish to ascertain whether a particular aircraft operator has DOT air carrier authority, you may contact Patricia Szrom, Chief of our Air Carrier Fitness Division, on (202) 366-9721.

Sincerely,

Arthur J. Rothkopf

THE WHITE HOUSE

WASHINGTON

June 11, 1993

MEMORANDUM FOR PERSONS INTERVIEWED IN TRAVEL OFFICE REVIEW

FROM: JOHN PODESTA
TODD STERN

SUBJECT: Documents

In connection with Mack McLarty's and Leon Panetta's management review of the White House Travel Office, we need to review any notes and documents that you may have relating in any way to the travel office or to the events and circumstances surrounding the recent dismissals of travel office employees.

Because we are trying to complete our review as promptly as possible, we ask that you bring these notes and documents to our office on Monday morning, June 14. We will review the materials and return them to you. Thanks for your cooperation.

cc: Cliff Sloan

THE WHITE HOUSE
WASHINGTON

May 22, 1993

NOTE TO: Vince Foster

FROM: Mack McLarty

The attached is for your information.

Rec'd 5/26/93

Common Cause

2030 M STREET, NW • WASHINGTON, D.C. 20036-3380 • PHONE: (202) 833-1200 • FAX: (202) 659-3716

EDWARD S. CABOT *Chairman* | FRED WERTHEIMER *President* | ARCHIBALD COX *Chairman Emeritus* | JOHN W. GARDNER *Founding Chairman*

① Mark G. Leon P
② Ray N Vince
③ file - Dx

The following is the text of a telegram sent on Tuesday, May 25, 1993 to U.S. Attorney General Janet Reno from Common Cause President Fred Wertheimer.

COMMON CAUSE IS DEEPLY CONCERNED ABOUT PUBLISHED REPORTS REGARDING THE CONTACTS THAT OCCURRED BETWEEN THE WHITE HOUSE AND THE FBI IN THE WHITE HOUSE TRAVEL OFFICE AFFAIR AND THE ROLE PLAYED BY THE FBI IN THIS MATTER. WE STRONGLY URGE THE JUSTICE DEPARTMENT TO CONDUCT AN INQUIRY INTO THIS MATTER AND TO TAKE ALL NECESSARY STEPS TO ENSURE THAT THERE IS NO POLITICIZATION OF THE FBI OR THE JUSTICE DEPARTMENT.

Leo
Vince
Desk

October 3, 1988

Mr. Charles A. Bowsher
Comptroller General of the United States
General Accounting Office
441 G Street, NW
Washington, D.C. 20548

Sir:

A conflict of interest exists in the White House transportation office and should be investigated.

1. Mr. Barnaby L. Brasseux has been employed in the transportation office for the past 5 or so years.

2. Mrs. Fran Brasseux is employed by Pan American World Airways, as Manager, Sales/Promotions, in the Washington, D.C. office.

3. During the period of Mr. Brasseuxs' employment, members of the White House transportation office staff, "token" members of the Office of Administration staff, Press Office staff and Counsel Office staff, have been "guests" of Pan American at sporting events at the Capitol Center, RFK Stadium and at fishing parties on the Chesapeake Bay.

4. For the past three and one half years, the White House press charters, have been offered directly to Pan American World Airways, without consulting with different airlines for a competative price. "Gifts" for the travelling press on oversea's trips are ordered by the White House transportation office, billed to Pan American World Airways, and then added to the price of the charter.

5. Mr. Brasseux has passed out Pan American World Airways "up-grading" chits to selected friends and senior staff members that might improve his position in the White House transportation office. These chits if passed out at all, should be passed out to everyone being booked on Pan American World Airways flights, not a select few people.

6. Mr. Brasseux used his and his wife's position to establish "frequent flyer" updating for Mr. Larry Speakes and Mr. Donald Regan prior to their leaving the White House.

I'm sure that this matter should be investigated and corrective action taken.

Sincerely,

A Concerned Citizen

CC: Jack Anderson
C/O The Washington Post
1150 15th Street, NW
Washington, D.C. 20071

THE WHITE HOUSE

WASHINGTON

December 29, 1988

Dear Mr. Fuller and Mr. Noble:

This letter will confirm our receipt of the letter from "A Concerned Citizen" to Charles A. Bowsher (Oct. 3, 1988) that you provided this office on December 8, 1988. We are in the process of reviewing the allegations contained therein and will take whatever further action is appropriate.

We appreciate your cooperation in bringing this matter to our attention.

Sincerely,

C. Dean McGrath, Jr.
Associate Counsel to the President

The travel office controversy isn't over

The much-heralded report on the White House internal investigation of the debacle over its travel office was released a week ago Friday — timed, conveniently enough, to coincide with the mass exodus from Washington for the Fourth of July holiday — and, as was to be expected, it amounts to not much more than a bit of breast beating and a gentle slap on the wrist for those involved.

The facts presented by the report provide a clear account of the machinations that ended in the summary dismissal — and public humiliation — of the seven long-time employees of the travel office. Take, for example, Catherine Cornelius. The president's cousin had coordinated commercial travel during the campaign, and she had her eye on the travel office from the beginning. During the transition, according to the report, she prepared two memos outlining her ideas for organizing press travel for the Clinton administration. After the inauguration, and once hired as a general White House assistant, she prepared yet a third memo, this time offering a detailed restructuring of the office that put her in charge. From January until April she pressed her case, and finally made it to the office — though not as director — on April 12.

Meanwhile, Clinton buddy Harry Thomason was hearing complaints from his pal (and partner in an aviation consulting firm) Darnell Martens about not being able to get the time of day, business-wise, from the White House travel office. Mr. Martens also let Mr. Thomason in on a rumor he'd heard about corruption in the office. Mr. Thomason passed this on to the president as well as to Assistant to the President for Management and Administration David Watkins — who passed it on to Miss Cornelius, now happily ensconced in the travel office, asking her to "keep her eyes and ears open" to any evidence of corruption there.

This she did, and with a vengeance. She sneaked around copying documents, and brought the copies home with her. She also eavesdropped on office conversations that led her to believe, as the report put it, "that the employees were living in a manner beyond the means of government employees."

At the same time, Harry Thomason was still conducting his own campaign to make the office more congenial to his friends in the travel business. And on May 12th, David Watkins arranged for a meeting between Mr. Thomason and Miss Cornelius, who reached an agreement that something was fishy in the travel office. Later that day, the two presented this consensus to Mr. Watkins, bringing along Mr. Thomason's partner Darnell Martens, who, according to the report, happened to be "in Washington at the time" and told his story of being rebuffed by the travel office's director. The meeting then expanded to include Deputy White House Counsel Vincent Foster and Associate White House Counsel William Kennedy — though Mr. Martens seems to have dropped out at that point. The counsels recommended an audit of the office; when Mr. Watkins declared such an audit beyond White House capability, the problem was given over to Mr. Kennedy.

He immediately called the FBI for "guidance" — and was still awaiting it next morning, when Mr. Foster pressed him for a solution to the problem. Mr. Kennedy then informed his FBI contact that if he couldn't come up with some guidance in "the next fifteen minutes," Mr. Kennedy might have to turn elsewhere — perhaps to the IRS — for help. No fewer than four FBI honchos met with Mr. Kennedy that day, and he told all of them that the case was of interest at "the highest levels at the White House." This was assuredly the truth, if Hillary Rodham Clinton is considered as being at the highest level of the White House; she questioned both Mr. Foster and Chief of Staff Thomas F. McLarty about the travel office problem that afternoon.

While Mr. Kennedy was still awaiting FBI guidance, Mr. Watkins had come up with his own plan: an audit by a non-government firm, KPMG Peat Marwick. The FBI, having been impressed by Mr. Kennedy with the urgency of the case, argued that its agents should accompany the Peat Marwick team; Mr. Thomason, Mr. Cornelius and Deputy Communications Director Jeff Eller — with whom, the report reveals, Miss Cornelius "had a personal relationship" — called for the immediate dismissal of all travel office employees; but Mr. McLarty decided to go with the "more cautious and low-key approach" of doing the audit before instituting an FBI investigation or firing anyone.

Three days later, on May 17, Peat Marwick submitted a report detailing "abysmal management," nonexistent accounting and billing procedures and unaccounted-for cash in the travel office. On May 19th, Mr. Watkins ordered all seven office employees to leave by the end of the day. He also provided press secretary Dee Dee Myers with talking points for the press that described the dismissals as the result of a routine review and noted that the White House had asked the FBI to investigate financial irregularities. Mr. Foster and Kennedy instructed Mr. Watkins to omit mention of the FBI from the press guidance, but Ms. Myers had already left the building. Someone else was able to locate her during the next three hours; by noon she had already let the FBI cat out of the bag.

The press, having gotten wind of Miss Cornelius's travel-office ambitions and Mr. Thomason's partnership with Darnell Martens, smelled a rat and questioned the bona fides of the FBI investigation. On May 21, Communications Director George Stephanopoulos, Chief White House Counsel Bernard Nussbaum, Mr. Foster and Mr. Kennedy were meeting with FBI officials and Congressional Relations director John Podesta wood "to clarify the facts and indicate what could properly be said about the investigation." Mr. Podesta wood assured the staffers that it would be accurate to say the FBI had determined there was enough evidence to warrant further investigation. He then went back to his office and "updated" his own press guidance accordingly. He faxed that guidance to the White House press office, which, unaware that it was forwarding information only, released it to the press.

On May 25th, the White House announced that the five travel office employees with no financial claims had had their status upgraded from "dismissed" to "paid administrative leave," where they remain as of this writing. The FBI investigation continues.

The report's analysis of its own findings is even less as revealing as the findings themselves. The former office employees, the report concludes, for one thing ought to have had "an opportunity to hear the reasons for their termination . . . and . . . to respond." A more humane approach was in order" in their treatment. The White House ought not to have been so "aggressive" as to have tarnished their reputations; worse yet, more, by the "inappropriate" disclosure of the FBI investigation.

As to the FBI's involvement in the case, William Kennedy's insinuations about high-level White House interest "risk creating the perception that the FBI is being improperly pressured." Calling the FBI's director into a White House communications meeting, moreover, and releasing his updated press guidance "was . . . improper and insensitive to the appearance . . . White House influence."

And the role of Harry Thomason and Catherine Cornelius? While "there is every reason to believe" the report asserts, "that these individuals saw their actions as being in the best interests of the White House and the President," and while "it is entirely plausible that Thomason was in no way motivated by the hope of financial gain," nevertheless, their involvement created "the appearance that personal interests" played a role in decisions about the travel office."

The whole imbroglio, in the view of Chief of Staff McLarty and Office of Management and Budget Director Leon Panetta, who conducted the investigation together, is nothing more than a matter of insensitivity to appearances and perceptions.

The Landmark Legal Foundation, for one, is not prepared to leave it at that. The Foundation, a non-profit public interest law firm, called on Attorney General Janet Reno weeks ago to institute a nonpartisan investigation conducted by an experienced prosecutor. Said the Foundation's Mark Levin, "An internal White House review by White House staffers, one of whom (Mr. McLarty) was directly involved in the decision making, does not constitute a proper investigation. Statements were not taken under oath, and documentation was not properly secured. In short, we still don't know if any laws were broken or regulations breached. And we won't until a real investigation is conducted."

The FBI recently informed the foundation that its request for documents in the case under the Freedom of Information Act will not be fulfilled for "a year or more." So the chance that an independent, non-official inquiry will be able to shed much additional light is low. Only the power of subpoena is going to disgorge the necessary documents and testimony. Republicans on Capitol Hill have been making exactly that point.

In the meantime, though we may have no evidence of criminal conduct, we can surely draw the obvious conclusions about the ethics involved. The actions of the White House counsel in this matter were as improper and high-handed as can be imagined. The White House Press Office acted with unforgivable irresponsibility. The behavior of the President's cousin, Catherine Cornelius, and his best friend, Harry Thomason, was as sleazy as sleazy can be. And the White House report on the incident is itself nothing but further evidence of an unwholesome preoccupation with appearances and an arrogant indifference to real malfeasance.

The Washington Times MONDAY, JULY 12, 1993

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Tomorrow is Cost of Government Day

You might want to mark a large red X on your calendar tomorrow. Americans for Tax Reform reports that July 13 is Cost of Government Day. That's the day on which the average American will have earned enough to pay off his share of all the obligations that federal, state and local government impose. Starting July 14, we're free people. Look at the bright side: That's almost six months of freedom per year.

Americans for Tax Reform computes Cost of Government Day by adding up all federal, state and local government expenditures, then adding federal regulatory costs, state workers' compensation costs and tort law costs. Those are areas where solid information on the burdens government imposes is available. But even Cost of Government Day does not include all costs. For example, costs associated with civil rights legislation, anti-trust laws or minimum wage. (How do you assess the cost to a young worker of not getting a job because businesses aren't creating jobs?) So the real date may be a bit later, but July 13 is pretty close and provides a benchmark for purposes of comparison year-to-year.

In fact, July 13 is as late as Cost of Government Day has fallen since 1977, as far back as Americans for Tax Reform has computed. In 1977, COGD was June 30. In 1982, after Ronald Reagan's first year in office (over the budget of which he had little influence), it was July 12. He backed it down to July 9 the following year and kept it in the June 29-July 3 range for the rest of his two terms. By 1991, though, kinder and gentler government had advanced COGD to July 11. Last year, it was July 12. And here we are, eagerly awaiting Mr. Clinton's investment program.

Tax Freedom Day was May 3 this year. But because of Washington's appetite for deficit spending, Spending Freedom Day wasn't until May 20 (a record). Cost of Government Day reminds us that taxing and borrowing aren't the only ways that government imposes burdens on people. Telling businesses and people, "Do this and do that, and pay for it yourself," also imposes costs.

Those costs, all in all, amount to 53 percent of the fruits of our labors this year. And who knows what's in store for next year from an administration that, it seems reasonable to conclude, absolutely never thinks about government this way?

NAFTA is no ticket to American prosperity

Stepnen Chapman's column "green bogeyman spooks NAFTA," July 8, is filled to the brim with blarney that would spook and perhaps crack up the "Green bogeyman" himself. "... it is not enough for NAFTA to eliminate irrational and wasteful trade barriers, boost economic growth, reduce consumer prices, raise living standards, foster political stability and reform in Mexico and diminish illegal immigration in the United States, to name just a few of the likely consequences," he writes. He goes on without any further explanation of this "blarney" to criticize federal judge Charles Richey for not exempting the NAFTA from the U.S. environmental laws. Apparently it is not enough that Congress exempts itself from laws on taxes and job discriminations that it imposes on the U.S. electorate, and also that the White House classifies lists of consultants that it uses to resolve NAFTA and trade disputes, many of whom have direct financial ties to foreign governments. Now Mr. Chapman also advocates that the Clinton administration exempt itself from environmental laws when concocting secret agreements and treaties, laws that prevent poisoning of our air, water and food chains. Whose country is this anyhow?

Regarding the "blarney" that NAFTA will "boost economic growth: For whom? Certainly not the United States, which is vulnerable to lose an additional 2-plus million manufacturing and related jobs if NAFTA is signed. Perhaps for Mexico, which has no wage or employee laws and whose workers in the manufacturing industries make a wage below living subsistence.

"Reduce consumer prices"? Ever heard of Reebok and the $150 sneaker selling on the U.S. market that cost under $4 to make in Malaysia?

"Foster political reform and stability in Mexico"? Really? How? When 30 families own 50 plus percent of all assets in Mexico and have already bought up all the major industries under the privatization act, when Mexico is ruled by a plutocracy that has been in power since 1929?

"Diminish illegal immigration"? What happens when cheap, mass-produced U.S. grain floods into rural Mexico on day one of the agreement and disrupts the entire rural Mexican economy? There are 13 million farmers who will be unable to make a living and will be forced to migrate from their farms. How many will illegally come to the United States?

ROGER R. ETHIER
Chairman, NAFTA Committee
United We Stand America
Alexandria

We welcome your opinions on any topic. Letters should be signed originals. Every letter will be considered for publication, but we prefer those of fewer than 250 words, typed double-spaced. All letters may be edited for clarity and length. Please include your name, address and daytime telephone number. Send your opinion to:

Letters to the Editor,
The Washington Times
3600 New York Ave. NE
Washington, D.C. 20002

Date: 05/19/93 Time: 13:43

Mismanagement

WASHINGTON (AP) The entire staff of the White House travel office was abruptly fired today and the FBI was called in to investigate allegations of ''shoddy accounting procedures'' and mismanagement.

President Clinton's cousin, Catherine Cornelius, was appointed to run the office following the dismissals. The office coordinates commercial travel for White House staffers and charters planes for the White House press corps that accompany the president.

In all, seven workers, some of them longtime White House employees, were fired and asked to leave by the end of the day.
APNP-05-19-93 1344EDT

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Date: 05/19/93 Time: 13:42

Washington) -- The White House has fired its entire travel

(Washington) -- The White House has fired its entire travel office staff and called in the F-B-I to investigate the office.

Press Secretary Dee Dee Myers says an audit of the travel office has found ''very lax management'' and ''very shoddy accounting practices.'' She says there are no receipts for lots of expenses.
APNP-05-19-93 1343EDT

House "residents pass" of the type usually reserved for the first family. It also was revealed that he frequently makes private business calls from White House offices.

But if Thomason is being blamed by some for the president's failure to keep his feet planted firmly on the ground, others wonder if such criticism is fair.

"I can't blame (Thomason) for trying. I blame Clinton for accepting," said Atlanta political consultant Claiborne Darden, who sees the Thomason connection as "symptomatic" of larger Clinton problems. "For Clinton to be getting a $200 hair-

to Tony Bennett and L.L. Cool J. But their management of the program was widely criticized not only for excess, but also because broadcast rights of this people's presidential gala were sold to HBO — a pay-per-view cable-TV service.

Nevertheless, Clinton rewarded their loyal service by letting them spend his first night in the White House in the Lincoln Bedroom, an honor customarily reserved for family.

"Al Tuchfarber, a political analyst at the University of Cincinnati, is skeptical about blaming Thomason for Clinton's troubles. "Clinton has had these connections for a long time," he said.

unanimously rejected the Democrat's complaint that Garland County voting machine problems led to his defeat in the 4th Congressional District.

Dickey, south Arkansas' first Republican congressman since Reconstruction, said he was pleased to have the election challenge completed.

"After all that effort, what we have come up with is abiding by what the people wanted in that election," Dickey said.

He said McCuen's complaint "never should have been brought up."

Dickey won by almost 11,000 votes in one of the most stunning upsets in Arkansas political history. McCuen charged there were irregularities with voting machines, the secretary of state claimed.

McCuen filed a lawsuit in Garland County Circuit Court and requested an examination of the county's voting machines. The issue eventually wound up before a special House task force.

Despite the challenge, Dickey was sworn in as a member of Congress in January.

In February, the House task force held a hearing on the dispute. McCuen hoped the task force would order a new election, at least for Garland County. But the bipartisan task force voted 3-0 against McCuen.

In March, the House Administration Committee supported the task force's findings and sent the issue to the full House.

Press corps has a lot riding on travel brouhaha

Y RANDY LILLESTON

WASHINGTON — At the White House travel office controversy builds into a nominee for the Hall of Dumb Moves, here is a not-so-secret fact you should know.

Virtually every reporter writing or broadcasting about the controversy has a vested interest in its outcome.

The seven people fired by the Clinton administration last week were friends with dozens of White House reporters.

They got to be that way by running press travel charters on near-luxury flights, with food that drew compliments and unlimited drinks for trips abroad.

That, of course, costs money, and news organizations had

The high costs, in turn, created a set of "haves" and "have nots" among the White House press corps.

As the cost of traveling by charter has risen through the years, the number of reporters traveling with White House press charters has declined. Now, only the largest news organizations — particularly the television networks, which sometimes have to send a half-dozen people on trips when camera crews are included — travel everywhere with the president.

Those organizations feel they must pay whatever cost is charged, and their correspondents whose words on the controversy reach millions of people, were on a first-name basis with the former travel office employees.

Other news organizations have greater concerns about the cost of press travel. They have reduced the amount of travel allowed and have leaned on the White House for years to lower travel costs.

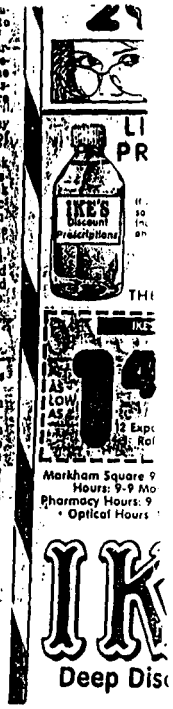
Those costs can run as high as 150 percent of a first-class commercial airline ticket. While reporters, photographers and broadcast crews have enjoyed the benefits of the travel office's service, many of their organizations have grown weary of the expense.

Officials of the White House Correspondents' Association have talked to White House aides about the problem for years. They always were assured costs were being controlled as much as possible.

The Clinton administration questioned that, citing cost savings as one reason the seven travel office employees were fired and saying competitive bids would be taken for future service.

Subsequent disclosures about manipulations by longtime Clinton friends to obtain the travel business damaged the administration's credibility. The firings, which should have generated a day or two worth of news, have developed into something far more lasting.

Still, when you see a story about the topic on television or read about it in the newspaper, remember: The people doing the reporting have more than a casual interest about the outcome of the controversy.



5/21/93

CHRONICLE SPECIAL TO THE TRAVEL STAFF

White House calls FBI involvement an 'inadvertent mistake'

Travel

Five staff members back on federal payroll

CGE 001110

Brains, not just clout, behind health blitz

By Kathy Lewis
DALLAS MORNING NEWS

Morgantown, W.Va. — From the uninsured, from small-business owners, from rural residents, from hospital administrators and doctors, Hillary Rodham Clinton has been getting an earful of advice on health care reform.

Craig and Vicki McClung spoke of not having health insurance for four years. Mr. McClung, a 36-year-old coal miner, had been unable to return to work after an accident. His wife had postponed treatment for kidney stones because of the cost, and she encouraged their sons not to play sports for fear of an injury.

Jerry Kief described the problems of finding affordable health insurance at the upholstery company where he works.

Across the nation, headlines have dealt for weeks with how much health care reform may cost and who would pay — and whether reform is possible.

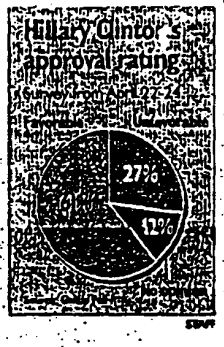
But on this May evening, Mrs. Clinton was doing what she has done in 10 states this spring: listening to some of what she calls America's 250 million experts on the issue — and making the case that, a herculean task or not, health care reform must be enacted this year.

As chairwoman of the Task Force on National Health Care Reform, she has taken on an assignment unlike that of any previous first lady. So far, she has gotten mainly positive reviews from the public, the media and Congress.

The task force recommendations soon will go to President Clinton, and he is expected to announce his decision on what to do in June, when the real battle begins.

Farmers to power brokers

For months, Mrs. Clinton not only has been working with the task force, but also laying the groundwork for congressional and public acceptance of the need for health care reform. She has met with farmers in Iowa, small-business owners in Boston, executives in Williamsburg, Va., and senators and representatives on Capitol Hill.



STAFF

She wound up her one-hour prime-time television appearance in Morgantown with a warning that if nothing is done, "our costs will continue to go up, more and more people will lose insurance, more and more people will worry at night what will happen to them."

"And our country will spend over $100 billion next year, and that will not give one more ounce of care to someone who doesn't have it already. So there's not really a choice if we're going to pull together as a nation."

Experts say Mrs. Clinton has laid a foundation of credibility that may prove helpful when details of the plan are revealed.

"I think she's established her credibility as a policymaker on the issue," said Lewis Gould, a professor of American history at the University of Texas at Austin. "It's a huge job, and she's got that defined."

How much will families pay?

What she hasn't yet defined, said Robert Blendon, professor of health policy at Harvard, is what health care reform will cost average families. The real test, he said, will come when she's on a platform "with small-business people from Texas screaming at her."

Mrs. Clinton's standing in polls is considerably higher than it was during the campaign, when Republicans believed she was vulnerable enough to attack her.

A recent Time magazine poll showed 63 percent believe her prominent role on anti-cost policy is appropriate; 32 percent said it's not.

"The sizzle is here, but where's the beef?" asked James Pinkerton, who was an adviser to President George Bush.

"Will her proposal cost $100 billion or $150 billion? Will it be a 7 percent payroll tax? Or 10 percent? Rumor has it that they'll call it a premium," he said. "But a tax by any other name is still a tax."

Republican pollster Ed Goeas said concern about taxes in the president's economic plan has created a less friendly environment for health reform because people are concerned "there's another whole wave of taxes coming."

The first lady's advisers describe her appearances across the country fact-finding missions rather than public-relations efforts.

Mrs. Clinton has held more than 70 meetings with members of Congress. White House officials boast of bipartisan consultations from the start, though aides to some Republican senators disagree. White House officials believe she will be helpful with Republicans when the health debate starts.

CGE 001111

Clinton travels wrong road

Until recently, the Clinton administration could try to blame its political troubles on outside forces. If the president's Bosnia policy collapsed, it was because of European cowardice; if his economic proposals were getting nowhere, it was the fault of political opponents and greedy special interests.

Last week, however, the Clinton administration suffered a wound that was entirely self-inflicted and that raises serious concerns about its competence and integrity.

The trouble began falsely innocently, when Clinton officials announced that seven veteran employees of the White House travel office had been fired for "gross mismanagement." The charge seemed justified: A review of office operations by the accounting firm Peat Marwick had indeed turned up proof of shoddy fiscal management.

But then the affair got ugly. For some reason, Clinton spokesmen felt obliged to hint that travel-office employees might also be guilty of criminal behavior, a charge that had never been investigated, let alone proved. They compounded the error by installing Catherine Cornelius, a Clinton supporter and distant relative, in charge of the travel office. They then gave the air charter business to a Little Rock travel agency that had worked for the Clinton campaign.

Before the outrage could subside, it was discovered that Ms. Cornelius and Mr. Clinton's buddy Harry Thomason had pressured White House staff members for months to clean out the travel office. Ms. Dyrsdlin wanted a job running the office, and Mr. Thomason, a TV producer and co-owner of an air charter firm, was apparently frustrated because he couldn't get White House travel business.

With the situation blossoming into a political disaster, White House officials made their biggest mistake of the crisis. They tried to justify their move by dangling a statement out of the FBI affirming that "additional criminal investigation [of the travel office] is warranted." Unfortunately, such statements violate longstanding FBI policy against commenting on investigations, and it was quickly noted that with J.Edgar Hoover's successor William Sessions trying desperately to keep his job, the agency was vulnerable to White House pressure.

The blame for the fiasco is largely the president's. He allowed his friends outside the White House to have access to staffers who lacked the authority to resist their demands. That is always dangerous, and the president is lucky it wasn't caused him even bigger headaches.

"The problem was compounded when his people panicked under pressure," U.S. Sen. Robert Dole (R-Kan.), always willing to play underdog for suicidal Democrats, was all too accurate when he described the affair as "the clumsy politics of a few frightened individuals whose hands were very inconveniently caught in the White House cookie jar."

On Tuesday, the White House announced that five of the fired employees would be reinstated and placed on indefinite paid leave. That's a smart move, but it doesn't correct the organizational problems that created this situation. In the Clinton White House, mismanagement has not been limited to the travel office.

The Atlanta Journal / The Atlanta Constitution

CGE 001112

Advice to Clinton: Hurry to sell plan

Tax proposal sinking as vote is just days away

By Mike Christensen
WASHINGTON BUREAU

Washington — Key House Democrats told President Clinton on Tuesday that he must use all his influence, and perhaps an address to the nation, if he is to save a major deficit reduction bill from defeat this week.

"He must become more personally involved. He must play hardball. He must issue a call to arms," Rep. John Lewis (D-Ga.) said after he and other junior party leaders conferred with Mr. Clinton in the morning.

The president also met with 60 House Democratic freshmen particularly restive over the idea of voting for $247 billion in new taxes after they had campaigned to bring down government spending.

Rep. Nathan Deal (D-Ga.) gave Mr. Clinton a letter, signed by 19 members of his new freshman fiscal caucus, asking for a chance to include more spending cuts in the legislation or to defer action on the bill until the Senate Finance Committee drafts a new version.

"There are a substantial number of freshmen who will still object to portions of the plan," Mr. Deal said later. "There's a significant number who will vote against it."

Mr. Deal and other conservative Democrats bridle at the notion that they might be crippling the first president their party has gotten elected in 16 years.

"If you really believe your party is making a serious political mistake, then your loyalty is to correct that mistake," Mr. Deal said. "I was not elected to be a Dr. Kevorkian and preside over the suicide of the party."

The Clinton administration remained optimistic that the House would pass the bill before leaving for a Memorial Day recess.

Democratic leaders said they were closing the gap toward the 217 votes Mr. Clinton needs to pass his budget "reconciliation" bill, a collection of tax increases and spending cuts designed to lower the federal deficit by nearly $500 billion over five years.

But the going is slow. As many as 43 of the 256 House Democrats may be ready to vote against the bill Thursday; some want larger spending cuts and others don't like a proposed energy tax.

House Speaker Thomas S. Foley (D-Wash.) also complained of "a lot of efforts to divert attention" from the substance of the bill to Mr. Clinton's problems with haircuts and his travel office.

House leaders are close to a compromise with Rep. Charles Stenholm (D-Texas) and others on how to limit spending on benefit programs such as Medicare and federal pensions, the fastest-growing area of the budget.

According to Stenholm ally Timothy Penny (D-Minn.), such a deal may yield only five to 10 votes. But in a close contest, he said, "that may be enough."

Limiting the cost of benefit programs appeals to freshman Rep. Don Johnson (D-Ga.), who remains undecided about the Clinton package. The decision that House members must make, he said: "Is this true deficit reduction?"

Rep. Cynthia McKinney (D-Ga.) said Mr. Clinton assured the freshman Tuesday that "there will be an opportunity for further cuts to be made" this year.

"Some of us are interested in further cuts," she said. "We recognize that you can't write checks when the bank account is dry."

House members also worry that if they approve the Clinton plan, the Senate might undo it.

The Atlanta Journal / The Atlanta Constitution

Clinton tries to shake 'Travelgate'

Bob Dole has no incentive at the moment to moderate his criticism of President Clinton and every reason to exaggerate.

But it was no exaggeration when the Senate minority leader on Tuesday compared the Clinton administration's use of the FBI last week in the flap over the White House travel office to Richard Nixon's attempt to pervert the agency to political purposes during Watergate. It is an outrage.

Whether because of Dole's comparison or Atty. Gen. Janet Reno's blowing her stack, the gravity of the situation finally seemed to penetrate 1600 Pennsylvania Avenue. Five of the seven travel office firings were re-explained as "leaves"; apologies were issued for the abuse of the FBI, and an investigation by Chief of Staff Thomas McLarty and Budget Director Leon Panetta was announced.

It is unlikely these actions will quiet the calls for congressional investigations or special prosecution. Those calls may be premature, but they may turn out to be justified.

But the White House actions at least suggest that Clinton has awakened to his staff's inadequacies and to how desperately he needs to act to get his crew into line. His presidency, quite literally, could be at stake.

It was disclosed Monday that the White House called in John Collingwood, chief FBI spokesman, last Friday to participate in a political strategy session on how to soften the public impact of disclosures of cronyism and nepotism in the travel office affair.

Collingwood apparently was persuaded to amend an agency statement on the travel office case to support White House assertions that possible criminal misbehavior by the seven longtime government employees of the office had led to their abrupt dismissals and replacement earlier in the week.

In fact, the evidence points increasingly to a shabby attempt at patronage: by the Clinton White House. Harry Thomason, the administration's eminence grise from Hollywood, is said to have complained that an air charter company in which he has an interest had been unable to get any White House business. And Catherine Cornelius, a Clinton cousin, had co-written a memo in February urging replacement of the travel office with a company with which she was associated.

It was to blunt the embarrassing impact of those revelations that the White House abused the FBI. Small wonder that Dole discovered a resemblance to Watergate. Small wonder that Reno, who had hoped to dispel 12 years' worth of suspicion about the Justice Department's fairness, was hopping mad over the White House's violation of procedure in bypassing her to contact the FBI independently.

No doubt the White House hoped its actions Tuesday would bring closure to this episode. No doubt Richard Nixon hoped the same thing many times.

Chicago Tribune editorial, May 26, 1993

CGE 001114

House leaders urge Clinton to make TV speech on tax bill

By Robert Dodge

Washington Bureau of The Dallas Morning News

WASHINGTON — House leaders urged President Clinton on Tuesday to go on national television to rally public support for his embattled tax bill, admitting they face a tough fight to win approval of the measure.

After meeting with the president, key House Democrats said they would not substantially modify the president's unpopular energy tax and would press ahead with plans to vote on the measure Thursday. The measure includes $250 billion in tax increases and an equal amount of government spending cuts.

They also said that they were close to reaching agreement with party moderates on a plan to limit entitlement spending.

"It is going to be a very close vote, and the president is going to have to invest a lot of prestige in this vote," Rep. Bill Richardson, D-N.M., told reporters outside the White House.

"The president did get a lot of advice about going on national television."

White House spokesman George Stephanopoulos indicated that Mr. Clinton would probably make a televised appeal for public support of the tax bill but did not know if it would come before the House vote.

As part of a concerted lobbying effort, the president met with House leaders and then with freshman House Democrats on Tuesday morning. In the evening, Mr. Clinton called the chairmen of various House committees to the White House for another round of arm-twisting.

■ Clinton's troubles 1A

"It's a fight," said Rep. Joe Moakley, D-Mass., chairman of the House Rules Committee.

House Speaker Tom Foley, D-Wash., predicted approval of the bill, which implements the spending cuts and tax increases included in the budget plan already passed by lawmakers.

Mr. Foley told reporters that he was explaining to members that they would have another chance to vote on the package after the Senate approves its tax bill and any differences in the two versions have to be resolved.

Because the House and Senate generally approve different versions of legislation, a conference committee from both chambers meets to resolve the differences and that final bill goes back to both houses.

"Every legislator knows that this is not the final vote on this bill, that the final vote, the one that determines whether you actually enact it, is the conference committee vote," Mr. Foley said.

Other lawmakers and a senior White House official said Mr. Clinton needs to win the House vote or one his presidency crippled, making it impossible to get action on other crucial measures, such as health care.

"It's extremely important that he be successful," said Robert Rubin, head of the president's National Economic Council, adding that he believed "the odds are very high we will get through the House."

At the same time, the administration was working with Rep. John Spratt, D-S.C., on a compromise to appease moderate Democrats by limiting the growth of entitlements. In doing so, the White House appeared to nudge aside Rep. Charles Stenholm, D-Stamford who favors strict caps on entitlement spending.

"It does not do anything," Mr. Stenholm said of the proposed compromise.

Mr. Stephanopoulos said Mr. Spratt's compromise proposal might be "something that could be acceptable." It lacks a requirement for across-the-board spending cuts to meet deficit-reduction targets, which the White House found objectionable.

"It is certainly far more acceptable than the other alternatives which have been discussed," Mr. Stephanopoulos said.

Mr. Spratt's proposal would require the president to review government spending, especially entitlements, at the end of each fiscal year on Sept. 30.

If spending had gone over budget, the president would have several options for curtailing future spending.

He could instruct Congress to make cuts in future years; he could instruct Congress to recover only a portion of the overspending; or he could do nothing. In any case, Congress would vote on the president's recommendations.

Some conservative Democrats agreed with Mr. Stenholm that the plan did not have enough teeth to control entitlement spending and they were still withholding support for the president's tax bill.

"I would be very surprised if I voted any way but no," said Rep. Charles Wilson, D-Lufkin

CGE 001115

White House energies

By Carol Joujatitis
and Mitchell Locin
Chicago Tribune

WASHINGTON—Admittedly, say that they acted too hastily last week in firing seven White House travel office employees, the Clinton administration proposed five of the workers Tuesday and offered an assumed account of the situation.

The five will be on paid leave and may get other jobs.

But even as the White House tried to continue the political damage, the controversial move only revealed confusion.

President Clinton distanced himself from the public relations disaster, and his chief spokesman placed responsibility for the decision to revamp the travel office and fire its staff on Chief of Staff Thomas "Mack" McLarty.

■ Democrats urge Clinton to sell his budget plan. Page 16.

The controversyrnd Rep. along with Clinton's "Air Force One" standard last week, continued to stop the administration's attempts to the president personally lobbied members of Congress to propose for Thursday's annual Newsweek on his budget package.

Newsweek, attempting from a meeting with Clinton, said energy problems have dropped away as the president's support and made it more difficult for them to vote for tax increases that don't go well with their constituents.

Even the president's top campaign strategist, James Carville, plan his second visit to the White House in two days, said Clinton.

See Clinton, pg. 16

Chicago Tribune Wednesday, May 26, 1993

Clinton

Continued from page 1

seems to spend more time explaining his budget package to the American people.

Aides say the president's strategy has been undermined by the two episodes that have haunted the start of James. "They were lucky enough to gain everything and try to bring him down a little bit," the White House aide said.

Tuesday's decision to place the former travel office workers on paid leave came as they dined downstairs White House officials announced the firings and said they were assistant to current aides announced hours the office, which manages travel for administration aides and the press on presidential trips.

Independent investigators, meanwhile, continued a hunt for more jobs in reshaping the career workers with Clinton loyalists and a closer course of the president's and in giving the way for business with him to Clinton and his friends to fill in White House travel.

"One thing we're clearly seeing is not careful have done things lately," said George Stephanopoulos, the White House communications director.

The five suspended workers were low ranked employees who didn't have authority to sign checks. When fired last Wednesday, they were told they would get two weeks severance pay and six weeks of benefits.

The travel office director, Billy R. Dale, and his deputy, Gary Wright, remain fired. Stephanopoulos said disciplinary problems justified their dismissal.

Officials said McLarty will conduct an "expeditious" internal review of the firings including the calling in of the FBI for a criminal investigation of the travel office. White House budget Director Leon Panetta will assist.

If the review clears the five employees of wrongdoing, White House officials said, they might be rehired, although not necessarily in the travel office, which has been reorganized and reduced to three people.

"You could probably say that the door would be open to some sort of federal employment or some sort of employment," Stephanopoulos said.

Seeking to questions raised about how the FBI has been used in the investigation, Republicans tried to compare it to how the Nixon White House pressured the agency during Watergate.

Senate Minority Leader Bob Dole (R-Kan.) doubted the comparison "I investigate" and said that if the White House pressured the FBI to get involved and disclosed its investigation violated satisfying the agency, "It's an outright violation."

The White House has denied pressuring the FBI, but on Tuesday, Stephanopoulos admitted that it was an "inappropriate" move to disclose the probe without satisfying the FBI "It wasn't happen again," he said.

He claimed the administration did follow proper procedures in notifying the FBI. Atty. Gen. Janet Reno had complained Monday that a White House lawyer should have called senior Justice Department officials first.

But in order "to avoid any such appearance of impropriety" in the future, White House officials said Tuesday, the administration will go through Justice Department channels.

Clinton acknowledged otherwise responsibility Tuesday but said he knew nothing about details of the travel office than being informed of a plan to revamp the office.

"There's nothing heavy going on here," he said. "We really were just trying to save money for taxpayers. . . . That was the only thing I was ever asked about personally."

He said he discussed the internal review Tuesday morning with McLarty and thought it was appropriate to be examined by an outsider, at least, based on what I've read, that someone in the White House may have done something that was inappropriate or that wasn't overly beneficial right or something."

Asked if the White House improperly approached the FBI, Clinton said, "No, I don't have any reason to believe that," but then he added, "I don't know that. . . . I don't have an opinion yet."

White House officials pointed fingers at Clinton's top two advisers and close friends from Little Rock, Ark., McLarty and personnel director Bruce Lindsey, for failing to step in and prevent the firings of the travel office and the $200 designer haircut on Air Force One in Los Angeles last week.

White House administrative director David Watkins carried out the firings with the green light from McLarty. "Mr. McLarty has said he is responsible," Stephanopoulos said.

Lindsey met the two men involved with Clinton last week on how Mexico and Colombia in the president's plan. Air Force One set on its arrival at Los Angeles, delaying other air traffic for 45 minutes while Clinton got his hair cut up before returning to Washington.

Tribune correspondent Michael Tackett contributed to this report.

CGE 001116

IN OUR OPINION

MENTAL HEALTH

Oakland County should be wary of state offer

In Oakland County, two powerful forces are interacting: the Engler administration's devout wish to get out of the mental health business, and the desire of some county pol. aims to get their hands on tens of millions of state dollars. If there's serious concern for the mentally ill or the developmentally disabled in this little drama, it's not readily apparent.

The issue is whether the county should take over full management of mental health services from the state. The state Department of Mental Health would provide the money; the county commission and the community mental health (CMH) board would decide how to use it. In theory, local control has a nice, warm, fuzzy sound. In practice, in a county as populous and with as many pressing mental health needs as Oakland, it has big drawbacks.

One is the likelihood that after the state sheds management responsibility for mental health programs, it will shed financial responsibility as well. There's already an illusory quality to the funds the state is offering Oakland County, since they're based in part on "savings" from reducing the number of patients at the Clinton Valley and Fairlawn centers when good community alternatives may not be available.

If the state intends to fund mental health programs in Oakland County adequately, full management won't produce sizable savings. If it intends to cycle the county commission with promises of funding now, and to curtail the money flow later, it's a cruel shell game. For the pleasure of getting its hands on short-term money, the county will buy big long-term problems.

This argument may seem arcane to those whose lives and families are not touched by it. Even the mental health community in Oakland County is split on the issue. At heart, the debate is — or should be — about how to provide the best care possible for people who cannot speak up for themselves. Nowhere is it written that state control, or county management, or any other scheme of lines on an organization chart is the One True Standard of care.

County commissioners must look at quality of programs, adequacy of funding and the good faith of those who are pushing what has long been a state responsibility onto local government. They'll see a state administration that has not covered itself with glory on the mental health front, from the brutally abrupt closing of Lafayette Clinic to a trail of unmet, unfunded needs.

In Oakland County, as with Lafayette Clinic, Gov. John Engler is not asking what works for the mentally ill and developmentally disabled, or what is right, or what is the state's responsibility to provide decent treatment for helpless or vulnerable people. Instead, the only questions are: Where can we chop next? And who can be tossed out of the lifeboat this time?

Oakland County should think hard before it makes itself part of that process.

BOSTON GLOBE

CGE 001117

From Boston Globe Page 20

The Travelgate coverup

EDITORIAL

By itself, the "Travelgate" affair now buffeting the White House and delighting the national press corps (not to mention charging-at-the-bit Republicans) should be only a minor embarrassment. That it has become a good deal more than that reflects a dismay that the high ethical standards candidate Bill Clinton pledged during last year's presidential campaign have been so quickly forgotten.

It was bad enough that the career officials in charge of White House travel arrangements were fired so their office could be given to a distant cousin of Clinton's and that a travel agency with ties to a friend of Clinton could get a piece of the White House travel business.

It was outrageous that top White House aides would instruct the FBI to cover up their own handling of the travel office scandal, as the Globe's Michael Kranish reported yesterday. There is no constitutional requirement that the FBI be independent of the White House, but public support for a criminal justice system free from political pressure demands it.

Ironically, the FBI director, William Sessions, was meeting with Attorney General Janet Reno in an effort to save his job at the very moment White House aides were arm-twisting an FBI deputy to do their bidding. Neither Reno nor Sessions knew of the Travelgate meeting, which suggests just how far beyond the pale the White House aides were operating.

What is clear now is that there must be a strong, independent director of the FBI – either a Sessions fortified by reconfirmation or a new director with the ethical standards and political stature to stand up to White House pressure.

And that appointment or reappointment must be made very soon, before there is another Waco tragedy or Travelgate scandal – or before public confidence in the fair and equitable operation of the criminal justice system is further eroded.

From Boston Globe Page 24

Flynn confirmation expected by July 4

BY JOHN ALDEN FARRELL
GLOBE STAFF

WASHINGTON – Mayor Flynn should be confirmed as US ambassador to the Vatican by July 4, according to White House, State Department and Capitol Hill sources.

The confirmation process has as yet unearthed no formidable threats to the Flynn nomination, insiders said. The only cloud on the mayor's horizon remains the opposition of pro-abortion groups, unhappy with Flynn's stance against abortion.

Impatient Bostonians, wondering why the process takes so long, may keep in mind that the Clinton administration has not even named ambassadors to several major allies, including Canada, Germany, and Japan, as well as dozens of other nations.

Also caught up in the deliberate process is Jean Kennedy Smith, but her confirmation as ambassador to Ireland is still a sure bet as well.

One reason for the delay: In contrast to experienced Washington hands appointed to other posts, neither Smith nor Flynn had undergone the time-consuming FBI security check they are now subject to.

From Boston Globe Page 1

State Department halts planned Flynn fund-raiser

By Peter S. Canellos
and Tom Caccio
Globe Staff

The State Department has ordered the cancellation of a June 18 dinner to raise money for Mayor Flynn's official use upon his confirmation as US ambassador to the Vatican, according to city officials.

The organizers of the fund-raiser, planned for the Copley Plaza Hotel, had hoped to raise as much as $300,000 to help Flynn defray the costs of entertaining, travel and other expenses – costs generally paid out of pocket by wealthier ambassadors.

But the State Department, in a letter last week to the co-chairs of the event, rejected the organizers' request to form a nonprofit foundation designed to fund-raise for Flynn, expressing concerns about possible conflicts of interest, and saying the department instead would consider raising the embassy budget to take account of Flynn's modest means.

The annual entertainment budget for the Vatican embassy is currently $19,000 a year, according to Cameron Hume, deputy chief of mission at the embassy.

Reached last night at a Dorchester neighborhood event, Flynn said he did not think the State Department decision would hamper his style at the Vatican. "I'm not going to be able to do some of the things other ambassadors do because I don't have the money," he said, "but in terms of my official functions . . . I run the city with very little money and I do it pretty well."

Francis Meaney, a Boston attorney who was co-chairing the $10,000-per-table dinner, said the organizers were pleased to learn that the State Department was considering increasing Flynn's budget allotment and would comply with the request to cancel the dinner. He said no tickets had yet been sold but organizers had received tentative commitments for donations.

"We had already solicited expressions of interest and were well on our way to raising several hundred thousand dollars," Meaney said. "It was a great way to honor the mayor, and to help our country. But they didn't think it would be needed, so we agreed."

In a letter to Meaney dated May 19, the department approved the cancellation of the dinner, saying it was wary of any private fund-raising efforts to benefit ambassadors.

"Under its regulations, the Department carefully regulates the solicitation of funds to supplement its appropriations and requires prior approval before fund-raising efforts may be undertaken," the letter said.

"These requirements are designed to avoid even the possible appearance of a conflict of interest and prevent a repetition of fund-raising problems that occurred in the past. Your proposal was evaluated in terms of these requirements."

The letter does not elaborate on past fund-raising problems, but said the department has, since 1987, accepted private donations for official entertainment only for specific events, "rather than to provide a general supplement."

Flynn stressed last night that the State Department had found nothing illegal about the arrangement. "They just don't want the State Department to get in the business of a potential conspiracy," he said. "They just do not want any kind of appearance of any kind of compromise."

Meaney said he and co-chair Kevin Phelan, a real estate executive and close associate of Flynn, had planned to establish a foundation, controlled by the State Department, to provide extra money for Flynn's use.

The fund-raising dinner would have been a way for old friends of the mayor's and his fellow Bostonians to express their pride at his ambassadorial appointment, Meaney said.

"We're all proud of the mayor, and it would have been great," he said, but added that he was happy to comply with the State Department's order.

"If they say it's not needed, fine," he said. "I've got lots of other things to do."

CGE 001118

FAX NO. 6179293186 P. 10/12

From Boston Globe Page 13

Following in the footsteps Clinton team dreaded

CGE 001119

By Michael Paczkowski
GLOBE STAFF

News Analysis

WASHINGTON – Bill Clinton came to town determined to avoid comparisons with Jimmy Carter, another Southern Democratic governor.

Carter was viewed as a failed president, and Clinton had no intention of starting out with that handicap.

Today, the comparison is no longer avoidable.

If Carter failed as president, it was because he couldn't make Washington work for him. Like Clinton, he surrounded himself with outsiders who couldn't control the Democratic majority in Congress. Many of his closest aides were too young to be wise in the ways of Washington.

Like Clinton, Carter loaded down Congress with bold ideas for reform, from revamping welfare to making Social Security solvent, from controlling health care costs to stimulating the economy through a tax rebate.

And like Clinton, the previous Democratic president got pasted by "side issues," such as his hiring of a drug adviser who had used illegal drugs, and spurious allegations of cocaine use against his chief of staff.

Now, if the beleaguered Clinton wants to avoid the quicksand that swallowed Carter's promise, some of his own loyal aides say, he needs to reach beyond his young, earnest staff and seek help from some seasoned pros who have learned the hard way.

"There is nobody smarter than people who have made lots of mistakes," one administration official said yesterday, after a dizzying, week-long series of presidential blunders. "Not to commit with some of them is to condemn yourself to stepping in the same potholes."

Until now, there has been no appetite at all for bringing in friendly advisers who served in the Carter administration. The present White House is remarkably bereft of such experience, in part because Clinton and his campaign aides did not want to be associated with what they perceived as failure.

Clinton was determined to be different. It was said he was more Washington-wise than Carter; that he had a broader education; that he had more friends in the establishment; that he would bring in some old hands.

Yet, he acknowledged as he contemplated his first 100 days that he had tried to do too much too soon and would have to refocus on his top priorities. He hardly got a chance. If, indeed, he really made such an effort.

In response to a finding by his own aides that Clinton needed better organization within the White House, he brought his vice president's top aide Hart in as a deputy chief of staff to help run the day-to-day operation.

But the embarrassment of the travel office controversy and Clinton's $200 haircut fostered that staff tune-up.

Asked last week why he didn't have more gray hair among his aides, Clinton shot back that he has some old pros: Lloyd Bentsen at Treasury, Warren Christopher at State.

But in the White House?

"The place has not been peopled with very much experience," one aide said, speaking on condition of anonymity. But in an admittedly sympathetic analysis, the source added: "Many of the mistakes that have been made are by and large symbolic. That doesn't make them any less important, but they've mistakes of naivete and ignorance, not venality."

Said another: "These are dumb mistakes, not substantative ones. That's what is so irksome. A phone call or two to somebody who had been around the block a few more times would have prevented this. And it is, it looks like something contrary to what the campaign was all about."

"A few more fat old bald men wouldn't hurt the place," offered Marlin Fitzwater, spokesman for George Bush's White House.

The mishandling of the firing of the travel office staff may have been an act of inexperience and insensitivity. The president having his hair cut while one of the world's busiest airports waited almost certainly was that.

But circumventing channels designed to protect law enforcement agencies from political abuse and using the FBI to justify one's actions is downright dangerous, as the nation learned two decades ago when President Nixon tried it.

Having been caught up short, the White House staff is now in the uncomfortable position of investigating itself to figure out what it did wrong and why.

And with the president's most critical legislative test, the fate of his economic program, just ahead, the Republicans in Congress are gleefully rubbing salt into every scratch.

BOSTON GLOBE FAX NO. 6179293186 P. 08/1

CGE 001120

From Boston Globe Page 10

US tells allies of smaller role

It won't always take lead on local crises, Christopher says

By Mary Curtius
GLOBE STAFF

WASHINGTON – In a radical departure from decades of policy, the Clinton administration has warned the European allies that they can no longer count on the United States to take the lead in resolving regional crises, a senior administration official said yesterday.

With the collapse of the Soviet empire and the lessened strategic nuclear threat to the United States, the administration has decided to make "a case-by-case decision to limit the amount of American engagement" in world crises "to what we think is appropriate," said the official, who spoke to diplomatic reporters on condition of anonymity.

"The United States will define the extent of its commitment, and that extent may, on occasion, fall short of what some Americans would hope for and some Europeans might like," said the senior policy maker.

He cited Bosnia as an example of how the United States has deliberately sought to limit its diplomatic and military involvement by applying "new rules of engagement" to a war many top US officials fear could become a quagmire for President Clinton.

"For those who would like to have" Bosnia "become a US show, there's distinct disappointment out there," the official said. "Our approach is a very difficult one for many of our European friends to understand."

The official also acknowledged that Bosnian Muslims might feel betrayed by the decision the United States, Russia, France, Britain and Spain took last week to establish six safe havens for Muslims in Bosnian Muslim towns and attempt to contain the war to Bosnia.

Bosnian Muslim President Alija Izetbegovic has denounced the plan as putting Muslims in reservations and rewarding Serb aggression. Serb militias have seized 70 percent of Bosnian territory in more than a year of warfare. The plan also has been criticized by Muslim states, nonaligned members of the UN Security Council, congressional leaders from both parties and some NATO members.

Yesterday, the senior administration official said that the US-led coalition that drove Iraqi forces from Kuwait was not the first battle of the "new world order." Rather, he said, it was the last battle of the Cold War. In the new era, "there are Bosnias, Cambodias, Haitis," the official said. All three nations have been beset by civil war and none by the strategic importance of oil-rich Kuwait or the Persian Gulf.

Secretary of State Warren M. Christopher made it clear to the European allies in travels this month that the United States would carefully limit its participation in any collective military effort in Bosnia, the official said.

"We were setting limits on the amount of American engagement in Bosnia and around the world," the official said. He spoke without a prepared text.

The allies wanted the United States to send ground troops to Bosnia, where thousands of British, French, Canadian and Spanish troops are participating in UN humanitarian efforts. The administration refused.

As a compromise designed to patch over the differences among the allies, the Europeans, Russians and the United States last weekend announced the safe haven plan. All sides agreed it is only an interim measure, and the official said yesterday that policy toward Bosnia "is still evolving."

But yesterday, even the compromise appeared to be in trouble at the United Nations, where informal consultations continued on a resolution for establishing the havens. France is pushing for a broad role for beefed-up UN forces that will defend the havens. In a draft resolution, the French have proposed that these forces will have the authority "to take ground" from Serb militias if they refuse to roll back voluntarily from land captured from Bosnian Muslims.

The United States has promised to defend UN troops who will patrol the havens, but only with air strikes and only if it is specifically asked by the commander of UN forces in Bosnia to intervene, the senior official said.

The European allies "would like to have the administration go in and take over Bosnia," the official said. "We were determined not to do that."

Instead, the official said, the administration has decided that "where other regional players have a great stake" in a crisis, "we should make very clear that we will play a role, a leadership role, but not allow them to defer to the United States."

During the Cold War era, the official said, it was common Washington political wisdom that a president could always turn to foreign affairs if he became frustrated with trying to push domestic policies through Congress.

But now "a president, to be active abroad, has to be strong at home," the official said. "Unless our president is secure at home ... it will be very difficult for any American president to have the kind of active profile that we'd like the State Department would like to have abroad."

MAY-26-93 WED 1:37 WASHINGTON BUREAU FAX NO. 0112632101

CGE 001121

From Boston Globe Page 1

White House rescinds firing of 5 on travel staff

By Michael Kranish
GLOBE STAFF

WASHINGTON – Reeling from the fallout over the travel office controversy, White House officials announced yesterday that they had acted improperly in alerting the FBI to the office and abruptly rescinded the firings of five of seven travel workers.

The firings had evolved so sprawl because President Clinton replaced the dismissed workers with his cousin, Catherine Cornelius, prompting questions of whether the firings had been engineered to give her a job.

But even as the White House tried to control the damage, it took an action that raised new questions. Clinton appointed chief of staff Thomas McLarty to conduct an internal review of the matter. But McLarty is also the official who approved the initial firings, meaning he will be investigating his own actions.

The decision by Clinton to launch an internal review did not satisfy Republicans, who called for an outside investigation. The Senate Republican leader, Bob Dole of Kansas, said the affair, particularly the alleged political use of the FBI, "takes you back to Watergate."

Clinton, meanwhile, tried to distance himself from the matter, saying, "I had nothing to do with any decision, except to try to save the taxpayers and the press money." Later yesterday, the president said he had ordered an internal investigation because "I know there is a feeling out there based on what I have read that someone at the White House may have done something inappropriate."

The travel office upheaval came at a bad time for the president, with the House scheduled to vote tomorrow on his plan to raise taxes and cut spending.

Also yesterday, in an effort to avoid the appearance of impropriety, the White House confirmed it was counseling a $15,000-a-month president for lobbyists who wanted to gain access to Clinton and his top aides.

With Clinton's approval rating plummeting in the polls, White House officials last night were weighing whether Clinton should address the nation tonight in an effort to win support for his economic program.

The travel controversy began last week when the White House press secretary, Dee Dee Myers, announced that all seven workers in the office had been fired for "gross mismanagement" and would be replaced by a new staff headed by Cornelius. The White House then tried to buttress its case against the fired travel workers by soliciting and releasing an FBI statement that said a criminal investigation was under way. The FBI does not normally confirm or deny whether an investigation is ongoing.

But the White House's decision to issue the FBI statement last week ended a new set of problems. Attorney General Janet Reno, noting that the FBI should not be involved in any political matter, said yesterday that the White House should have gone through her if it wanted the FBI to release a statement about an investigation.

Reno said she called the White House "and said in the future it would be better if the contact were made through the attorney general or the deputy attorney general." White House officials quickly agreed to accede to Reno's request.

"There is nothing more important to this administration than to preserve the integrity and the appearance of integrity of the Justice Department and the Federal Bureau of Investigation," White House counsel Bernard Nussbaum said in a statement.

The White House communications director, George Stephanopoulos, who met with the FBI public affairs director, John Collingwood, and urged him to issue the statement that confirmed the criminal investigation, said yesterday that he acted improperly in releasing the document at the White House.

"Clearly, that was a mistake," Stephanopoulos said, acknowledging that his release of the FBI document was "not in accord with their normal guidelines."

Stephanopoulos began a tasty briefing for reporters at the White House by announcing that five of the seven travel office employees had not been fired after all. Stephanopoulos said only two employees who had control over the office's finances had been forced to leave, while the other five had only been placed on administrative leave with two weeks' pay.

Stephanopoulos insisted yesterday that the White House had never said all seven workers had been fired. "No, that's not true," Stephanopoulos said, when reporters said that the White House had said the seven were fired. "They were given two weeks . . . the two weeks is administrative leave. We're extending the administrative pending the review."

But White House transcripts of last week's initial briefing on the affair contradicted Stephanopoulos' assertion. At the May 19 briefing, press secretary Myers made it clear that all seven had been fired.

"The previous staff has been dismissed," she said. "They'll be out of here by the end of today."

Following Myers' statement, travel office director Billy Dale resigned. Dale's deputy, Gary Wright, was fired. The other five workers were told they had been dismissed but were reclassified yesterday as on leave.

Several former travel office workers yesterday declined to speak about the matter on the record because it is under investigation. But one said that he had been required to sign a letter of resignation by the White House and that there had been no question he had been fired.

He said he was stunned yesterday when he was called by a White House official and informed that his "leave" had been extended until McLarty finished his review.

Chicago Tribune, Washington, May 26, 1993

The Des Moines Register

White House News Summary
Page 2

CGE 001122

OVER THE COFFEE

Donald
KAUL

$200 haircut isn't helping Clinton

It used to be that we'd elect a president, then we'd conduct him, just to make sure he'd had a fair chance to make a fool of himself. In the pre-age of the computer, the FAX, the car phone and MTV, however, we've compressed the process.

Bill Clinton has been president for four months now and already we're sick of him.

The signs are everywhere. He's down in the polls. Congress is to permit and the comedians are taking aim at him as though he were a Dan Quayle. Even people without a sense of humor are beginning to make jokes about him.

Some presidents get a honeymoon; he got a honeymooon.

Some of it is his own fault. For a man who was positively Republicanesque in his manipulation of symbols during the campaign, he has proved remarkably maladroit since.

Last week was a particular disaster, culminating in the revelation that he had held up air traffic at Los Angeles International Airport for the better part of an hour while a Beverly Hills stylist, rickrack for barber, gave him a $200 haircut.

There is nothing about that incident that speaks well of Clinton, including the barber's name, Crimpin of Beverly Hills.

Politicians are, to a large degree, prisoners of the expectations they excite.

Ronald Reagan, for example, could have gotten a $200 haircut, and perhaps did. Without anyone running an exposé. For our time, he was a [illegible] of pop. He confounded critics [illegible] in his ease to let rich people spend their money any way they [illegible]

[illegible] on the other hand, presents himself as a populist. [illegible] Arkansas kind of guy. Populists are not supposed to act like Louis XIV.

The haircut is of no great moment except that it reinforces his reputation as a sleazy hypocrite who wants everything both ways. He wants to be a happily married man but he wants his resentment lovers too; he wants to protest the Vietnam War but he wants to maintain his political viability; he wants to be a regular Big Mac folks but he wants to run with the Malibu crowd.

Even his economic package is a variant of that. He wants to cut the deficit, but he wants to stimulate the economy, which requires increasing the deficit. Both ways, always. It's way they call him Rick Willie.

So what? you might say. All of that is in the nature of style.

Perhaps, but in Washington style is sometimes indistinguishable from substance. If you look weak and superficial, you are weak and superficial, and if there's anyone on Capitol Hill who is afraid of the president right now, he or she hasn't uncovered the roll call yet. He has put a gun in the hands of his enemies.

We now stand at the very brink of yet another failed Democratic presidency. If Clinton's economic package suffers the same fate as his stimulus package and if, then, his (and Hillary's) long-awaited health-care package proves to be a dud, we could face the prospect of having a political cadaver in the White House for three full years. Again.

On the other hand, it could be that time-of-fate has made much difference; that given the hand Clinton was dealt, nobody could save this country.

He comes to office with a meager 43 percent of the vote, giving him virtually no leverage with Congress. On one side of him he has Bob Dole giving his imitation of Sir Hardred, on the other he has Ross Perot shooting poison darts; and both of them being taken by the press and public as honest souls, rather than cynical men who are clearing the way for their own presidential candidacies.

He's got an electorate not too thrilled at the prospect of higher taxes, not even for rich people, and even less enthused about giving up the benefits it's used to.

The military establishment holds him in contempt and holding, while foreign leaders seem to be trying hard not to notice.

You can say we shouldn't have elected him, that we should have elected somebody better. The thing is, Thomas Jefferson [illegible]

may be a buffoon, but he's the only buffoon we've got.

I hope he's got another comeback in him. A failed Clinton might be fine for Dole And Perot, but I don't see what it does for the rest of us

DONALD KAUL is a Register columnist.

CGE 001123

White House Backs Off on Firings of 5

FBI Statement Termed a 'Mistake'

By Ruth Marcus and Ann Devroy
Washington Post Staff Writers

The White House announced yesterday that five of the seven White House travel office workers fired last Wednesday instead would be placed on leave with pay while White House Chief of Staff Thomas F. "Mack" McLarty reviews the handling of the operation.

White House communications director George Stephanopoulos, announcing the move after nearly a week of controversy, also conceded that he had made "an inadvertent mistake" in releasing an FBI statement Friday that "additional criminal investigation" was warranted.

As the uproar over the travel office continued, President Clinton told reporters he "had nothing to do with any decision except to save the taxpayers and the press money."

Later, he said that "ultimately anything that happens in the White House is the responsibility of the president" and that he had asked McLarty to look into the matter.

When the firing of longtime workers in the travel office was first announced last Wednesday, White House officials said the evidence of abuse and mismanagement was so great that it was essential the entire staff be dismissed immediately. At that time, the White House said the workers would receive severance of two weeks' pay and a month of benefits.

Yesterday, Stephanopoulos said that all but the two top office officials, who had access to cash, would remain on paid administrative leave while McLarty conducts his review. Stephanopoulos repeated White House assertions that the office was badly run but called the decision to reinstate the workers for the time being "the most appropriate thing to do at this time."

Asked if the White House was conceding that it had jumped the gun in firing the workers before completing the review of the office or hearing their accounts, Stephanopoulos said, "Well, we want to avoid any questions about that."

Although he argued that the workers had not really been fired but had been on administrative leave all along, two sources present in the meeting with the workers said they were told they would get two weeks' pay and another two weeks of benefits. "It was as explicit as anything could have been," one

See TRAVEL, A4, Col. 1

White House Retreats on the Firings Of Five Workers From Travel Office

TRAVEL, From A1

said. "On June 6 there would be no more pay."

McLarty, who approved the initial firing of the workers, will be joined in the review by Office of Management and Budget Director Leon E. Panetta. Stephanopoulos said their purpose was "to see what went wrong and what went right and what we can do better." A senior official said they are hoping to complete their inquiry next week.

Meanwhile, the FBI announced that it would review its own role in the travel office controversy, headed by associate deputy director Weldon L. Kennedy. FBI officials spoke several times to White House officials about the matter, and FBI agents twice visited the White House—at White House request—before the firings. Two days after the firings, the White House issued a statement provided by the FBI saying it had found further "criminal investigation" of the matter to be warranted.

"We're going to look at everything," one bureau official said. "There's a lot of concern about this; we're going to get congressional inquiries and the attorney general wants to know everything there is to know about this."

Gleeful Republicans continued to try to make the most of the situation. Senate Minority Leader Robert J. Dole (R-Kan.) asked Judiciary Committee Chairman Joseph R. Biden Jr. (D-Del.) to review "what I believe to be a potentially serious abuse of power by executive branch officials."

A spokesman for Biden said yesterday that the senator "doesn't believe there is a need for an investigation or a hearing at this time. It appears to be a question of people not understanding the process."

The actions came as new information emerged about the first White House session with FBI agents on May 13. One administration official said that Catherine A. Cornelius, the campaign aide and distant Clinton cousin who was seeking to take over the travel office, took part in briefing the FBI agents, and became a "prime source" of "suspicious" travel office information.

The May 13 session, which included Cornelius, associate White House counsel William Kennedy, one or more unidentified FBI agents and David Watkins, director of the Office of Administration, led to a decision to call in the accounting firm of Peat Marwick the next day, a senior official said.

Sources said that, based on the information provided by Cornelius and the White House, FBI agents "theorized" that there may have been kickbacks paid to travel office employees from charter airline companies. But FBI officials acknowledged this was not based on any direct evidence of wrongdoing. The fired employees have strongly denied any improprieties in the awarding of contracts.

Rick Millner, president of Ultrair, the airline company that had received the bulk of the press corp charter business since last year, said yesterday the Houston-based firm has conducted its own internal inquiry of the matter "and we do not have any reason to believe anything improper happened here."

Millner also said that three Internal Revenue Service agents showed up unannounced at the firm's chief operating office in Smyrna, Tenn., Friday, saying they were conducting their own audit of Ultrair and handing over a summons for company records, including those related to the White House business. "We're trying to figure out what this is about," Millner said. The IRS agents told company officials they had read about the White House travel controversy in the press and "had some concerns that the relationship between Ultrair and the White House wasn't on the up and up," he said.

Officials at the Smyrna IRS office could not be reached for comment. Asked about the audit at the briefing, Stephanopoulos said the White House "absolutely" did not initiate the IRS action.

Staff writer Michael Isikoff contributed to this report.

CGE 001124

IN THE LOOP

For Two, Much Adieu About Something

By Al Kamen
Washington Post Staff Writer

Gee, I'm Richard! Many people were shocked that Mario M. Cuomo, a mere governor of a large populous eastern state, would say no to a seat on the Supreme Court of the United States.

Turns out Cuomo is not the only gubernatorial sort to decline the job. Sources say former South Carolina governor Richard W. Riley, now a mere Cabinet member running the Department of Education, also has told the White House thanks but no thanks.

It seems Riley was approached a few weeks ago about the appointment and indicated he was not interested. . . .

Meanwhile, confident and repeated White House predictions that a nomination would be made this week look increasingly unlikely as Clinton focuses on the crucial House vote on his budget proposal Thursday. There could be a nomination Friday, administration folks say, but more likely next week.

With the Senate taking off Aug. 6, time is running out and the danger looms that the administration, increasingly being turned with the empirical bomb, will be unable to take advantage of Justice Byron R. White's early resignation last March, a move White took months before the court's term ended so the administration would have time to get a successor confirmed by the Senate before summer recess ends.

With background checks and such, it generally takes at least six weeks from the president's announcement of a nominee to the beginning of Senate Judiciary Committee hearings. Hearings on Chief Justice William H. Rehnquist began six weeks after his nomination announcement and Justice Antonin Scalia's hearings began seven weeks after announcement, both with a Republican White House and GOP control of the Senate.

Allow another week for committee hearings and one more week for the Senate reports to be made before the nomination goes to the floor. The floor action might fill a few more days, barring controversy.

All told, veterans of the process figure it might take 10 weeks from announcement to Senate confirmation. After this week, there will be 10 weeks left before the Senate recess.

If the administration does not move soon, it could confront the unpleasant possibility that opponents will have ample time to dig up dirt on the candidate while helplessly through the recess.

A critical factor in the Democrats' demolition of the 1987 Supreme Court nomination of Robert H. Bork was the delay of his hearings until after the August recess.

Cook Withdraws Name for FCC Chairmanship

■ In a surprise move, Antoinette D. Cook has dropped out of consideration for the job of Federal Communications Commission chairman. The former counsel to the Senate Commerce, Science and Transportation Committee had been mentioned for months as the administration's pick for the FCC post. A spokesman for committee Chairman Ernest F. Hollings (D-S.C.) said yesterday that Cook had asked the White House to withdraw her name.

Cook, the stepdaughter of Clinton transition chairman Vernon E. Jordan, gave birth Monday to a son, Dwight Bush Jr.

The White House is said to be looking at other candidates for FCC chairman, including Washington lawyer Reed E. Hundt and House Energy and Commerce Committee staff member David Leach.

Also, Bruce McGorrill, a Maine broadcaster and political independent, has emerged as a candidate for the FCC seat vacated by Republican Sherrie Marshall.

Banking Regulation Foe on the FDIC Rise

■ New Hampshire banking lawyer and lobbyist Christopher Gallagher, an outspoken advocate of easing off on bank regulations, is now "at the top of my list" of candidates for chairman of the Federal Deposit Insurance Corp., according to President Clinton.

In an interview with New Hampshire reporters last weekend, the president said he "learned a lot of what I know about the credit crunch & 4 problems with banks from Chris Gallagher," the Manchester Union Leader reported.

Clinton's concern that a credit crunch is holding back economic growth is not shared by many Democrats in Congress, who regard such talk as cover for the banking industry's perennial effort to avoid regulation. If nominated, Gallagher would have to explain his frequent criticism of the banking legislation Democrats have passed in the last decade of years, and his long list of lobbying clients will be intensely scrutinized.

But Gallagher has one other important qualification. Early last year, when Clinton's presidential prospects were suffering from what were then described as "bonko creditors," Gallagher came through with the cash and contacts that helped Clinton win an unexpected second-place finish in the New Hampshire presidential primary.

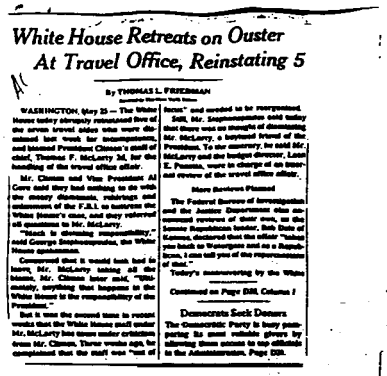
If the nomination goes forward, Gallagher will be the first New Hampshirite named by the administration to any senior job requiring Senate confirmation. The administration, counting nominees, announced 250 people to such jobs as of last Friday.

Rep. McDermott: No Desire to Be a 'Czar'

■ Rep. Jim McDermott (D-Wash.) took himself out of the running yesterday to be AIDS czar. McDermott, who had not been offered the position, had discussed it with senior administration officials and was thought to be a leading contender. McDermott, a physician, said he could not "walk away" from his job in the House just as debate was beginning on national health insurance.

It's Official . . .

■ Mary Lowe Good, a college professor and former chairman of the National Science Board who is senior vice president at Allied Signal, has been named undersecretary for technology at the Commerce Department.



White House Retreats on Ouster At Travel Office, Reinstating 5

By THOMAS L. FRIEDMAN
Associated Press Writer

WASHINGTON, May 25 — The White House today abruptly reinstated five of the seven travel aides who were dismissed last week for mismanagement, and blamed President Clinton's staff chief, Thomas F. McLarty III, for the handling of the travel office affair.

Mr. Clinton and Vice President Al Gore said they had nothing to do with the messy dismissals, rehirings and endorsement of the F.B.I. to interrogate the White House's chief, and they referred all questions to Mr. McLarty.

"Much to shirking responsibility," said George Stephanopoulos, the White House spokesman.

Concerned that it would look bad to leave, Mr. McLarty taking all the blame, Mr. Clinton later said, "Obviously, anything that happens in the White House is the responsibility of the President."

But it was the second time in recent weeks that the White House said under Mr. McLarty has been under criticism from Mr. Clinton. Three weeks ago, he complained that the staff was "out of focus" and needed to be reorganized.

Still, Mr. Stephanopoulos said today that there was no thought of dismissing Mr. McLarty, a longtime friend of the President. To the contrary, he said Mr. McLarty and the budget director, Leon E. Panetta, were in charge of an internal review of the travel office affair.

More Reviews Planned

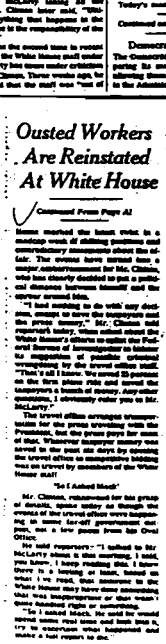
The Federal Bureau of Investigation and the Justice Department also announced reviews of their own, as the Senate Republican leader, Bob Dole of Kansas, declared that the affair "takes you back to Watergate and as a Republican, I can tell you of the repercussions of that."

Today's maneuvering by the White

Continued on Page D10, Column 1

Democrats Seek Deters

The Democratic Party is busy preparing its most robust efforts by allowing these assets to top officials in the Administration. Page D10.



Ousted Workers Are Reinstated At White House

Continued From Page A1

House marked the latest twist in a madcap week of shifting positions and contradictory statements about the affair. The events have turned into a major embarrassment for Mr. Clinton, who has clearly decided to put a political distance between himself and the matter around him.

"I had nothing to do with any decision, except to save the taxpayers and the press money," Mr. Clinton said respond today, when asked about the White House's efforts to enlist the Federal Bureau of Investigation to bolster the suspicions of possible criminal wrongdoing by the travel office staff. "That's all I know. We saved 25 percent on the firm plane ride and saved the taxpayers a bunch of money. Any other questions, I obviously refer you to Mr. McLarty."

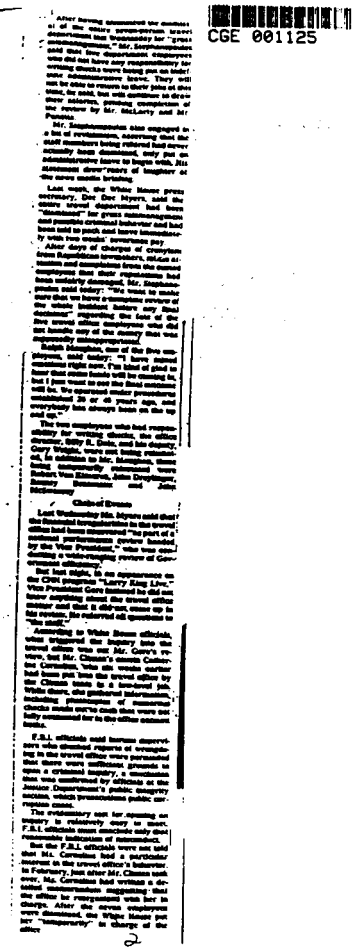
The travel office arranges transportation for the press traveling with the President, but the press pays for most of that. Whatever taxpayer money was saved in the past six days by opening the travel office to competitive bidding was an travel by members of the White House staff.

'So I Asked Much'

Mr. Clinton, rehearsed for his group of details, spoke today as though the events of the travel office were happening in some far-off government outpost, not a few paces from his Oval Office.

He told reporters: "I talked to Mr McLarty when I was starting. I said, you know, I keep reading this. I know there is a lesting of lean, based on what I've read, that someone in the White House may have done something that was inappropriate or that wasn't done standard right or something.

"So I asked Mack. He said he would spend some real time and look into it, try to ascertain what happened and make a full report to me.



After having announced the dismissal of the white press travel department last Wednesday for "gross mismanagement," Mr. Stephanopoulos said that four department employees who did not have any responsibility for serious abuses were being put on indefinite administrative leave. They will not be able to return to their jobs at this time, he said, but will continue to draw their salaries, pending completion of the review by Mr. McLarty and Mr. Panetta.

Mr. Stephanopoulos also engaged in a bit of revisionism, asserting that the staff members being relieved had never actually been dismissed, only put on administrative leave to begin with. His statement drew years of laughter at the news media briefing.

Last week, the White House press secretary, Dee Dee Myers, said the entire travel department had been "dismissed" for gross mismanagement and possible criminal behavior and had been told to pack and leave immediately with two weeks' severance pay.

After days of charges of cronyism from Republican newsmakers, media criticism and complaints from the ousted employees that their reputations had been unfairly damaged, Mr. Stephanopoulos said today: "We want to make sure that we have a complete review of the whole problem before any final decisions" regarding the fate of the five travel office employees who did not handle any of the money that was improperly misappropriated.

Ralph Maughan, one of the five employees, said today: "I have mixed emotions right now. I'm kind of glad to hear that some heads will be coming in, but I just want to see the final outcome will be. We operated under procedures established 20 or 25 years ago, and everybody has always been on the up and up."

The two employees who had responsibility for writing checks, the office director, Billy R. Dale, and his deputy, Gary Wright, were not being reinstated. In addition to Mr. Maughan, those being temporarily reinstated were Robert Van Zandt, John Dreyfuss, Barney Brasseux and John McKinney.

Chain of Events

Last Wednesday Ms. Myers said that the financial irregularities in the travel office had been discovered "as part of a routine performance review headed by the Vice President," who was conducting a wide-ranging review of Government efficiency.

But last night, in an appearance on the CNN program "Larry King Live," Vice President Gore insisted he did not know anything about the travel office matter and that it did not come up in his review. He referred all queries to "the staff."

According to White House officials, what triggered the inquiry into the travel office was one Mr. Gore's reviews, and Mr. Clinton's cousin Carolyn Ian Cornelius, who six weeks earlier had been put into the travel office by the Clinton team in a low-level job. While there, she gathered information, including photocopies of numerous checks made out to cash that were not fully accounted for in the office account books.

F.B.I. officials said bureau supervisors who obtained reports of wrongdoing in the travel office were persuaded that there were sufficient grounds to open a criminal inquiry, a conclusion that was confirmed by officials at the Justice Department's public integrity section, which prosecutes public corruption cases.

The evidentiary net for opening an inquiry is relatively easy to meet. F.B.I. officials must conclude only that reasonable indications of misconduct.

But the F.B.I. officials were not told that Ms. Cornelius had a particular interest in the travel office's behavior. In February, just after Mr. Clinton took over, Ms. Cornelius had written a detailed memorandum suggesting that the office be reorganized with her in charge. After the seven employees were dismissed, the White House put her "temporarily" in charge of the office.

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CGE 001125

Chief Justice Assails Library On Release of Marshall Papers

A1

By NEIL A. LEWIS

WASHINGTON, May 25 — In an unusually terse rebuke of a majority of the Supreme Court, Chief Justice William H. Rehnquist assured the Library of Congress today of bad judgment in releasing the papers of Justice Thurgood Marshall so soon after his death, and he warned that Justices might no longer donate their papers to the Library.

"I speak for a majority of the active Justices of the Court," the Chief Justice wrote in an extraordinary and stinging letter to James H. Billington, the Librarian of Congress, "when I say that we are both surprised and disappointed by the Library's decision to give unrestricted public access to Justice Thurgood Marshall's papers."

Chief Justice Rehnquist did not say which other Justices shared this position. But the sharp reaction of the Justices reflected deep misgivings about discretion with any disclosure about the Court's inner workings that could early every some of the aspects of how decisions are reached.

The Area of Secrecy

Justices have written publicly, and said in private conversation, that the area of secrecy is an important barrier in maintaining the Court's authority in the eyes of the country.

Justice Rehnquist's letter said the Library contemplated the agreement Justice Marshall signed with Mr. Billington in 1991 for the disposition of his judicial papers. The Chief Justice said that while the Library had discretion to make the papers available, it had an obligation to consult with other members of the Court and Justice Marshall's family.

Had the Library staff done so, he said, it would have understood the need to keep the materials private for a longer time.

The Library's Defense

Jill Bond, the Library's chief spokeswoman, said that Mr. Billington, who received this statement from a [illegible] in Aug., would have no comment on the Chief Justice's letter.

But Ms. Bond did defend the Library's interpretation of the "unrestricted gift" as the deed is called, and said it clearly provided for the research to be undertaken in the public upon Justice Marshall's death.

In the letter, Justice Rehnquist warned, "Unless there is some presently unknown basis for the Library's action, we think it is such that future donors of judicial papers will be inclined to look elsewhere for a repository." While many Justices donate their papers to the Library, others give

Continued on Page D22, Column 4

Ms. Bond said, "It has always been the Library's policy to consulting journalists as researchers." She said that access particular only the most current inquiry, which she said would cover, for example, high school students or tourists walking through the Library's exhibits who suddenly decide that they would like to peruse the Marshall files.

Despite the sharp objections to the disclosure, the portrait of the Court that emerges from the Marshall papers is largely a favorable one, showing the Justices involved in thoroughly collegial deliberations.

Bulletproofing and Smuggling

Still, the papers show much evidence of institutional politicking as the Justices struggle to forge majorities. That in itself would be troubling to any Justices who believe that public acceptance of the Court's rulings day after day rests on the perception that they are a collection of nonpolitical, even collegial decision-makers.

The documents cover most of the professional career of Justice Marshall, who died last January at the age of 84, bulletproof his life as a Federal appeals court judge and United States Solicitor General to end on his 24-year career on the Supreme Court beginning in 1967.

The Chief Justice's comments that Justice Marshall's family should have been consulted about the disclosure is an unusual one, scholars have said, that the Marshall papers are also unusual in having been released so soon after his retirement.

By contrast, the release of other Justices' papers has come far more slowly, either because they stipulated long years of inaccessibility or because they donated them to the Library long after they made the decision years after their death.

Do Some Justices Disagree?

The reference to the "majority" of the current active Justices in Justice Rehnquist's letter is ambiguous, but it may refer to the possibility that some Justices disagreed with him.

Mr. Coleman has said that Justice Marshall initially wanted all his papers destroyed upon his death, but that he persuaded him to bend to have the papers preserved for history.

Like Chief Justice Rehnquist, Mr. Coleman has complained that the release of the papers could discourage other Justices from donating their papers to the Library. In an interview on Monday, he called the release "shocking and unacceptable," and said it had caused deep distress to Justice Marshall's widow, Cecilia.

Mr. Coleman, who was Transportation Secretary under President Gerald R. Ford, has said he hopes to meet with Mr. Billington to try and persuade him to restrict further access to the papers.

Senators Are Approached

The Marshall family also opened up a second front today in its battle against the Library by taking at least a few members of the Senate to complain to Mr. Billington about the release of the papers. Senator Orrin G. Hatch of Utah, the ranking Republican on the Judiciary Committee, sent a letter asking the Library to cheer down access to the files. He was asked to do so by the Justice's son, Thurgood Marshall Jr., said J. Paul Leach, the Senator's spokesman.

It seemed highly unlikely, if not impossible, for the Library to end general access to the Marshall papers. Several newspaper reporters and other researchers have already made photocopies of some of the most important documents in the collection.

Rehnquist Assails Library of Congress

CGE 001126

CGE 001127

Tax Report

A Special Summary and Forecast Of Federal and State Tax Developments

A1

A RETROACTIVE TAX RISE could leave many filers owing big payments next April.

The tax bill would add rates of 36% and 39.6% above the present 31% top bracket—as of last Jan. 1. While withholding-tax tables wouldn't change in 1993, underpayments of estimated tax caused by the new rates wouldn't be penalized. Still, retroactivity is outrageous, argues Peter Scott of Coopers & Lybrand, CPAs; and it also could leave unwary filers groping for cash next year to make up for 1993 underpayments. The pain could be worse than that caused by George Bush's withholding-tax cuts last year.

Many filers were underwithheld in 1992 and came up short last month. The latest figures show a 4.9 million drop (6.9%) from 1992's level in the number of refunds issued, a 1.3 million drop (1.2%) in returns filed, and a 687,000 rise (14.6%) in filing extensions. As for the tax bill, revising IRS tables after enactment to force more withholding this year would come too late to help filers already far behind.

So, Scott wonders, should you increase withholding or estimated-tax payments before enactment? "It may be prudent, but I haven't done it."

STATES' TAX REVENUES show slower quarterly growth, despite a one-time boost.

Expecting higher federal tax rates, many individuals accelerated income into 1992, thus raising tax payments for 1992 that states actually received this year. Still, says the Center for the Study of the States in Albany, N.Y., income- and sales-tax revenues in 49 states rose only 5.8% in the first quarter from a year before—less than in any 1992 quarter. Adjusted for legislated rises and inflation, the real growth rate was just 2.6%, reflecting the lull in the economic recovery, the Center's Steven Gold says.

The quarterly gain was due mainly to the transitory rise in personal-income taxes. Sales and corporate-income taxes showed lesser gains; 19 states had lower corporate tax revenue. The Southeast saw the highest growth. The Far West, dominated by ailing California, showed the weakest. Other regions had moderate to fairly strong gains.

S-CORPORATION RULES should be liberalized, Sens. Pryor and Danforth say.

The Arkansas Democrat and the Missouri Republican plan a bipartisan bill to aid family businesses and have sought advice from several groups on easing restrictions on S corporations, which are taxed much like partnerships. The pair haven't chosen the bill's features; its chances in 1993's tax battles aren't known. But proponents in the American Institute of CPAs, the American Bar Association and the U.S. Chamber of Commerce hope to get the ball rolling; they propose to build on measures from the tax bill vetoed by George Bush last fall.

Among the groups' proposals, says Samuel Starr of Coopers & Lybrand, CPAs, are: Raise the limit on shareholders to 50 from 35 and count members of one family as one holder. Let pension and employee stock-ownership plans, charities and more kinds of trusts be stockholders. Let S corporations own other S corporations, issue nonconvertible preferred stock, and treat convertible debt as debt, not another form of stock.

The groups say these measures would open under access to capital and help preserve family ownership.

IT'S NO SECRET. Many filers don't know that what they tell a CPA isn't shielded by "privilege" from disclosure to the IRS, as are talks with lawyers. But it is more surprising that many CPAs also don't know, says accounting Prof. David Doran of Pennsylvania State University's Behrend College. In a survey of 111 CPA firms, 18% w. egly thought they had such privilege.

THE IRS COULD COLLECT corporate debts to other federal agencies out of tax refunds. But IRS analysts figure that would reap less than 0.4% of the money companies owe. They say collections in the first year would total no more than $2.8 million.

SLIPPING ON APPEAL: The ninth-circuit appeals court has refused to consider another appeal by Donald L. Hynes of Fairbanks, Alaska, because he hasn't paid a $1,000 penalty that it imposed in 1990 for a frivolous appeal.

SIMPLIFIED REPORTING of wages and taxes could save employers a bundle.

A Mitre Corp. study released by the IRS last week says employers spend over $6 billion a year to comply with complex and diverse rules for reporting wage and tax data to the IRS, Social Security, the Labor Department and state agencies. But combined and standardized reporting could save nearly $1 billion, the IRS told a committee of outside advisors on data reporting. Now the agencies plan a simplified system to let an employer send a single report to one agency, which would forward data to the others.

The system also could trim federal and state agency costs that are said to exceed $300 million a year. State participation would be voluntary; but already 11 states are joining a test in which Social Security will send state data from W-2 pay statements to the IRS. The IRS, in turn, will pass the data on to the states, so they can analyze the effects on compliance and costs.

Preventing unauthorized disclosures of data is a major concern, the IRS noted.

BRIEFS: President Clinton sent tax treaties with Mexico and the Netherlands to the Senate for ratification; these pacts and those with Russia and Barbados await hearings. . . . Revenue Procedure 93-23 revises the fees for private IRS rulings and opinions. Many fees rise. The basic charge for determining tax exemption climbs to $465 from $375 after June 30.

—SCOTT R. SCHWEIKL

THE WALL STREET JOURNAL WEDNESDAY, J

CGE 001128

Travel Office Mess, Other Blunders Hurt President on Eve of House Budget Vote

By Jeffrey H. Birnbaum and Michael K. Frisby
Staff Reporters of The Wall Street Journal

WASHINGTON – Suddenly, President Clinton is fighting for much more than his embattled economic program.

After a day of assorted longer-passing and rumors and denials of a possible senior-level shakeup, Mr. Clinton is struggling to rehome and regain control of his beleaguered presidency.

Among other things, the president is in the extraordinary position, after only three months in office, of having effectively called the Federal Bureau of Investigation down upon himself and his staff in the flap over the firing of seven employees of the White House travel office.

Adding to the appearance of disarray, the White House reversed itself yesterday and reinstated five of the seven employees, placing them on paid leave pending the outcome of various investigations.

As the administration struggles to right itself, an early casualty may be Lani Guinier. Mr. Clinton's choice to be assistant attorney general for civil rights, he an apparent effort to rid Mr. Clinton of some controversy. White House advisers quietly spread the word that the administration tacks the voice to confirm Ms. Guinier, who has drawn fire for writings suggesting minority groups be given special political power to ensure they are represented adequately in democratic processes.

Meanwhile, Clinton advisers are planning a high-level shake-up of the White House staff as a way to break out of its political torpor. In one scenario, a veteran Democrat of national stature would be brought in to oust, with the current chief of staff, white Mark Gearan, a deputy, would be switched to administrative duties. In another scenario, Paul Begala, one of the president's two political advisers who is currently a consultant to the Democratic National Committee, would join the White House communications office, while current Communications Director George Stephanopoulos would take a more strategic position.

Both Mr. Begala and Mr. Stephanopoulos said they were unaware of any such changes involving them. But aides describe Mr. Clinton as furious over staff mistakes that have damaged him politically on the eve of the House vote on his economic deficit-reduction program.

Another possible change would affect the employment of, and perhaps demote, David Watkins, the director of administration who oversaw the travel office. Though Mr. Watkins is close to the many Arkansans who have senior positions in the White House, he is also seen as the protecting the president from the travel office scandal.

A further sign of the dismay and disarray was a new outbreak of blame-assigning over just who was responsible for the firing of the travel office. There were leaks from at least one senior White House political official, and from others outside the White House, that New York attorney Susan Thomases, a confidante of Hillary Rodham Clinton, was deeply involved in the abrupt dismissal of the officials.

Ms. Thomases firmly denied any involvement, and the offices of both Mrs. Clinton and White House Chief of Staff Thomas McLarty disclaimed the report. The officials was pressed the story offered no evidence to back up their assertion.

Partisan Democrats have grumbled about the damage to Mr. Clinton's image from his association with Hollywood stars, such as his pal Harry Thomasson. The television producer who has been in the thick of the travel-office issue, wrote and made telephone calls out of space in the White House's East Wing during his frequent visits.

Meanwhile, the White House found itself called on the carpet by its own attorney general, Janet Reno, over how it handled its dealings with the FBI. The attorney general complained to White House counsel Bernard Nussbaum that the secret contacts were inappropriate and should have gone through one of the top aides Justice Department officials on investigative matters.

"When I heard about the situation, I called the White House and I said to the

Please Turn to Page A10, Column 1

Travel Office Mess, Other Blunders Deal President Weak Hand

Continued From Page A1

future it would be better if the contact were made through the attorney general or the deputy or the associate," Attorney general, Ms. Reno told reporters. The FBI, the Justice Department and the White House itself opened inquiries into the manner in which White House aides bypassed established procedures to get the FBI to change its statement to declare that a criminal investigation was unwarranted in the travel-office case.

While Mr. Clinton's administration was struggling with the problems, President Clinton was doing his best to distance himself from the decision to fire the travel office staff. "The only thing I know is we made a decision to save the taxpayers and green money. That's all I know," the president told reporters.

He referred all further questions to Mr. McLarty, who has assumed responsibility for the mess, and who, incongruously, also was asked to head the internal White House investigation. Assisting him will be Budget Director Leon Panetta.

On Capitol Hill, congressional Republicans continued to attack the White House for appearing to use the FBI for political purposes.

—*Joe Davidson contributed to this article.*

From Boston Globe Page 1

White House suddenly ousts its travel staff

By Michael Paterl
Globe Staff

WASHINGTON – The White House dismissed its entire seven-member travel staff without notice yesterday in what a spokesman called "press mismanagement," and installed a 25-year-old executive of President Clinton to run the multimillion-dollar operation.

The White House Travel Office, which has operated as a quasi-private business administrator, coordinates commercial travel for the White House staff and assists the press corps that accompanies the president on trips. The office bills news organizations for their share of travel costs.

The White House press secretary, Dee Dee Myers, said yesterday that a hasty outside audit found "very shoddy accounting practices" and that the FBI would probably be called in to investigate further.

All seven employees of the office, some of whom had returned to Washington about 1 a.m. yesterday after accompanying Clinton to California, were informed of the action hours later and ordered to be "out of here" by the end of the day, she said.

White House aides and correspondents said they could not recall any similar action. Charges of corruption have periodically been brought against federal officials in other agencies – from the Department of Housing and Urban Development to the Environmental Protection Agency – but such scandals have rarely touched the White House itself.

One example of the practices Myers cited was "a pass-through account that has a very large balance that can't be accounted for very well." But the spokeswoman said she did not know how large the balance was, what the budget of the office is or how much money is involved in its operations.

One White House source, speaking on condition of anonymity, said outside auditors estimated that about $10 million has moved through the account since January 1992.

Audit report submitted

Myers said the Globe that the records were so poorly kept that the auditors were unable to perform a complete audit. They worked from Thursday through the weekend to assemble what information they could about the operation, and they have submitted a draft report of their findings to the White House counsel and administrative officer.

Presidential trips organized by the office may cost numbers of thousands of dollars each, depending on their duration and the complexity of the president's schedule. However, much of the cost of presidential travel, including the operation of Air Force One and the security provided by the Secret Service, is billed to other government agencies. Myers said other White House offices that handle cash will come under scrutiny as well.

Myers acknowledged that the Travel Office director, Billy Dale, a 20-year government employee, and his staff were given no opportunity to explain their practices or defend themselves. All were long-time government workers but are not protected by Civil Service regulations.

There are "no criminal charges against them at this point," she said, although "we think there has been some serious overbilling of the press."

Dale and other workers in the office, including the new director, did not return telephone calls yesterday.

Myers confirmed that Catherine Cornelius, who has described herself as a second or third cousin of the president, would run the office with the help of Chris Walker, another youthful Clinton political appointee. "Then we'll bring over a sort of finance management expert," the spokeswoman said.

She added that Cornelius has a bachelor's degree in business administration, worked for a Houston bank and ran the travel office for the Clinton campaign.

"She . . . did a very good job," Myers said, describing Cornelius as "very, very capable." The woman has been working in the White House office of administration since Clinton took office.

Questions on billing

The appointment, however, prompted a barrage of questions from reporters, who said they have been billed by the campaign's travel agency for thousands of dollars for trips they did not make or for expenses that were billed months after the fact with no explanation or documentation. In some cases, the office billed reporters' credit cards for charges they did not authorize.

Myers sought to assure reporters that operations would not suffer and that costs to taxpayers and to news organizations would be reduced.

The press secretary said the problems she cited came to light as a result of a National Performance Review of government operations being conducted by Vice President Al Gore at Clinton's request.

"Last week we began to take a look at the travel office," she said, and the independent accounting firm of KPMG Peat Marwick was called in to examine the books. Barbara Kraft, a spokeswoman for the firm in New York, confirmed that "we did in fact do the work" but declined to provide details, citing the confidentiality of client relationships.

There was tension from the start between the incoming Clinton administration and the travel office

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veterans, all of whom had been there for more than 10 years and who feared they would be targeted in Clinton's drive to cut the staff by 25 percent.

The young Clinton appointees pride themselves on doing things their own way and tend to bristle when told their methods run counter to traditional practices.

Although everyone in the White House serves at the pleasure of the president without the protection of civil service laws, most recent administrations have kept some career employees around for continuity and institutional memory. The Clinton staff kept very few, even firing several elderly women who had handled presidential correspondence for many years.

The fired travel office staff members are well known to the White House press corps because reporters and photographers rely on the office for logistical support on the road, from baggage handling to hotels to duplication of transcripts of the president's remarks.

One White House aide involved in the investigation was clearly exasperated by the intensity and tenor of the questioning at yesterday's White House briefing, which concentrated almost entirely on the purging of the travel office.

"We found a problem, we're cleaning it up, and we're getting the crap beat out of us," the aide said, adding that the White House is considering turning over all travel arrangements for the press corps to an outside group.

CGE 001130

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Inland shipping lobbies - a case study in clout

BYLINE By John Aloysius Farrell
Globe Staff

WASHINGTON - It seemed a simple request by President Clinton: In an era of zombie budget deficits, why not ask beneficiaries of the government's largest commercial freight subsidy - the big grain, energy and shipping firms that ply the nation's rivers - to pay their own way?

But the inland waterway interests, protected by powerful lobbies, buoyed by millions of dollars in campaign contributions and prized by the media as a lot of underdogs, are doing quite well at keeping their $750 million annual federal subsidy alive.

The waterway interests and their supporters have portrayed bargemen and the farmers they serve as hardy entrepreneurs, working the nation's fields and rivers like characters from Steinbeck or Twain, now doomed to financial ruin at the hands of insensitive bureaucrats.

Without the subsidy, "most of these barge companies would have to close their doors," said Sen. Tom Harkin, the Iowa Democrat. "For many farmers in my state," he said, "would be the difference between making a profit or taking a loss; between keeping a farm or losing a farm."

But research by The Globe paints a different picture. Ten big firms, it turns out, own about two-thirds of the nation's river barge fleet. Seven of these 10 firms are subsidiaries of even bigger transportation, agriculture or energy corporations.

Many of these corporations, in turn, rank among the nation's biggest campaign contributors. All in all, The Globe found, big waterway interests contributed $2.7 million to congressional candidates in the 1992 election.

These are firms that might be able to absorb or pass on the cost of losing their subsidy, but they have the clout to keep it. And that is how - piece by piece, program by program - campaign votes of "orange" can crumble.

"The whole history of civilization is the history of the development of river valleys and their use for transportation," said Sen. Daniel Patrick Moynihan, the New York Democrat. "But keep this up and the president's program is in jeopardy."

It will cost the government about $800 million this year to keep America's rivers dredged, the channels wide, and the locks and dams in order. About half that money goes to new water projects, the rest to maintenance.

Of the $800 million, only $110 million will be contributed by the commercial shipping interests who are the primary users of the waterways and pay a 17-cents-per-gallon tax on diesel fuel. The engine tax - a $750 million annual subsidy for the waterways users and, to a lesser extent, recreational boaters, municipal water systems and hydroelectric projects.

Bid to raise fuel tax

With the budget he sent to Congress in February, Clinton did not attempt to kill the subsidy right off - just tried it severely by doubling the fuel tax to 25 cents in 1994, 50 cents in 1996 and $1.20 per gallon thereafter.

In doing so, Clinton joined a queue of prominent critics who have tried to trim the subsidy over the years: a crowd that ranges from conservatives like Ronald Reagan and the National Taxpayers Foundation, to liberals like Ralph Nader, to environmentalists like the National Wildlife Federation.

"Assigning full costs to users would decrease political pressure for pork-barrel projects to enlarge locks, dams and waterways, many of which severely degrade rivers and shoreline habitat," said a March 1993 report by Friends of the Earth and 14 other public interest groups.

The waterway interests argue that water projects have historically controlled floods, cut air pollution and highway congestion and kept commodity prices low. But in the 1990s, with the rivers largely tamed, the subsidy for waterways is defended most often as a federal jobs program that supports farms; grain, coal and oil firms; and a fleet of barge companies.

Randy Gordon, a spokesman for the National Grain and Feed Association, a coalition of 1,200 grain firms, defines the subsidy as a kind of backdoor industrial policy. The issue is "competitiveness," he said that without the help of the taxpayers, US farmers and miners cannot compete with overseas rivals.

The barge industry has been under intense economic pressure since a wave of overbuilding - based on wildly optimistic predictions of export growth - took place in the late 1970s, said Jack Lambert, an industry consultant.

"The biggest, strongest companies, the ones with the deepest pockets, survive everything," Lambert said. "But there's been a massive consolidation as relatively small companies go by the boards."

Cheat of corporate grants

To scuttle Clinton's plan, the waterway interests have coupled the ongoing plight of small barge firms and family farms with the behind-the-scenes clout of

CGE 001131

White House fires travel staff, cites irregularities

By Carol Jouzaitis
Chicago Tribune

WASHINGTON—The Clinton administration revved up its campaign to reinvent government Wednesday by firing the White House travel office staff on charges of gross mismanagement. Then it appointed a relative of the president's to run the operation, raising questions about its intentions.

Seven longtime employees who had served through several administrations, Democratic and Republican, were abruptly dismissed after a weeklong audit revealed shoddy accounting practices and an absence of competitive bidding for airline services, said White House press secretary Dee Dee Myers.

Myers said that "given the amounts of money involved," the findings of mismanagement would likely be turned over the FBI.

Some of those who were dismissed said Wednesday that they were not informed of the FBI's involvement and denied any wrongdoing.

But Myers said no evidence of criminality was uncovered, either in the White House's internal investigation or in the professional audit begun last week by the accounting firm KPMG Peat Marwick.

"We thought the best thing to do was reduce the size of the office, to restructure it and to do so immediately to address some of these problems," Myers said.

The office handles millions of dollars of travel and lodging ar-

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rangements and supporting expenses for the White House staff during out-of-town trips by Clinton, and for the journalists and other news media workers who accompany the president.

For example, a town meeting held by Clinton might necessitate making air and ground travel and lodging accommodations for dozens of staffers and journalists, the rental of various facilities and office and communications equipment, and other support services such as catering.

The office was a surprise target of the administration's effort to root out federal waste. Dubbing the project "Reinventing Government," Clinton also has called for a White House staffing reduction.

Though the travel office plays a key role in orchestrating Clinton's trips, it is a relatively small, low-profile operation, funded by taxpayer dollars and by news organizations that pay their own way on presidential trips.

Myers told reporters during an afternoon briefing that the office was investigated "because of your complaints that White House travel was prohibitively expensive."

That explanation evoked angry responses from White House reporters, who said their budgetary concerns were being used to explain firings that administration officials offered little other evidence to justify.

Myers confirmed that Catherine Cornelius, 25, "a distant cousin" of Clinton's, had been appointed to head the office. Cornelius, a former Clinton campaign worker and employee of an Arkansas travel agency that handled his charter plane during the election, joined the White House staff several months ago.

White House officials said the agency Cornelius was associated with will temporarily handle commercial travel arrangements and assist in locating White House charters.

A newly hired deputy, and an employee from the Office of Management and Budget will work with Cornelius in the reorganized office, reducing the staff from seven to three.

Some functions will be contracted to private companies, the White House said.

Myers said that White House officials determined that the office was overstaffed, wasteful and probably had been overbilling news organizations for travel on presidential trips. It processed $11 million in press cash accounts during a 17-month period, The Associated Press reported.

"There was no invoice system, very lax accounting principles ... almost no documentation of ... money that was coming in and going out, and the records that were there were found to be inadequate," she said.

White House officials declined to release the audit results, but accountants later showed a handful of reporters examples of what they called questionable accounting practices.

The auditors said they found irregularities with eight checks totaling $18,000 to $19,000. "There were incomplete entries on eight," one accountant said. In seven instances, "we were unable to find an offsetting entry in the petty cash book."

In the eighth instance, a check was made out to cash for $5,000 but only $2,000 was recorded in the petty cash book, he said.

The employees, who were considered professional, non-political appointees, were dismissed Wednesday without a hearing and given two weeks' severance pay.

"I don't know what they are talking about when they say there were discrepancies," said Billy Dale, the fired director of the travel office.

"They might call it sloppy accounting, but it worked."

Chicago Tribune wire services contributed to this report.

CGE 001132

China woos Western businesses, snubs Ciint

By Storer H. Rowley
Chicago Tribune

TORONTO—The man widely expected to be China's next premier urged Westerners Wednesday to invest in the People's Republic of China, promising them long-term stability and economic growth.

Zhu Rongji, senior vice premier of China's State Council, was the architect of China's vaunted economic reforms. He gave an impromptu, often humorous personal sales pitch to a capacity audience of more than 300 Canadian and international business executives in Canada's financial epicenter.

As President Clinton struggles to decide in coming days whether to consider most-favored-nation trade status for China, despite its widely criticized human rights record, Zhu is bypassing Washington and the American government to drum up business with U.S. companies.

"I would like to convey the following message to you," he told the group. China enjoys political stability which will be maintained for a long time to come. We are following a popular trend but based on our own conditions.

"The political reform has been going hand in hand with economic reform, and we are further promoting democracy and improving the legal system," he told an audience of executives attending a forum organized by the Toronto law firm Goodman & Goodman.

Pursuing to more than a decade of economic reform, ... that the hard-hit ... gime would continue ... hard to turn China ... persus, democratic ...

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advanced economy."

His trip is notable because he is bypassing the U.S., through he is the high-ranking Chinese official to embark on a private business mission here in nearly 15 years, according to organizers of Wednesday's event.

Outlining a potential market of 1.1 billion Chinese, with an annual growth rate last year of 13 percent, Zhu's trip to Canada, Mexico and Brazil underscores the U.S. business community and snubs the Clinton administration.

It was only last fall that candidate Clinton was bashing President Bush about maintaining generous trade ties with China in spite of ongoing Chinese arms sales to America's enemies and human rights abuses unleashed when China put down the democracy movement in 1989.

In contrast to that account, Zhu's speech Wednesday was filled with good-natured smiles and all the manner of attracting business and raising investment in comic "I'll send you the information personally," he told one questioner.

"I can be your legal advisor if you want help. Just come see a lawyer," he told another, adding he would do a "free of charge." He promised that around four hours were available for questions, and stated "very good profits." He then enumerated, marked by continuing sales commentary, numerous and wide-ranging reforms.

In turning personnel working partners at the Western Management, he promised he is creating a stable and the market for investment can not be guaranteed. The Communists who still run China can indeed guarantee a stable market for investment, regardless of their anti-democratic tendencies.

"Personally, I think China is the safest place for investment," said Zhu, who has been widely considered to be in line to succeed Li Peng as premier.

"Our experience over the past 14 years proves that reforms and opening up is the only way leading to the rejuvenation of the Chinese nation. It has been supported, and this basic state policy will be adhered to for a long time to come, and cannot be changed under any circumstances by any forces.

"In the course of building a socialist and market economy, we need to draw on and assimilate every achievement of human civilization, including advancements in operations and management methods of every country."

Clinton must decide this summer if most-favored-nation (MFN) trade status and make a recommendation to Congress by June 3. Now, the status allows Chinese goods to receive import duties of around 5 percent rather than 40 percent.

Administration officials have indicated he may recommend that status be extended for another year while pressuring Beijing to improve its human rights record, including and a trade war with the U.S. that led $10.3 billion last year, according early on August's.

The status is critical for China as such business totals more than 30 percent of its $63 billion in exports sales to the U.S. last year.

Clinton is facing pressure from a broad spectrum of American consumer groups, farm associations, businesses, banks, manufacturers and industry organizations demanding that he renew the MFN status unconditionally.

"The persuasive force of MFN withdrawal does little more than create an unstable and economically risky environment for U.S. companies considering trade and investment in China, and leaves China's leadership continuing to use companies," there than 340 such firms and groups said in a letter to Clinton May 12.

Arguing that U.S. investment in China has "strengthened the pro-democracy forces" and helped spur peaceful change there, the groups warned that withdrawing or attaching conditions on MFN status could spark retaliatory trade actions by China.

At stake, they said, is the business of their companies that exported products to China worth nearly $7.3 billion in 1992 and employed about 137,000 Americans producing those goods.

The firms, range from AT&T, Coca-Cola, General Motors, Eli Lilly and the First National Bank of Chicago to IBM, Boeing, McDonnell Douglas, Caterpillar and the National Wheat Growers Association. They claimed to represent, for example:

- The aircraft industry, which exported products to China worth around $2 billion last year and expects China to purchase aircraft worth about $40 billion over the next four decades.
- Farmers whose largest market for wheat is China.
- Consumers who could pay as much as $14 billion more for goods imported from China if MFN status is not renewed.

CGE 001133

WHITE HOUSE OUSTS ITS TRAVEL STAFF

Cites 'Gross Mismanagement' by Holdover Employees

By RICHARD L. BERKE

Reprinted by The New York Times

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WASHINGTON, May 19 — The White House abruptly dismissed its seven-person travel staff today and asked the Federal Bureau of Investigation to examine its books. Administration officials, who said the low-level appointees had failed to account for thousands of dollars, questioned some of their contracts with air charter companies.

None of the staff members were appointees of the Clinton Administration, and all had worked in the White House for at least a decade. Three of those who were dismissed said tonight that they were not informed of the F.B.I.'s involvement, and denied any wrongdoing.

Dee Dee Myers, the White House press secretary, said that an outside review of the office by an accounting firm had turned up evidence of "gross mismanagement" and "very shoddy accounting practices."

F.B.I. Role Uncertain

She said the White House was not accusing any of the travel staff members of criminal wrongdoing. But she declined to explain why it had brought in the F.B.I., a criminal investigation organization, to examine the operations of the office, which does most of its work on behalf of news organizations but also books commercial flights and hotel accommodations for White House officials.

The White House said it had hired a distant cousin of Mr. Clinton, Catherine Cornelius, 25, who handled Mr. Clinton's campaign press charters, to make travel arrangements on an interim basis under the supervision of the Office of Management and Budget.

A partner of the accounting firm that conducted the review, Peat Marwick, said there was evidence of possible illegalities.

"The nature of the transactions raises questions," the partner said, speaking on condition of anonymity. "When you see lack of documentation of cash, unaccounting of petty cash — these are not the things you want to see in any accounting environment."

White House officials said they asked the F.B.I. to investigate whether officials in the travel office had demanded kickbacks from plane charter companies, although they said they had no direct evidence of any such payments. In addition, the review found eight questionable petty cash disbursements over the last 16 months that amounted to $20,000 and were not entered into office ledgers. In that period, there were 17 petty cash disbursements that were entered into the ledgers that totaled $70,000 to $80,000.

The review also turned up one check to petty cash that was recorded on an office ledger as being for $2,000. But the review found that the check was really made out for $5,000. The Peat Marwick official said that he told the travel office person involved about the discrepancy, and was told that he had inadvertently left another $2,800 in cash in an envelope in his office drawer.

Barney Brasseaux, a member of the travel office staff, said this evening that he was shocked at Ms. Myers's statements about the F.B.I.

"That was never mentioned to us," he said. "They felt they could bring some people in who could be more efficient and consolidate some offices. They thought some of our accounting practices were sloppy and, based on that, dismissed all of us right away."

"We know that we served at the pleasure of the President — we understand that, that's not a problem," he continued. "But we're a little concerned that they've put a cloud of suspicion over everyone in the office without giving anyone any opportunity to respond."

Mr. Brasseaux said that whether the operation was efficient or not was something over which auditors could reasonably differ. "We take our instructions from the Administration," he said, and each Administration generally wants the office run a particular way. But he added that "up to this point we had gotten no direction at all from anybody" in the Clinton Administration, although "the director had made several attempts to contact somebody to get that."

The dismissals took effect immediately. Those who lost their jobs will receive two weeks' severance pay and another month of administrative leave, which entitles them to retirement and health benefits over the month. The seven were not given an opportunity to defend their activities because "given the evidence of mismanagement," Ms. Myers said, "dismissing them was the best course of action."

Officials who worked at the White House under Republican administrations contended that the dismissals were politically motivated. "The travel office has been a nonpolitical office staffed by a dedicated team of professionals who served Republican and Democratic administrations with distinction," John Herrick, a former aide to President George Bush, told Reuters. "The Clinton Administration now seems compelled to turn a nonpolitical office into a political operation."

Ms. Myers said a finance management expert from the Office of Management and Budget would also be brought in to oversee the operation under Ms. Cornelius.

"One of the things we found was that the travel office was poorly managed, did not use sound accounting procedures," she said. "They've kept very few records and receipts."

Ms. Myers said the White House has asked the F.B.I. to investigate, but that "there's no criminal charges against them at this point." An F.B.I. official confirmed that the agency was looking into the matter.

The review centered on the office's activities from January 1992 through this month, covering the entire 1992 Presidential campaign and Mr. Clinton's transition period, when at least $10 million to $12 million passed through the office. The seven employees have worked in the White House for more than a decade, but Administration officials said the accounting firm could not extend its inquiry to earlier years because there was virtually no accounting system in the office to examine

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THE NEW YORK TIMES THURSDAY MAY 19, 19

CLINTON PUTS DOWN DEMOCRATIC REVOLT ON ECONOMIC PLAN

CONSERVATIVES SET BACK

But Triumph in the House Is Overshadowed by Uprising Brewing in the Senate

By THOMAS L. FRIEDMAN

WASHINGTON, May 19 — Backed by his party's Congressional leadership, President Clinton appeared today to have quelled a revolt by conservative Democrats in the House who had demanded more spending cuts, fewer taxes and caps on benefit programs like Medicare.

But some of the rebellious Democrats insisted, at least for public consumption, that the White House still backed the votes to pass the President's economic package. And on Capitol Hill the Democratic leadership declared the revolt among House Democrats over than a similar challenge began brewing among some Senate Democrats. They were particularly upset at scrapping Mr. Clinton's proposed energy tax.

Boren Leads Dissent

In what demonstrated to be a serious setback for the President, conservative Democrats in the Senate, led by David L. Boren of Oklahoma, reached agreement tonight with a group of moderate Republicans on a bipartisan plan to radically steer the Clinton tax cut away from higher taxes and toward more spending cuts. Their plan is to be announced Thursday at a news conference on the Capitol by Senator Boren and by Senator John C. Danforth, Republican of Missouri.

Such a coalition could pose a formidable challenge to the President's tax bill when it reaches the Senate Finance Committee, after its expected passage in the House next week.

While Mr. Clinton was trying to hold his Democratic coalition together, Ross Perot, the independent who has harried the Administration since it took office, was just down the hall selling a group of frustrated Republican Congressmen that the Clinton budget was the old "tax and spend, and that's not what the American people want."

Only a Few in the Open

Mr. Perot, who had been invited by the House Republicans to express his views, said Mr. Clinton's proposal to crusade a deficit-reducing trust fund was "the biggest hat trick in years."

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Only a few House Democrats had publicly declared their intention to vote against the President's program and were demanding a vote on a proposals to limit increases in Medicare benefits.

But dozens more have said that the program is too heavy with taxes and does not cut spending sufficiently.

With virtually all 136 House Republicans expected to vote against the tax bill next week, it would only take roughly 40 Democratic defections to give Mr. Clinton what would be a crippling defeat.

Clearly concerned about the potential for trouble, Mr. Clinton, who returned at 1 A.M. from a two-day Western trip, rushed to Capitol Hill less than nine hours later serially lobbying for his budget package in the House. After meeting with the Congressional Democratic Caucus and party leadership, the President held firm to his program, saying his budget already "does a lot of what they want."

He won a strong public show of support from the Speaker of the House, Thomas S. Foley of Washington, and the Senate majority leader, George J. Mitchell of Maine.

After Mr. Clinton's morning meeting with House Democrats, Mr. Foley told reporters, "I think the caucus today indicated very strong support across the spectrum of our party in support of the President's program, and I think that there is a clear indication that we will pass the bill next Thursday."

Mr. Foley added, though, that there would be continued discussions with conservative factions of the party about "various means of ensuring that the deficit is reduced," such as controlling Medicare spending through Mr. Clinton's pending health reform proposals, or through some other more flexible spending cap that could be negotiated outside the budget "in the future."

But for now, Mr. Foley quickly added that "we're going to go forward" with Mr. Clinton's proposed budget. "We have no plans at this point to change the basic program before it's voted on next week," he said.

Disagreement on Vote Count

Representative Dave McCurdy of Oklahoma, who, along with Representative Charles W. Stenholm of Texas, led the conservative Democratic challenge, disagreed with Mr. Foley's vote count.

"The President was very good today," Mr. McCurdy said. "He may have helped a number of people make up their minds who were undecided. But my read is that unless there is a change on the entitlement cap, and some recognition that we need to work with the Senate on the energy tax, that the votes are not there. Every time I talk to people they say they are not going to vote for it."

Mr. McCurdy, who was removed as chairman of the House Intelligence Committee earlier that year by Mr. Foley after county screening a post in the Clinton Cabinet, added: "We are placed in the position of looking like rebels when most of us were the earliest supporters of Bill Clinton."

Under House rules, the leadership tightly controls whether an amendment altering the budget is brought to the floor for a vote, and with the Democratic leadership apparently backing the President, such a vote now seems highly unlikely. The Republicans and conservative Democrats together would not appear to have enough votes to make a serious challenge.

Representative Stenholm said after today's meeting with the President that he was not backing down and that he was going to continue to try to push his case because he believed it would actually help the President.

Few Will "Go to Wall"

He said that there were between 80 House Democrats who shared views but he concedes that a smaller number would be ready to go to the wall and support President Mr. Stenholm said he joined the proposed energy tax because he failed to get it killed he would still vote for the budget.

In the Senate, however, the Democratic leadership does not have as tight control as in the House and alternative Boren-Danforth proposal would present a major problem. Boren is a key swing vote on the Senate Finance Committee, where Democrats hold only an 11-to-9 majority.

Mr. Boren and Mr. Danforth drew up the alternative budget in his office today with Senators John B. Breaux, Democrat of Louisiana, Kent Conrad, Democrat of North Dakota, John H. Chafee, Republican of Rhode Island, and William S. Cohen, Republican of Maine. All but Mr. Cohen are members of the Senate Finance Committee.

Asked about an alternative to the energy tax, Mr. Clinton told reporters after meeting House members: "Let me remind you that when Secretary Bentsen announced that we would support a deficit reduction plan that included an energy tax that would promote energy efficiency and environmental responsibility, that's when interest rates started to drop. So I think we ought to stay there with it. I think it's a good part of the program, and I think we can pass it."

During the House caucus, one of the biggest fears raised by many Democratic Congressmen was that they would vote in favor of the energy tax in the House, pay a political price back home and then see Mr. Clinton compromise when the bill goes to the Senate in order to win Republican support. That, they feared, would leave them in the worst situation: having voted for an unpopular provision that the Republi-

one would be able to take credit killing.

Participants in the meeting said Clinton responded, "If you'll go out Monday, I'll go with you." The Democratic Congressmen erupted in applause and cheers, the participants said.

Asked about the opposition among Southern Democrats to the proposed energy tax, Representative Mike Synar of Oklahoma said, "You have got the national Chamber of Commerce and individual companies forcing the business up here, and a lot of members can't take the heat. I don't like it, but I'll take the bill."

CGE 001135

Clinton Fires White House Travel Office, FBI Is Probing Allegations of Kickbacks

By MICHAEL K. FRISBY
Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON – President Clinton fired the seven-member White House travel office, and the Federal Bureau of Investigation is investigating whether the employees received kickbacks from vendors providing services.

Dee Dee Myers, the White House press secretary, said the action was taken after a review found mismanagement, over-billing and shoddy accounting methods. The office coordinates the travel arrangements for the staff and press corps on presidential trips, including hiring the airplane charter company.

Attempts to reach the fired employees, who were all hired by previous administrations, weren't successful.

White House and FBI officials con- that investigators are also looking into the possibility that kickbacks were received while the office contracted for services and oversaw the $11 million-a-year press account. Although the White House publicly said the FBI was called in just yesterday, officials privately said the agency had begun a preliminary probe earlier.

The investigation, acc ding to those familiar with it, started a er a charter airline company recently told the White House that it was approached by an executive of UltrAir, a two-plane airline that currently provides the aircraft that carries the press on presidential trips, and was told that it could get the White House business – if it gave the UltrAir executive a top-job in the company.

During its inquiry, the White House is said to have found that the UltrAir executive had worked at Pan American while that company provided the charter service several years ago. The executive later took jobs at two other charter companies, the last one being UltrAir, and brought the White House account with him to both companies.

Auditors from KPMG Peat Marwick, who were called in to assist the White House, found that there was no written contract with UltrAir for the service. "It was all done with a wink and a nod," said one official. Ms. Myers said that other companies had complained that there had been no competitive bidding for the job.

Once the FBI quietly assisted the White House, the focus turned to the travel office's four-day workweek and what the employees did on their off days. Among the areas under investigation are said to be excessively lavish lifestyles for people earning between $45,000 and $79,000 a year. Investigators are said to be checking on expensive homes, as well as reports of investments in a race horse and a boat.

In addition, officials said there were abuses of petty cash. The workers were said to have cashed checks, supposedly to tip bellmen and others on the road, but kept sloppy records. In one instance, the records said a check was cashed for $2,000, but the returned check from Riggs Bank was for $3,000. While auditors were reviewing the records, the missing $3,000 mysteriously showed up in a desk drawer in installments of $2,800 and $200. During the 17-month audit that began with January 1992, auditors identified eight problem checks totaling between $18,000 and $19,000.

Mr. Clinton appointed a distant cousin, Catherine Cornelius, 25 years old, to head the office that will be reduced in size. Ms. Cornelius had worked for World Wide Travel of Little Rock, Ark., which handled travel arrangements for the Clinton presidential campaign.

Ms. Myers noted that smaller news agencies had complained about travel costs, and she said bills were sent out on White House stationery. But the firings were met with contempt from some senior members of the White House press corps, a reaction that stunned administration officials. Reporters asked 25 questions on this single topic at the daily press briefing. The travel officials were generally liked by the press and credited with providing excellent services.

Those fired were the office director, Billy Dale, his top deputy, Gary Wright, as well as Barney Brasseaux, John McSweeney, John Dreytinger, Robert Van Emeren and Ralph Maughan.

THE WALL STREET JOURNAL, THURSDAY, MAY 20, 1993

CGE 001136

Health Reform May Cost More For Uninsured

Clinton Considers Easing Initial Cost to Firms With Worker Payments

By Rick Wartzman

Staff Reporter of The Wall Street Journal

WASHINGTON – Looking for ways to ease the burden on small employers, the Clinton administration is considering requiring those who are currently uninsured to pay more out-of-pocket expenses for health benefits than everyone else for a few years.

Under this scenario, which officials said has been seriously discussed for about a week, the nation's uninsured wouldn't realize the full generosity of the Clinton health system as quickly as previously considered. These individuals would be guaranteed the same medical services – or only a slightly less comprehensive package – than those currently insured. But they would have to pay more out-of-pocket expenses in the form of co-payments for [illegible]

[illegible]

Please Turn to Page A8, Column [illegible]

Uninsured May Pay Higher Expenses Under Health Plan

Continued From Page A1

age for their workers. The administration has made clear that its proposal would mandate that all employers contribute to the health coverage of their workers through either a payroll tax or the direct purchase of insurance. Thus, if those currently uninsured pay more out of their own pockets, their employers would have to contribute less.

However, some are skeptical. John Motley, a lobbyist for the National Federation of Independent Business, said that while a phase-in approach could "mitigate the loss of jobs," the system ultimately would have "the business community be responsible for financing" health care for all Americans. And that, he said, was "intolerable."

—Hilary Stout contributed to this article.

To $10.21 Bi[illegible] During Marc[illegible]

Deficit Hit 4-Year Hi[illegible]; Total Is Likely to [illegible] Figure for U.S. Gro[illegible]

By Lucinda Harper

Staff Reporter of The Wall Street Journal

WASHINGTON – The U.S. trade de[illegible] deteriorated to $10.21 billion in Marc[illegible] Commerce Department said, the wi[illegible] gap in nearly four years.

February's deficit was $7.31 billion.

Although analysts said such a la[illegible] trade imbalance isn't likely to repeat itse[illegible] the March numbers are likely to lower [illegible]

[illegible]

Longtime Travel Staff Given Walking Papers

By Ann Devroy and Al Kamen
Washington Post Staff Writers

A1

Charging gross financial mismanagement, the White House abruptly fired the seven longtime staff members at its travel office yesterday and replaced them with a team to be headed by President Clinton's cousin.

The seven fired workers were career government employees, with about 10 to 20 years experience. Press secretary Dee Dee Myers said the White House held all seven responsible for the financial mismanagement, which she said had occurred "for years and years" and that it was serious enough to ask the FBI to investigate.

Catherine Cornelius, 24, who worked on travel during the Clinton campaign, will head the new office. Myers said replacing a career worker with a cousin of the president was not suspicious because "she's a distant cousin." Two officers passing the office are also political appointees, but Myers said the firings were not an effort to replace career government workers with Clinton loyalists.

See TRAVEL, A13, Col. 4

The Washington Post Tuesday, May 18, 1993

Myers said an outside review done by the firm of Peat Marwick over the past six days found "gross mismanagement," including "laundry accounting procedures" and "many discrepancies." She said the office contributed a "substantial" amount of cash and did not have procedures in place to account for it.

An accountant involved in the review said, for example, that 17 checks written against the petty cash account found some "irregularities" in eight totaling $18,000. In seven cases, a petty cash book did not reflect entries for canceled checks; in the eighth case, a check was made out to cash for $5,000 but only $2,000 was recorded in the book.

In another area, he said, arrangements with the firm that provides charter airplanes were all verbal with no signed contracts, a practice considered unacceptable. Only two of the officials involved had access to any of the cash, but Myers said the seven were all being held responsible for "financial mismanagement."

Both the director of the office, Billy Dale, and the assistant director, Gary Wright, had worked at the White House travel office for more than 20 years.

Career employees work "at the pleasure of the president," and thus give up regular federal worker job protection.

Clinton deflected questions on whether the firings were fair, but then added, "All I know about it was I was told the people in charge of administering the White House found serious problems there and thought there was no alternative."

Myers said she was not alleging personal misconduct but others at the White House, refusing to speak on the record, said large amounts of cash in the petty cash fund were not properly accounted for; that $2,800 in cash was found in the drawer of one official when cash discrepancies were discovered and that withdrawals recorded in account books did not match amounts of checks drawn on the accounts.

The members of the travel office are paid with federal funds, but the cash they control—more than $10 million dollars for airplane charters alone over the past 16 months—comes from news organizations. They pay the travel office to arrange and pay the bills for charter aircraft, ground transportation and the running of rooms where reporters file their stories. The travel office acts somewhat like a private travel agency for the press and White House staff.

Myers, in announcing the firings, said the seven were told they were being dismissed and to leave the White House by noon.

She said at midday that none of the seven was asked if they had an explanation or case to make about the operation before being fired. Later in the day, she said some of

the seven were confronted with [illegible] reports and charges of financial m[illegible] management.

The seven are not covered [illegible] civil service or other job protect[illegible] rules. They will get two weeks [illegible] severance pay and continuation [illegible] health and pension annual benefits [illegible] for a month.

The White House was vague [illegible] publicly describing the financial mismanagement, saying it included actions such as billing based on estimates and then not refunding based on actual costs; of not seeking competitive bids for the press charter business or the work of booking staff travel and of failing to have adequate documentation for [illegible] payments.

The White House also accused the operation of being underworked and overpaid. Myers said each employee worked a four days week, for salaries ranging from $40,000 to $70,000 a year. She said the White House could get the same or better work done with fewer people at lower costs. The fired workers had contacts all over the world and country, having built up over years of experience contacts with firms, hotels, airlines and their counterparts in foreign countries.

None of the seven could be reached for comment. Messages left at the homes of three were unanswered, two were overseas and two could not be found.

A source said the review is not yet complete and the White House declined to provide the document until it is complete.

The firings have the advantage of helping the White House toward its goal of reducing its staff by 25 percent by Oct. 1. Only three offices there have a significant number of career workers: the travel office, the correspondence office and the administrative offices.

CGE 001137

CGE 001138

...inton Fights Revolt on Hill

President Visits Conservative Democrats to Defend Economic Plan

By Eric Pianin and Ann Devroy
Washington Post Staff Writers

A1

President Clinton traveled to Capitol Hill yesterday to plead with conservative Democrats to unite behind his economic program, pledging to resist efforts to cap entitlement programs such as Medicare and attempts to replace or significantly modify his energy tax.

Democratic congressional leaders, the president and his aides confidently predicted that they would stop the revolt by members of his own party seeking more spending cuts, tougher spending controls and smaller tax increases. But conservative Democratic House members vowed to continue the fight.

A senior White House official said after the meeting that the administration believes it is about 35 votes short of the 218 needed to approve the specifics of Clinton's budget plan without the cap on entitlement spending demanded by conservatives. But, he said, "while we take this seriously and worry it might have legs, we believe we will get the votes."

Clinton, following morning meetings with the House Democratic caucus and at a joint meeting of House and Senate Democratic leaders, said his program is "picking up steam."

The president argued forcefully against a proposal by Rep. Charles W. Stenholm (D-Tex.) to impose spending caps on entitlements—programs such as welfare and Medicaid whose benefits can be claimed by anyone who

See CLINTON, A13, Col. 5

a Senate Democrats plan to seek a ban on contributions from political action committees. Page A7

THE WASHINGTON POST THURSDAY, MAY 13, 1993

CLINTON, From A1

qualifies and whose costs therefore are hard to predict. Entitlements are the fastest-growing part of the federal budget. Under Stenholm's proposal, if the programs end up costing more than is currently projected, Congress would have to make offsetting cuts or raise taxes instead of making up the difference by increasing the deficit.

Clinton said such a plan would undermine his efforts to overhaul the health care system and would have the effect of shifting health care costs from the government to the private sector. If the federal government were forced to reduce spending on Medicare and Medicaid reimbursements to hospitals and physicians to stay within the spending caps, Clinton said, those hospitals and doctors would make up their losses by increasing fees and charges to other private patients and their medical insurance programs.

Cutting the programs, he said, would result in "across-the-board cuts on very vulnerable people."

Clinton also sought to assure House Democrats who are reluctant to support his energy tax that he would fight to preserve it once it reaches the Senate, where Republicans and some Democrats have vowed to try to defeat it. House members fear being reminded voting for an energy tax and then seeing it killed in the Senate by a Clinton compromise.

Rep. Sander Levin (D-Mich.) said the meeting with the president was "kind of a moment of truth. The president comes down and says, 'Look . . . we're running this place; we have to rise to the occasion.' "

Del. Eleanor Holmes Norton (D-D.C.) said that Clinton "confessed some error in not having sold his own program hard enough. . . . People feel that the Senate is sabotaging and undercutting the president."

Reps. Vic Fazio (Calif.), John M. Spratt Jr. (S.C.) and other prominent Democrats said after the meeting that it was unlikely that Stenholm would be given an up or down vote on his entitlement cap proposal next week, when the budget reconciliation bill is debated on the floor. "It's well understood that an entitlement cap will be part of reconciliation," Spratt told reporters.

House Speaker Thomas S. Foley (D-Wash.) said that vote he would continue negotiations with Stenholm about possibly dealing with his proposal later, "we have no plans at this point to change the basic program before it's voted on next week."

Stenholm and Rep. Timothy J. Penny (D-Minn.), chief advocates of a entitlement cap, said later that they would press their case on the floor next week, and would oppose the resolution governing debate of Clinton's program unless it permits a vote on their proposal.

"Right now the number-one priority requested is the entitlement cap," said Stenholm, adding that 60 to 8[illegible] House Democrats "feel the way I do."

"We're always told to wait," Penny said. "We were told to wait on the line-item veto during the debate on the debt ceiling. . . . There's no way you can enforce a promise [from the leadership]. You can enforce an entitlement cap."

The proposed spending cap is a conservative move that is pitting moderate and conservative deficit "hawks" against liberal members, including members of the Congressional Black Caucus. The caucus chairman, Rep. Kweisi Mfume (D-Md.), said yesterday that he and other black members would vote against the bill if the entitlement caps were included.

Rep. Charles Wilson (D-Tex.), who raised House members' concerns during the meeting with the president about Clinton's commitment to the energy tax, said later that Clinton "gave me as strong an assurance as he could."

"He said he would never be a sell-out on the energy tax," Wilson said. "It's a very dangerous thing for a Texas Democrat to vote for a very unpopular tax and then have Republican statesmen going back to the state saying, 'Charlie voted for the tax and I saved you.' "

Asked whether the energy tax would be changed in the Senate, Majority Leader George J. Mitchell (D-Maine) said, "It's possible, but I think that the president's program will be enacted largely intact. There may well be some modest changes."

Staff writer David S. Hilzenrath contributed to this report.

Scaled-Back Jobs Bill Progresses in House

House Democratic leaders and the chairman of the House Appropriations Committee have agreed to the Clinton administration plan for a much-scaled-back jobs bill totaling about $920 million, aides to the leadership said yesterday.

The proposal includes about $320 million for summer jobs for young people, $480 million for construction of wastewater treatment facilities and $200 million for Justice Department grants to hire additional police. The administration has proposed paying for the measure—a shadow of its original $16.3 billion economic stimulus package—with an across-the-board spending cut in 1993 discretionary funds.

The committee and the full House are expected to act on the bill next week. Senate Minority Leader Robert J. Dole (R-Kan.), who led a filibuster that killed the stimulus package last month, said he would support the modest alternative.

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...ing, featuring entertainers from Bob Dylan and Aretha Franklin to Tony Bennett and L.L. Cool J. But their management of the program was widely criticized not only for excess, but also because broadcast rights of this people's presidential gala were sold to HBO — a pay-per-view cable-TV service.

Nevertheless, Clinton rewarded their loyal service by letting them spend his first night in the White House in the Lincoln Bedroom, an honor customarily reserved for family.

Al Tuchfarber, a political analyst at the University of Cincinnati, is skeptical about blaming Thomason for Clinton's troubles. "Clinton has had these connections for a long time," he said.

...to replace ...ckey, R-Ark.

On a vo... vote, the House unanimously rejected the Democrat's complaint that Garland County voting machine problems led to his defeat in the 4th Congressional District.

Dickey, south Arkansas' first Republican congressman since Reconstruction, said he was pleased to have the election challenge completed.

"After all that effort, what we have come up with is abiding by what the people wanted in that election," Dickey said.

He said McCuen's complaint "never should have been brought up."

Dickey won by almost 11,000 votes in one of the most stunning upsets in Arkansas political history. McCuen charged there were irregularities with voting machines, the secretary of state claimed.

McCuen filed a lawsuit in Garland County Circuit Court and requested an examination of the county's voting machines. The issue eventually wound up before a special House task force.

Despite the challenge, Dickey was sworn in as a member of Congress in January.

In February, the House task force held a hearing on the dispute. McCuen hoped the task force would order a new election, at least for Garland County. But the bipartisan task force voted 3-0 against McCuen.

In March, the House Administration Committee supported the task force's findings and sent the issue to the full House.

...ess corps has a lot riding on travel brouhaha

...NDY LILLESTON
...-Gazette Washington Bureau

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Washington Journal

The high costs, in turn, created a set of "haves" and "have nots" among the White House press corps.

As the cost of traveling by charter has risen through the years, the number of reporters traveling with White House press charters has declined. Now, only the largest news organizations — particularly the television networks, which sometimes have to send a half-dozen people on trips when camera crews are included — travel everywhere with the president.

Those organizations feel they must pay whatever cost is charged, and their correspondents, whose words on the controversy reach millions of people, were on a first-name basis with the former travel office employees.

Other news organizations have greater concerns about the cost of press travel. They have reduced the amount of travel allowed and have leaned on the White House for years to lower travel costs.

Those costs can run as high as 150 percent of a first-class commercial airline ticket. While reporters, photographers and broadcast crews have enjoyed the benefits of the travel office's service, many of their organizations have grown weary of the expense.

Officials of the White House Correspondents' Association have talked to White House aides about the problem for years. They always were assured costs were being controlled as much as possible.

The Clinton administration questioned that, citing cost savings as one reason the seven travel office employees were fired and saying competitive bids would be taken for future service.

Subsequent disclosures about manipulations by long-time Clinton friends to obtain the travel business damaged the administration's credibility. The firings, which should have generated a day or two worth of news, have developed into something far more lasting.

Still, when you see a story about the topic on television or read about it in the newspaper, remember: The people doing the reporting have more than a casual interest about the outcome of the controversy.

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THE WHITE HOUSE

WASHINGTON

JUNE 3, 1993

MEMORANDUM TO: DAVID WATKINS
ASSISTANT TO THE PRESIDENT FOR
MANAGEMENT AND ADMINISTRATION

FROM: VINCENT W. FOSTER
DEPUTY COUNSEL TO THE PRESIDENT

Confirming our telephone conversation ~~this~~ yesterday afternoon, Dayton Lehman, Deputy Assistant General Counsel of the Department of Transportation, advises that, based on his understanding of the method of operation from the newspaper accounts, the Travel Office may only utilize a carrier which has a license for public carriage under 14 CFR § 121. He mentioned this issue came up during the Presidential campaign as to a Clinton-Gore charter, and a letter (attached) was furnished to the FEC which, he understands, was then furnished to each of the campaigns. He first told me that a carrier under long term contract might qualify as a private carrier if they only transported the press corps but in a later conversation advised that they probably could not qualify since the press made a reimbursement for the carriage. (I do not know whether the carrier previously used had a public carriage license or not.) Lehman understands you or Bruce Overton may call if there are questions.

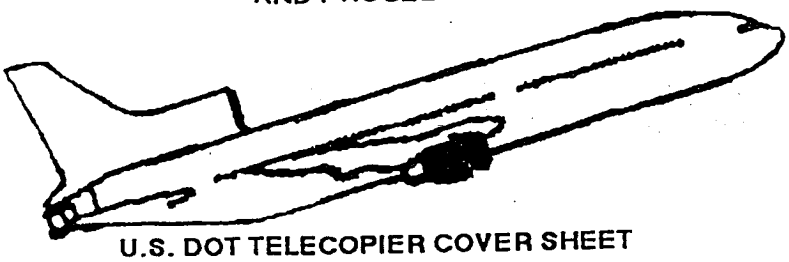
cc: Mark D. Gearan
Bruce L. Overton (w/attachment)
Cliff Sloan

U.S. Department of Transportation

THE OFFICE OF
AVIATION ENFORCEMENT
AND PROCEEDINGS

400 Seventh St., S.W.
Washington, DC 205

CGE 001142



U.S. DOT TELECOPIER COVER SHEET

6/2
date

time

Number of pages (including this page) 15

To: Vince Foster

From:

U. S. Department of Transport
Aviation Enforcement & Proce

DAYTON LEHMAN, JR.
Deputy Assistant General Counsel

400 Seventh Street, S.W.
Washington, DC 20590

(202) 366
FAX. (202) 366

Phone: Fax: 456-6279

Phone

SUBJECT: Per our conversation this afternoon, the enclosed letter should provide background on the issue of common carriage versus private carriage. Also enclosed are copies of two consent orders involving the issue.

DL

COMMENTS REQUESTED BY:

Telecopier Number is (202) 366-7152.
If you have any problems, please call (202) 366-9349. Thank you for your help.

U.S. Department of Transportation

General Counsel

February 10, 1992

Chairman John Warren McGarry
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Mr. Chairman:

I am writing to you to provide information regarding the economic licensing and operational certification of air carriers by the Department of Transportation (DOT). It is important that each of the presidential candidates be fully aware of this information since they often charter large aircraft to travel to events and apparently some may be chartering aircraft from entities that hold no DOT economic authority and are not subject to the most stringent safety standards and oversight of the Federal Aviation Administration (FAA), a DOT operating agency. Since your commission is in regular contact with the various campaign staffs, we are seeking your assistance in disseminating this information.

Initially, before any U.S. aircraft operator can hold itself out to the public as providing scheduled or charter service, it must have DOT economic authority. In general, such authority is granted to large aircraft operators in the form of an air carrier certificate issued under section 401 of the Federal Aviation Act (49 U.S.C. App 1371). Before granting such authority, this Department must find a carrier to be "fit", which entails a determination that the carrier has adequate financial resources, a competent management team and a proper compliance disposition. This fitness requirement is a continuing one and we monitor certificated carriers to ensure their compliance. In addition, certificated carriers must meet certain DOT economic rules, such as liability insurance requirements (see, 14 CFR Part 205) and escrow requirements to protect charterers (see, 14 CFR §§207.17 and 208.40).

Likewise, the FAA requires that any U.S. aircraft operator holding itself out to the public as providing scheduled or charter service with large aircraft must comply with the safety-related certification and operating rules of Part 121 of the Federal Aviation Regulations (14 CFR Part 121). Those regulations are the most detailed and stringent of any of the FAA's aircraft operating rules and the FAA provides heightened safety surveillance of carriers subject to Part 121.

There are, however, operators of large, jet-powered passenger aircraft that are not required to have DOT economic authority or to comply with 14 CFR Part 121. Provided these aircraft operators do not conduct their transportation business in a manner constituting common carriage (*e.g.*, holding out to the general public in advertisements or telephone listings or through agents or brokers, or otherwise

CGE 001144

Chairman John Warren McGarry (2)

C5401

acquiring a reputation for common carriage), they may transport persons or property for compensation or hire. These operators are regulated by Part 125 of the Federal Aviation Regulations (14 CFR Part 125); however, Part 125 does not contain safety standards as stringent as Part 121. Part 121 safety standards reflect the statutory requirement that all common carriers conduct their operations with the highest possible degree of safety.

We believe it is important that the presidential candidates be made aware of the different regulatory environments in which aircraft operators provide transportation by air and, to effectuate that goal, we request your assistance in providing those candidates likely to charter large aircraft with a copy of this letter. In addition, we request that the candidates advise my office and the FAA if any operator of a large aircraft or its agent solicits their air transportation business and the operator does not have DOT economic authority or an FAA Part 121 air carrier operating certificate.

If you have any questions or desire additional information, please contact Samuel Podberesky, our Assistant General Counsel for Aviation Enforcement and Proceedings, on (202) 366-9342. If you or any of the presidential candidates wish to ascertain whether a particular aircraft operator has DOT air carrier authority, you may contact Patricia Szrom, Chief of our Air Carrier Fitness Division, on (202) 366-9721.

Sincerely,

Arthur J. Rothkopf

CGE 001145

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D. C.

Issued by the Department of Transportation
on the 18th day of August, 1992

SERVED: AUGUST 18, 1992

VISCOUNT AIR SERVICE, INC.
Violations of Sections 401 and 411 of the Federal Aviation Act and 14 CFR 201.6.

CONSENT ORDER

This order concerns the activities of Viscount Air Service, Inc. (Viscount), a company which holds authority granted by the Federal Aviation Administration (FAA) to operate under Part 125 of the Code of Federal Regulations (14 CFR Part 125).[1] Viscount initiated flight operations in 1986, temporarily ceased operations in 1989, and resumed operations in 1991.

After conducting an informal investigation of Viscount's activities, the Office of Aviation Enforcement and Proceedings (Enforcement Office) has concluded that Viscount engaged in unauthorized common carrier operations in violation of sections 401 and 411 of the Federal Aviation Act (Act; 49 U.S.C. app. §§ 1371 and 1381, respectively). Although it has applied for a certificate of public convenience and necessity to engage in air transportation under section 401 of the Act,[2] at all times relevant to this order, Viscount did not hold such authority under section 401. The Enforcement

1 Part 125 of the Federal Aviation Regulations (FAR) (14 CFR Part 125) establishes certification and operating rules governing the operation of large aircraft when used for any purpose other than common carriage. Section 125.11(b) expressly provides that "[n]o certificate holder may conduct any operation which results directly or indirectly from any person's holding out to the public to furnish transportation."

2 Viscount is currently prosecuting applications for both section 401 and FAA Part 121 certificates.

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Office has also concluded that Viscount solicited air transportation contracts in anticipation of receipt of section 401 authority, in violation of section 201.6 of the Department's regulations (14 CFR 201.6).

Section 401(a) of the Act provides that "no carrier shall engage in any air transportation unless there is in force a certificate issued by the [Department of Transportation] authorizing such air carrier to engage in such transportation." Section 101 of the Act defines "air transportation" as the carriage by aircraft of persons or property as a common carrier for compensation or hire (49 U.S.C. app. § 1301). It is well established that a company is engaged in air transportation as a common carrier when it holds itself out to the public as providing air transportation service.[3]

The term "common carriage" consists of four elements: (1) a holding out of a willingness to (2) transport persons or property (3) from place to place (4) for compensation. The most important element in determining whether a carrier is engaged in common carriage is whether there has been a "holding out" to the public. It has been long held that

> [A] holding out of service may be evidenced by any means which indicate to the public that the carrier's services are indiscriminately available to all who may apply. The fact that a carrier may limit its service to a class or segment of the general public or occasionally refuse to carry persons seeking service does not detract from the status as a common carrier so long as it indicates a willingness to serve indiscriminately all within the class.[4]

Section 411 of the Act prohibits unfair and deceptive practices and unfair methods of competition in air transportation or its sale. Section 201.6 of the Department's regulations prohibits an applicant for a 401 certificate from advertising and accepting reservations for air transportation until its application has been approved by the Department.

The Enforcement Office's informal investigation disclosed that since resuming operations in 1991, Viscount has discussed with various persons contracts for transportation by air for numerous different entities, including professional baseball, basketball, hockey, and football teams, college football teams, a political campaign organization, and a casino. As a result of those discussions, Viscount entered into and performed or partially performed

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3 *See, e. g.*, Intercontinental, U.S. Inc., 41 C.A.B. 583 (1965); Las Vegas Hacienda, Inc. and Henry F. Price, Enforcement Proceeding, 31 C.A.B. 415 (1960), *modified and aff'd*, 298 F.2d 430 (9th Cir.), *cert. denied*, 369 U.S. 885 (1962).

4 Intercontinental, 41 C.A.B. at 601.

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contracts for the transportation by air of several different entities, for periods ranging from single flights to operations over an entire professional sports season of several months.[5]

With regard to the contract discussions described above, on many occasions, initial contact between Viscount and the entity that sought a contract for transportation by air was made by an "aviation consultant" or a representative of a retail travel agency. Several of these contacts resulted in a contract between Viscount and the represented entity. In addition, on at least one occasion, Viscount paid a fee directly to an "aviation consultant" in connection with a contract. On another occasion, Viscount offered a five percent commission to a retail travel agency in connection with Viscount's contract bid. Further, Viscount offered on at least one occasion to transport by air "at cost" family members of a professional sports team. Finally, on at least one occasion, Viscount accepted from a retail travel agency a payment in connection with a contract for air transportation.

By Viscount's contracting to transport and transporting by air several types of entities, availing itself of the services of various "aviation consultants" and travel agents in its pursuit of such contracts, paying a commission to a third party, and gaining the reputation for a willingness to provide transportation by air to at least a class or segment of the general public while operating without a certificate issued under section 401 of the Act, the Department finds that Viscount has engaged in air transportation in violation of section 401 of the Act. By Viscount's engaging in air transportation without authority under section 401, the Department also finds that Viscount has also engaged in unfair and deceptive practices and unfair methods of competition in violation of section 411 of the Act.

The Enforcement Office's investigation further revealed that, on more than one occasion, Viscount made bids for contracts for transportation by air of college sports teams that were conditioned on Viscount's future acquisition of section 401 authority. The Department also finds that by providing bids on those contracts prior to receipt of its 401 authority, even if contingent on receiving hoped-for approval of its section 401 certificate, Viscount has violated section 201.6 of the Department's regulations.

In mitigation, Viscount asserts that there is no clear, well-defined understanding of the term "holding out to the public," or guidance on the use

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5 The investigation also disclosed that between 1986 and 1989, Viscount entered into contracts with and transported by air several individuals and/or groups in the music entertainment industry. These contracts were performed by Viscount over periods of time ranging from approximately 11 days to five and one-half months. Viscount also received numerous inquiries during the same time period from musical entertainment groups to enter into contracts for transportation by air.

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of agents, representatives, consultants, or brokers employed by the customer of private carriers. Viscount contends that it did not serve the public and instead served only a specialized market consisting primarily of professional sports teams. In addition, Viscount asserts that at no time did it actively hold out to the public by advertising or other proactive methods. Furthermore, Viscount contends that before entering into most of its contracts, it consulted the FAA, including the Flight Standards District Office holding Viscount's Part 125 certificate, for guidance as to whether the contract in question would be considered common carriage. Viscount claims that in every case the answer was that the contract was not considered the result of a holding out or that no answer was given, leading Viscount to believe that the FAA had no objection to the contract. As a result, Viscount states that it relied in good faith on the representations or lack of objection by the FAA in entering into the contracts and that any violation was therefore unintentional. Finally, Viscount states that it has had no prior violations of the Act or the Department's regulations.

The Enforcement Office and Viscount have reached a settlement of this matter under which Viscount is willing to accept the issuance of this order to avoid potential litigation.[6] Under this order, Viscount is assessed $80,000 in compromise of potential civil penalties that might otherwise be assessed. Of the assessed amount, $40,000 shall be due and payable as provided in the ordering paragraphs below. The remaining $40,000 will be suspended and forgiven unless Viscount fails to comply with the payment provisions of this order or commits other violations of sections 401 or 411 of the Act or section 201.6 of the Department's regulations within one year of the date of issuance of this order, in which case the unpaid portion of the $80,000 penalty shall become due and payable immediately and Viscount will be subject to further enforcement action. This order and the penalty it assesses will provide a strong incentive to Viscount and other carriers to ensure that they do not operate without proper authority in the future.

Viscount further agrees as part of this order to dismiss, with prejudice, Viscount Air Services, Inc. v. Federal Aviation Administration et al., Civ 92-435-TUC-JMR (D. Ariz. filed June 22, 1992), and all related claims against the Department, including the FAA and various agency officials. For its part, the Enforcement Office--so long as Viscount complies with the terms of this order--agrees not to consider the submission by Viscount of its section 401 application, this order, or the corresponding FAA order, as an admission of past violations by Viscount of section 401 and agrees not to use Viscount's past activities, this order, or the corresponding FAA order, as the basis of any negative recommendation with respect to compliance disposition, a factor

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6 Recently, the FAA entered into a separate consent order with Viscount based on a finding that Viscount "held out" to the public as a common carrier in violation of Parts 121 and 125.

CGE 001149

that will be considered in connection with Viscount's application for certificate authority.

This order is issued under the authority contained in 49 CFR 1.57a and 14 CFR 385.22.

ACCORDINGLY,

1. Based on the above discussion, we approve this settlement and the provisions of this order as being in the public interest;

2. Viscount Air Service, Inc., is found to have violated section 401(a) of the Federal Aviation Act by engaging in air transportation without the requisite economic authority for such transportation;

3. Viscount Air Service, Inc., by engaging in the activity described in paragraph 2, is found to have also violated section 411 of the Federal Aviation Act by engaging in unfair and deceptive practices and unfair methods of competition in air transportation or its sale;

4. Viscount Air Service, Inc., is found to have violated section 201.6 of the Department's regulations by providing bids on contracts for air transportation prior to receipt of its authority under section 401 of the Act;

5. Viscount Air Service, Inc., is ordered to cease and desist from the activities described in ordering paragraphs 2 through 4;

6. Viscount Air Service, Inc., is assessed $80,000 as a compromise of civil penalties that might otherwise be assessed for the violations described in ordering paragraphs 2 through 4 of this order. Of this amount, $40,000 shall be due and payable as follows: $10,000 within 15 days of the date of issuance of this order; and $2,500 every thirty days thereafter for the next 360 days. The remaining $40,000 will be suspended for one year and forgiven unless Viscount fails to comply with the payment provisions of this order or commits other violations of sections 401 or 411 of the Act or section 201.6 of the Department's regulations within one year of the date of issuance of this order, in which case the unpaid portion of the $80,000 penalty shall become due and payable immediately. Failure to pay the penalty as ordered shall also subject Viscount to an assessment of interest, penalty, and collection charges under the Debt Collection Act, and possible enforcement action for failure to comply with this order; and

7. Payments shall be made by wire transfer through the Federal Reserve Communications System, commonly known as "Fed Wire,"

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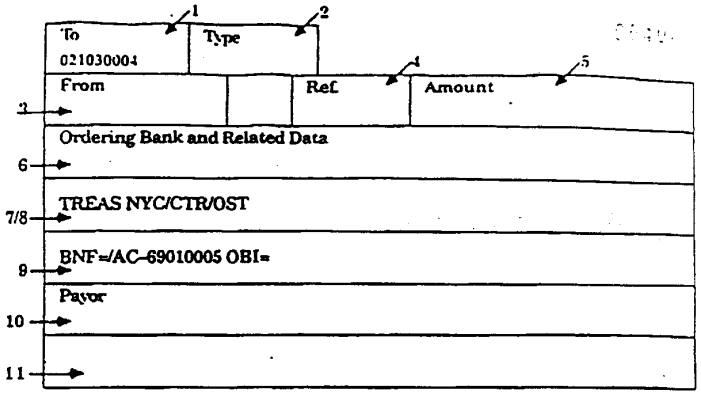
to the account of the U.S. Treasury. The wire transfer shall be executed in accordance with the instructions contained in Attachment 1.

This order will become a final order of the Department 10 days after its service date unless a timely petition for review is filed or the Department takes review on its own motion.

BY:

ROSALIND A. KNAPP
Deputy General Counsel

(SEAL)



1. Treasury Department Code—Provided.
2. Type Code—To be provided by Sending Bank.
3. Sending Bank's Code—(ABA #).
4. Reference Number—Optional number, entered if Sending Bank desires to number transaction.
5. Amount—Include dollar sign and punctuation including cents digits.
6. Sending Bank Name—Telegraphic abbreviation corresponding to Item 3
7/8. Entire line provided precisely as shown.
9. Entire line provided precisely as shown.
10. Enter name of air carrier or other payor (as shown on order).
11. Identify Payment (maximum 80 digits). Enter order number (if any), issue date, and state "installment" or "full payment."

NOTE: Questions about these instructions should be directed to Yash Parekh (M-88.2) (202) 366-5760. To ensure proper credit, Mr. Parekh should be notified when each payment is made.

(Effective 10/1/91)

Order 92-2-14

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D. C.

Issued by the Department of Transportation
on the 11th day of February, 1992

Airmark Aviation, Inc. Violations of 49 U.S.C. §1371	Served February 11, 1992

CONSENT ORDER

This order concerns activities of Airmark Aviation, Inc. (Airmark), during the time it was certificated by the Federal Aviation Administration (FAA) under the provisions of 14 CFR Part 125.[1] After conducting an informal investigation of those activities, the Office of Aviation Enforcement and Proceedings (Enforcement Office) has concluded that Airmark engaged in unauthorized common carrier operations in violation of section 401 of the Act (49 U.S.C. §1371).

Section 401(a) of the Act provides that "no carrier shall engage in any air transportation unless there is in force a certificate issued by the [Department of Transportation] authorizing such air carrier to engage in such transportation." It is well established that a company is engaged in air transportation as a common carrier when it holds itself out to the public as providing air transportation service.[2]

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[1]Part 125 of the Federal Aviation Regulations (FAR) (14 CFR Part 125) establishes certification and operating rules governing the operation of large aircraft when used for any purpose other than common carriage. Section 125.11(b) expressly provides that "[n]o certificate holder may conduct any operation which results directly or indirectly from any person's holding out to the public to furnish transportation." Recently, the FAA revoked Airmark's Part 125 certificate under its emergency procedures on the basis of information that Airmark had "held out" to the public as a common carrier in violation of Part 125.

[2]See, e.g., Intercontinental, U.S. Inc., 41 CAB 583 (1965); Las Vegas Hacienda, Inc. and Henry F. Price, Enforcement Proceeding, 31 CAB 415 (1960), appealed and, as modified, order aff'd, 298 F.2d 430 (C.A. 9, 1962), cert. denied, 369 U.S. 885.

CGE 001153

The informal investigation disclosed that, in 1990, Airmark Group, Inc., a corporation affiliated with Airmark Aviation, Inc., presented a study to the National Basketball Association (NBA) on the use of private carriage versus scheduled or charter service provided by common carriers. Following up on that presentation, in 1991 Airmark Aviation's president made a presentation to the NBA Trainers' Association in which he discussed the relative merits of private and common carriage and distributed handouts explaining Airmark's operations. That handout contained the statement that Airmark's service was operated under Part 121 of the FAA's regulations.[3] Shortly thereafter, several NBA teams contacted Airmark and requested individual charter air service proposals for their teams. Four NBA teams ultimately contracted with Airmark for air transportation services.

Also, during 1991, Airmark enlisted the services of a former major league baseball player to contact representatives from major league baseball and hockey teams regarding Airmark's services. Although Airmark states that no formal contracts were furnished through this source, the company admits that a contract with the Baltimore Orioles was arranged through a separate Airmark source. On May 9, 1991, Airmark signed a contract with the Baltimore Orioles and, according to the carrier, began transporting the team on July 14, 1991.[4]

In mitigation, Airmark states that it relied on the information given by aviation experts, including several FAA and DOT personnel, in concluding that its actions "passed muster". Furthermore, the carrier contends that it has not "held out" its services as a common carrier since it was invited to make presentations to the NBA and all of its business has been procured principally by "word of mouth" and not through advertising. Airmark also contends that its operations did not amount to a holding out since they were directed to a "miniscule" segment of the public. Airmark admits that it enlisted the services of a former major league baseball player to develop its charter program with professional baseball teams, but states that it suspended his services when it was informed they were improper.

Airmark further explains that the reference in its handout to NBA teams that its operations were conducted under Part 121 of the Federal Aviation Regulations was mistakenly not removed from the Airmark Group handouts first provided NBA officials. Airmark states that no Airmark employee ever

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[3]Part 121 of the Federal Aviation Regulations, 14 CFR Part 121, specifies certification and operating rules applicable to common carriers that operate large aircraft.

[4]Airmark was not certificated by the FAA under Part 125 of the Federal Aviation Regulations until July 13, 1991.

stated the company was certificated by the FAA under Part 121, that the mistake was corrected in August 1991, two months after the incorrect handouts were distributed, and that all of Airmark's charter contracts contained specific language stating that its flights would be conducted pursuant to FAR Part 125. Notwithstanding these mitigating factors, we believe that Airmark's air transportation operations, which were conducted without the requisite Department authority, warrant enforcement action.

The term "common carriage" consists of four elements: (1) a holding out of a willingness to (2) transport persons or property (3) from place to place (4) for compensation. The most important element in determining whether a carrier is engaged in common carriage is whether there has been a "holding out" to the public. It has been long held that "[a] holding out of service may be evidenced by any means which indicate to the public that the carrier's services are indiscriminately available to all who may apply. The fact that a carrier may limit its service to a class or segment of the general public or occasionally refuse to carry person seeking service does not detract from the status as a common carrier so long as it indicates a willingness to serve indiscriminately all within the class." Intercontinental, U.S., Inc., 41 CAB 583, 601 (1965).

Accordingly, the fact that Airmark confined its business solicitations to a small segment of the public, in this case professional sports teams, does not preclude a finding that Airmark indiscriminately held itself out as a common carrier. Airmark's proposals were specifically targeted towards persuading professional sports teams that charter air service was preferable to commercial air service. The clear intent behind Airmark's proposal was to elicit business for itself. Furthermore, the subsequent contracts and air transportation that resulted from Airmark's "holding out" through its proposals support a finding that the last three elements of common carriage were also present. Therefore, a finding that Airmark engaged in common carriage clearly is warranted.[5]

The Enforcement Office and Airmark have reached a settlement of this matter. While neither admitting nor denying the allegations, Airmark is willing to accept the findings and conclusions of this order to avoid potential litigation. Under this order, Airmark is assessed $45,000 in compromise of potential civil penalties otherwise assessable under the provisions of section 901 of the Act (49 U.S.C. §1471). Of this amount $15,000 shall be due and payable according to the schedule stated below. The remaining $30,000 will be forgiven if Airmark refrains from further violations over the next year. The Enforcement Office believes that the assessment of a civil penalty of $45,000 in this instance is warranted in light of the nature and extent of the violations in

[5]Airmark is currently prosecuting applications for both section 401 and FAA Part 121 certificates.

question. This order and the penalty it assesses will provide a strong incentive to Airmark and other carriers to ensure that they do not operate without proper authority in the future.

For its part, the Enforcement Office agrees not to consider the submission by Airmark of a section 401 application as an admission of past violations by Airmark of section 401 and agrees not to use Airmark's past activities as the basis of any negative recommendation with respect to compliance disposition, a factor that will be considered in connection with the respondent's application for certificate authority.

This order is issued under the authority contained in 49 CFR 1.57a and 14 CFR 385.22.

ACCORDINGLY,

1. Based on the above discussion, we approve this settlement and the provisions of this order as being in the public interest;

2. We find that Airmark Aviation, Inc., has violated section 401(a) of the Federal Aviation Act by engaging in air transportation without the requisite economic authority for such transportation;

3. We order Airmark Aviation, Inc., to cease and desist from the activities described in ordering paragraph 2; and

4. Airmark Aviation, Inc., is assessed $45,000 as a compromise of civil penalties that might otherwise be assessed for the violations described in ordering paragraph 2 of this order. Of this amount, $15,000 shall become due and payable as follows: one $5,000 payment within 60 days after issuance of this order and four $2,500 payments at 90 day intervals thereafter. The remaining $30,000 shall be forgiven if Airmark refrains from further violations for one year following the issuance of this order. Each payment shall be made by wire transfer through the Federal Reserve Communications System, commonly known as "Fed wire", to the account of the U.S. Treasury. The wire transfer shall be executed in accordance with the enclosed instructions. Failure to pay the penalty as ordered will subject Airmark Aviation, Inc. to

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assessment of interest, penalty, and collection charges under the Debt Collection Act, and possible enforcement action for failure to comply with this order.

This order will become a final order of the Department 10 days after its service unless a timely petition for review is filed or the Department takes review on its own motion.

BY:

ROSALIND A. KNAPP
Deputy General Counsel

(SEAL)

NO. 872

CGE 001157

BOB DOLE
KANSAS

United States Senate
OFFICE OF THE REPUBLICAN LEADER
WASHINGTON, DC 20510-7020

July 13, 1993

'93 JUL 13 P3:11
EXECUTIVE SECRETARIAT

The Honorable Janet Reno
Attorney General of the
United States
U.S. Department of Justice
Washington, DC 20530

Dear Attorney General Reno:

After reviewing the White House Travel Office Management Review (the "White House Report"), I am more convinced than ever of the need to conduct an independent investigation into the entire Travel Office affair.

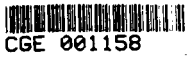
I am, therefore, writing to urge you to appoint a special counsel to conduct a thorough review of the events leading up to the firings of the Travel Office employees and the possible White House manipulation of the Federal Bureau of Investigation and the Internal Revenue Service to justify these firings. As you know, you have the legal authority to appoint a special counsel. See 28 U.S.C. 533. There is also precedent for this approach. Most recently, former Attorney General William Barr appointed special counsels to investigate the House Bank scandal and the Inslaw case.

The White House Report raises a number of disturbing questions that merit close scrutiny:

1. Did Harry Thomason, a partner and one-third owner of Thomason, Martens & Richland ("TMR"), an airline charter company that sought business from the Travel Office, violate 18 U.S.C. section 208, the federal conflicts of interest statute? As you know, Section 208 prohibits government employees and "special government employees" from taking actions on matters in which they may have a financial interest.

The White House Report itself suggests that Thomason may qualify as a special government employee. According to the White House Report, Thomason "had been asked to consult on the staging of presidential events and was provided with an access pass of the kind issued to staff, allowing him open passage throughout the White House complex. He was permitted temporary use of an office in the East Wing (White House Report, p. 6)." Thomason's presence in the White House was such an accepted part of daily life there, that "[n]o one objected when he began looking into the affairs of the Travel Office, which clearly extended beyond what he was originally asked to do (White House Report, p. 21)."

The White House Report also suggests that Thomason took


CGE 001158

specific actions that would benefit TMR. For example:

- In early February, Thomason telephoned White House Press Secretary Dee Dee Myers and asked whether the White House charter company business was subject to competitive bidding. Myers assumed that it was, and Thomason told Darnell Martens, his business partner in TMR, to contact Myers (White House Report, p. 5).

- In late March, Thomason mentioned to President Clinton himself that "he thought there was trouble in a White House department having to do with travel...(White House Report, p. 5)."

- In early April, Thomason telephoned David Watkins, the Director of the White House Office of Administration, and told him that he had heard allegations about corruption in the Travel Office (White House Report, p. 6).

- On May 10, Thomason asked Watkins about the status of the Travel Office. Watkins said that he had placed a staff assistant, Catherine Cornelius, in the Travel Office. Following his meeting with Thomason, Watkins called Cornelius to ask her to meet with Thomason. Thomason then asked Martens to fax his February memo on the Travel Office to the White House (White House Report, p. 6).

- On May 12, Thomason met with Watkins, Cornelius, Deputy White House Counsel Vincent Foster, and Associate White House Counsel William Kennedy, to express concerns about the Travel Office (White House Report, p. 7)

- On May 17, Watkins wrote a memo to White House Chief of Staff Thomas McLarty in which he stated that review of the Travel Office "was accelerated in response to the urgings of Harry Thomason and Catherine Cornelius (White House Report, p. 10)."

Even the White House Report admits that Thomason acted inappropriately. It states that "Thomason should have avoided continued involvement in a matter in which his business partner and his friends in the charter business stood to benefit and in which there was an <u>appearance</u> of a financial conflict of interest (emphasis added)." White House Report, p. 21. Some might suggest that Thomason's actions involved an <u>actual</u> conflict of interest, rather than the appearance of one, and that Thomason himself stood to benefit as well, not just "his business partner and his friends in the charter business."

2. After the dismissal of the Travel Office employees, did the hiring of World Wide Travel to run the Travel Office on an interim basis violate any ethical or legal standards? I have been informed that World Wide is owned, in part, by Worthen Bank. Worthen is a client of the Rose Law Firm of Little Rock.

Kennedy, Foster, Associate Attorney General Webster Hubbell, and the First Lady are all former partners of the Rosé Law Firm. It is also my understanding that World Wide Travel is a former client of Watkins.

3. Did the White House staff or others in the executive branch exert pressure on the IRS to initiate an investigation of Ultrair, the airline charter company that formerly did business with the Travel Office? The White House Report admits that Kennedy threatened to go to the IRS, if the FBI did not act on the Travel Office matter immediately. See White House Report, p. 17. According to the White House Report, Kennedy also indicated in his conversations with the FBI that the Travel Office matter was "being directed or followed at the highest levels of the White House." See White House Report, p. 8. Although the White House Report denies any direct White House contacts with the IRS about the Travel Office, were any indirect contacts with the IRS made by other members of the executive branch?

4. Did any action taken during the Travel Office affair violate 18 U.S.C. section 600? As you know, this statute prohibits anyone from promising employment, compensation, or other benefit to any person as a reward for political activity.

5. Did the FBI act properly in its response to the White House request for an investigation into potential wrongdoing in the Travel Office? According to a letter to me from FBI Director William Sessions, dated June 28, 1993, the FBI determined that there was "sufficient predication to initiate a criminal investigation" into the Travel Office on May 14, one day after FBI agents first met with White House officials on the matter and five days before the Travel Office employees were publicly fired.

According to the Sessions letter, the FBI and the Justice Department did not rely at all on the findings of the Peat Marwick auditors, who began their work on May 14. Instead, it appears the FBI concluded that there was "sufficient predication to initiate a criminal investigation" based soley on a series of conversations and meetings with Kennedy, Foster, and Cornelius, who at no time revealed her own interest in the Travel Office. The FBI officials who participated in these meetings are some of the highest-ranking officials in the Bureau--Unit Chief Howard B. Apple, Interstate Theft/Government Reservation Crimes Unit; Unit Chief Patrick J. Foran, Safe Streets/Policy and Planning Unit; and Unit Chief Richard B. Wade.

Do the FBI and the Justice Department normally act so quickly in determining that a criminal investigation should be initiated--in this case, just one day after the first face-to-face meeting with White House officials? Is it standard practice for three FBI Unit Chiefs to involve themselves directly in the decision-making process leading up to a criminal investigation, particularly when the potential "crime" involves some lax accounting procedures and a relatively minor sum--$18,000 in

unaccounted-for petty cash vouchers? Wouldn't criminal allegations of this nature normally be handled by non-supervisory personnel in the FBI's Washington Metropolitan Field Office?

***

Finally, I would like to take this opportunity to express several additional concerns.

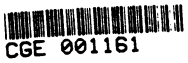
First, the White House Report states that Kennedy initiated contact wih the FBI about the Travel Office by telephoning Jim Bourke, an FBI agent with whom he daily contact on background checks. At the time of the telephone call, the White House Report claims that the White House had a policy in place regulating White House involvement in pending criminal matters, but that it had no policy for dealing with potential criminal matters, such as potential criminal wrongdoing in the Travel Office. The White House Report argues that Kennedy's initial contact with Bourke violated no policy.

With respect to White House policy for pending criminal matters, the White House Report cites a memorandum, dated February 22 and prepared by White House Counsel Bernard Nussbaum, providing that inquiries about criminal matters "will be transmitted by the Counsel's Office to the office of the Attorney General and the Deputy Attorney General." See White House Report, p. 16.

As one of its proposed "reforms," the White House Report cites a new policy providing that "all contacts concerning ongoing FBI investigations or possible criminal activity will occur only between Counsel's Office and the Attorney General, the Deputy Attorney General, and the Associate Attorney General (emphasis added)." See White House Report, p. 23.

In my view, adding Associate Attorney General Webster Hubbell to the list of those whom the White House Counsel's Office may permissibly contact on criminal matters is a mistake. Quite simply, it suggests the potential for more politics rather than less. As you know, Foster, Kennedy, and Hubbell are all former partners of the Rose Law Firm of Little Rock. They have a prior, independent relationship that could lead to the perception that political considerations will play a role in contacts between the Counsel's Office and the Justice Department.

Second, the White House Report states that the "former Travel Office employees were not interviewed because the Attorney General expressly requested that we refrain from doing so. (See letter from Deputy Attorney General, Exhibit A)." The letter from Deputy Attorney General Philip Heymann to John Podesta, an Assistant to the President, is dated July 1, 1993, the day immediately preceding the release of the White House Report on July 2. Surely, you or someone else within the Justice Department had conveyed your concerns about interviewing the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Travel Office employees before July 1. If not, I would appreciate learning why you delayed communicating these concerns until July 1. I think it's fair to assume that the White House Report had been substantially completed by that date. Quite frankly, the letter appears to be an after-thought, solicited by the authors of the White House Report to justify why they had not interviewed the Travel Office employees as part of their internal investigation.

Third, my office recently contacted John Collingwood, the FBI's Director of Congressional and Public Affairs, to request a meeting to clarify some of the points raised by FBI Director William Sessions in his letter to me of June 28, 1993. My staff subsequently received a telephone call from a Mr. Joseph Graupensperger, an Attorney-Advisor in the Justice Department's Office of Legislative Affairs. In this call, Mr. Graupensperger stated that Collingwood would meet with my staff, but that the meeting would be a "one-shot deal" and that the Justice Department "did not intend to send FBI agents to the Hill."

Quite simply, I consider Mr. Graupensperger's comments to be unreasonable, if not outrageous. As Director of the FBI's Office of Congressional and Public Affairs, Collingwood is responsible for fielding inquiries from Congressional offices about FBI matters. That's his job. I also find it highly irregular that three FBI Unit Chiefs and several other FBI agents would be sent to the White House to investigate a matter involving $18,000 in unaccounted-for petty cash vouchers. Yet, when my staff requests a meeting to clarify some ongoing correspondence between myself and the FBI Director, we are told it's a "one-shot deal" and that no further help will be forthcoming.

I would appreciate being informed if Mr. Graupensperger was acting on behalf of someone else in the Justice Department. I would also appreciate knowing if Mr. Graupensperger was acting pursuant to either a formal or informal Justice Department policy.

Attorney General Reno, thank you for your prompt consideration of this request. I look forward to hearing from you soon.

Sincerely,

BOB DOLE

BD/ds

BOB DOLE
KANSAS

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06419

United States Senate

OFFICE OF THE REPUBLICAN LEADER
WASHINGTON, DC 20510-7020

EXECUTIVE SECRETARIAT
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RECEIVED
DEPARTMENT OF JUSTICE

July 13, 1993

The Honorable Janet Reno
Attorney General of the
United States
U.S. Department of Justice
Washington, DC 20530

Dear Attorney General Reno:

After reviewing the White House Travel Office Management Review (the "White House Report"), I am more convinced than ever of the need to conduct an independent investigation into the entire Travel Office affair.

I am, therefore, writing to urge you to appoint a special counsel to conduct a thorough review of the events leading up to the firings of the Travel Office employees and the possible White House manipulation of the Federal Bureau of Investigation and the Internal Revenue Service to justify these firings. As you know, you have the legal authority to appoint a special counsel. See 28 U.S.C. 533. There is also precedent for this approach. Most recently, former Attorney General William Barr appointed special counsels to investigate the House Bank scandal and the Inslaw case.

The White House Report raises a number of disturbing questions that merit close scrutiny:

1. Did Harry Thomason, a partner and one-third owner of Thomason, Martens & Richlind ("TMR"), an airline charter company that sought business from the Travel Office, violate 18 U.S.C. section 208, the federal conflicts of interest statute? As you know, Section 208 prohibits government employees and "special government employees" from taking actions on matters in which they may have a financial interest.

The White House Report itself suggests that Thomason may qualify as a special government employee. According to the White House Report, Thomason "had been asked to consult on the staging of presidential events and was provided with an access pass of the kind issued to staff, allowing him open passage throughout the White House complex. He was permitted temporary use of an office in the East Wing (White House Report, p. 6)." Thomason's presence in the White House was such an accepted part of daily life there, that "[n]o one objected when he began looking into the affairs of the Travel Office, which clearly extended beyond what he was originally asked to do (White House Report, p. 21)."

The White House Report also suggests that Thomason took

specific actions that would benefit TMR. For example:

* In early February, Thomason telephoned White House Press Secretary Dee Dee Myers and asked whether the White House charter company business was subject to competitive bidding. Myers assumed that it was, and Thomason told Darnell Martens, his business partner in TMR, to contact Myers (White House Report, p. 5).

* In late March, Thomason mentioned to President Clinton himself that "he thought there was trouble in a White House department having to do with travel...(White House Report, p. 5)."

* In early April, Thomason telephoned David Watkins, the Director of the White House Office of Administration, and told him that he had heard allegations about corruption in the Travel Office (White House Report, p. 6).

* On May 10, Thomason asked Watkins about the status of the Travel Office. Watkins said that he had placed a staff assistant, Catherine Cornelius, in the Travel Office. Following his meeting with Thomason, Watkins called Cornelius to ask her to meet with Thomason. Thomason then asked Martens to fax his February memo on the Travel Office to the White House (White House Report, p. 6).

* On May 12, Thomason met with Watkins, Cornelius, Deputy White House Counsel Vincent Foster, and Associate White House Counsel William Kennedy, to express concerns about the Travel Office (White House Report, p. 7)

* On May 17, Watkins wrote a memo to White House Chief of Staff Thomas McLarty in which he stated that review of the Travel Office "was accelerated in response to the urgings of Harry Thomason and Catherine Cornelius (White House Report, p. 10)."

Even the White House Report admits that Thomason acted inappropriately. It states that "Thomason should have avoided continued involvement in a matter in which his business partner and his friends in the charter business stood to benefit and in which there was an <u>appearance</u> of a financial conflict of interest (emphasis added)." White House Report, p. 21. Some might suggest that Thomason's actions involved an <u>actual</u> conflict of interest, rather than the appearance of one, and that Thomason himself stood to benefit as well, not just "his business partner and his friends in the charter business."

2. After the dismissal of the Travel Office employees, did the hiring of World Wide Travel to run the Travel Office on an interim basis violate any ethical or legal standards? I have been informed that World Wide is owned, in part, by Worthen Bank. Worthen is a client of the Rose Law Firm of Little Rock.

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Kennedy, Foster, Associate Attorney General Webster Hubbell, and the First Lady are all former partners of the Rose Law Firm. It is also my understanding that World Wide Travel is a former client of Watkins.

3. Did the White House staff or others in the executive branch exert pressure on the IRS to initiate an investigation of Ultrair, the airline charter company that formerly did business with the Travel Office? The White House Report admits that Kennedy threatened to go to the IRS, if the FBI did not act on the Travel Office matter immediately. See White House Report, p. 17. According to the White House Report, Kennedy also indicated in his conversations with the FBI that the Travel Office matter was "being directed or followed at the highest levels of the White House." See White House Report, p. 8. Although the White House Report denies any direct White House contacts with the IRS about the Travel Office, were any indirect contacts with the IRS made by other members of the executive branch?

4. Did any action taken during the Travel Office affair violate 18 U.S.C. section 600? As you know, this statute prohibits anyone from promising employment, compensation, or other benefit to any person as a reward for political activity.

5. Did the FBI act properly in its response to the White House request for an investigation into potential wrongdoing in the Travel Office? According to a letter to me from FBI Director William Sessions, dated June 28, 1993, the FBI determined that there was "sufficient predication to initiate a criminal investigation" into the Travel Office on May 14, one day after FBI agents first met with White House officials on the matter and five days before the Travel Office employees were publicly fired.

According to the Sessions letter, the FBI and the Justice Department did not rely at all on the findings of the Peat Marwick auditors, who began their work on May 14. Instead, it appears the FBI concluded that there was "sufficient predication to initiate a criminal investigation" based soley on a series of conversations and meetings with Kennedy, Foster, and Cornelius, who at no time revealed her own interest in the Travel Office. The FBI officials who participated in these meetings are some of the highest-ranking officials in the Bureau--Unit Chief Howard B. Apple, Interstate Theft/Government Reservation Crimes Unit; Unit Chief Patrick J. Foran, Safe Streets/Policy and Planning Unit; and Unit Chief Richard B. Wade.

Do the FBI and the Justice Department normally act so quickly in determining that a criminal investigation should be initiated--in this case, just one day after the first face-to-face meeting with White House officials? Is it standard practice for three FBI Unit Chiefs to involve themselves directly in the decision-making process leading up to a criminal investigation, particularly when the potential "crime" involves some lax accounting procedures and a relatively minor sum--$18,000 in

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unaccounted-for petty cash vouchers? Wouldn't criminal allegations of this nature normally be handled by non-supervisory personnel in the FBI's Washington Metropolitan Field Office?

***

Finally, I would like to take this opportunity to express several additional concerns.

First, the White House Report states that Kennedy initiated contact wih the FBI about the Travel Office by telephoning Jim Bourke, an FBI agent with whom he daily contact on background checks. At the time of the telephone call, the White House Report claims that the White House had a policy in place regulating White House involvement in pending criminal matters, but that it had no policy for dealing with potential criminal matters, such as potential criminal wrongdoing in the Travel Office. The White House Report argues that Kennedy's initial contact with Bourke violated no policy.

With respect to White House policy for pending criminal matters, the White House Report cites a memorandum, dated February 22 and prepared by White House Counsel Bernard Nussbaum, providing that inquiries about criminal matters "will be transmitted by the Counsel's Office to the office of the Attorney General and the Deputy Attorney General." See White House Report, p. 16.

As one of its proposed "reforms," the White House Report cites a new policy providing that "all contacts concerning ongoing FBI investigations or possible criminal activity will occur only between Counsel's Office and the Attorney General, the Deputy Attorney General, and the Associate Attorney General (emphasis added)." See White House Report, p. 23.

In my view, adding Associate Attorney General Webster Hubbell to the list of those whom the White House Counsel's Office may permissibly contact on criminal matters is a mistake. Quite simply, it suggests the potential for more politics rather than less. As you know, Foster, Kennedy, and Hubbell are all former partners of the Rose Law Firm of Little Rock. They have a prior, independent relationship that could lead to the perception that political considerations will play a role in contacts between the Counsel's Office and the Justice Department.

Second, the White House Report states that the "former Travel Office employees were not interviewed because the Attorney General expressly requested that we refrain from doing so. (See letter from Deputy Attorney General, Exhibit A)." The letter from Deputy Attorney General Philip Heymann to John Podesta, an Assistant to the President, is dated July 1, 1993, the day immediately preceding the release of the White House Report on July 2. Surely, you or someone else within the Justice Department had conveyed your concerns about interviewing the

CGE 001166

Travel Office employees before July 1. If not, I would appreciate learning why you delayed communicating these concerns until July 1. I think it's fair to assume that the White House Report had been substantially completed by that date. Quite frankly, the letter appears to be an after-thought, solicited by the authors of the White House Report to justify why they had not interviewed the Travel Office employees as part of their internal investigation.

Third, my office recently contacted John Collingwood, the FBI's Director of Congressional and Public Affairs, to request a meeting to clarify some of the points raised by FBI Director William Sessions in his letter to me of June 28, 1993. My staff subsequently received a telephone call from a Mr. Joseph Graupensperger, an Attorney-Advisor in the Justice Department's Office of Legislative Affairs. In this call, Mr. Graupensperger stated that Collingwood would meet with my staff, but that the meeting would be a "one-shot deal" and that the Justice Department "did not intend to send FBI agents to the Hill."

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Attorney General Reno, thank you for your prompt consideration of this request. I look forward to hearing from you soon.

Sincerely,

BOB DOLE

BD/ds

CGE 001167

GOP says Thomason may have broken law

By Paul Bedard
THE WASHINGTON TIMES

A1

House and Senate GOP leaders are investigating whether President Clinton's Hollywood pal Harry Thomason used his quasi-federal-officer status to steer White House travel business to his company in violation of federal law.

In a growing partisan war between congressional Republicans and the White House, GOP leaders are building the case that Mr. Thomason held an official position in the early Clinton White House and violated a federal law banning federal officers from steering government work to firms they have an interest in.

Congressional Republicans are focusing on Mr. Thomason's job as a director of the Inaugural Committee and his role as a "presidential adviser" who held an exclusive all-points White House pass and was given office space and a secretary during the first month of the Clinton administration.

The Republicans claim that Mr. Thomason, co-producer of the CBS sitcoms "Evening Shade" and "Designing Women," was essentially an administration officer because he

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TRAVEL

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had the pass and office rights of a top Clinton "adviser."

A July 2 White House probe of the "Travelgate" scandal reported that Mr. Thomason sought to steer White House travel office business to a company in which he is part owner — Thomason, Richland & Martens, a small aviation firm.

"You can make a strong case that he was a special employee ... who took actions that would benefit him," said a congressional Republican leadership aide.

"He seemed to be a de facto employee since he had a pass. He had a quasi-official status," said Rep. William Clinger Jr. of Pennsylvania, the top Republican on the House Government Operations Committee.

White House spokesman Arthur Jones said yesterday that Mr. Thomason never held any official status at the White House. "He's not a federal employee. ... He's just a friend," he said.

But the White House travel office report written by Chief of Staff Thomas F. "Mack" McLarty said Mr. Thomason had a "special assignment" in the White House during the first weeks of the administration.

Mr. Clinger rejected Mr. Jones' characterization, charging that the White House was twisting federal rules to give Mr. Thomason an escape from federal conflict-of-interest laws, such as Section 208 of the Federal Code.

"It suggests a very cavalier attitude toward governance and suggests that the White House approach is 'since we are in command, we can do anything we want regardless of the rules and regulations,'" Mr. Clinger said.

GOP leaders, including House Minority Leader Robert H. Michel and Senate Minority Leader Bob Dole, are considering asking Attorney General Janet Reno to appoint a special prosecutor to investigate the affair, which led to the reprimand of four White House officials.

Short of that, the Republicans will seek a General Accounting Office investigation or set up their own independent inquiry, Mr. Clinger said.

Jed Babbin, a federal legal expert and former Pentagon counsel, said Mr. Thomason's title or role is not clear. But he added, "If he is an officer of the executive branch, then it appears he would have violated Section 208 by trying to steer a contract for White House business to a company he has an interest in."

Either way, "somebody ought to look into this," Mr. Babbin said.

Officials said the congressional Republican probe also is expected to examine other relationships and questions raised in the White House investigation of the travel office scandal. Among them:

- Why was first lady Hillary Rodham Clinton involved in an attempt to oust longtime travel office employees and replace them with the president's cousin Catherine Cornelius and others?

The White House report said Mrs. Clinton inquired about problems she had heard existed in the travel office but didn't provide further details.

- Was David Watkins, assistant to the president for management and administration, involved in efforts by Miss Cornelius to seize control of the travel office and oust seven longtime travel office workers?

- Why hasn't the White House fired or demoted the four senior officials singled out for reprimand in the travel office report?

The four were Miss Cornelius, Mr. Watkins, Deputy Communications Director Jeff Eller and Watkins aide Clarissa Cerda. Mr. Jones said yesterday that none of the aides have been fired or demoted, adding that Mr. Eller has been given the prominent role of directing the administration's promoting of its health care plan.

The White House's report on the travel office, unusual in its frankness, found a handful of management problems with the White House travel office, but no criminal charges have been filed.

The report also found that many White House officials acted improperly in firing the travel office workers before lodging any formal charges. Two of the workers have since retired, and the remaining five are to be reassigned.

Mr. Thomason, who has essentially been banned from the White House due to administration concerns about reports about the president being too close to Hollywood, was a central figure in the travel office scandal, according to the report.

During the presidential campaign, Mr. Thomason's firm did billing and consulting work for the Clinton campaign's air charter broker. Rebuffed by the travel office, Mr. Thomason told Mr. Clinton he thought the travel office was engaged in wrongdoing.

"Thomason should have avoided continued involvement in a matter in which his business partner and his friends in the charter business stood to benefit and in which there was an appearance of financial conflict of interest," said the report.

"There should be better management control with respect to the mission that any non-White House staff person is brought in to carry out. Permitting Thomason — or any non-staff person who comes in on special assignments — to work on problems outside the scope of his or her assignment is not a good practice."

CGE 001168

Joint Chiefs' split imperils gay-ban deal

Foes of policy change set to pounce

By Rowan Scarborough
THE WASHINGTON TIMES

A1

Senate officials, after disclosure of a Joint Chiefs of Staff vote on a compromise policy regarding homosexuals in the military, said yesterday that any proposal earning less-than-unanimous support from the military leaders will have little chance of withstanding congressional challenge.

Key staffers made that assessment after The Washington Times reported yesterday that all six chiefs have endorsed one of three proposed policies and are evenly split over the other options. All are variations of a policy dubbed "don't ask, don't tell."

White House officials traveling with the president in Tokyo would not immediately respond to questions about the report. "I don't think we're going to have anything on that," said Deputy Press Secretary Lorraine Voles.

Defense Secretary Les Aspin and the White House may engineer a policy announcement to occur at the Pentagon next week before President Clinton returns Wednesday to Washington from a Hawaiian vacation after his Tokyo summit, Pentagon officials said yesterday.

"They want to put some distance between the president and the policy," a military officer said.

The president and Mr. Aspin could reach a final agreement on the policy this week in South Korea, where the two will visit U.S. forces and confer with Korean officials.

Mr. Clinton is expected to choose from one of three versions of "don't ask, don't tell" — either the most restrictive one, endorsed unanimously by the chiefs last week, or one of two more liberal options.

Those two have the backing of three members — Gen. Colin Powell, Joint Chiefs chairman; Adm. David Jeremiah, the vice chairman; and Gen. Merrill McPeak, Air Force chief of staff.

Capt. Michael Doubleday, a Pentagon spokesman, told reporters yesterday that Mr. Aspin will leave today for Seoul from his home state of

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BAN

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V

Wisconsin, where he has been vacationing. The spokesman said Mr. Aspin may not settle on his final recommendation until he returns to Washington.

"There are a range of options simply because there are a range of possibilities," the spokesman said. "And the secretary is interested in presenting those to the president, along with a recommendation on which course of action he recommends in this case."

Asked if the Joint Chiefs have approved an option, the spokesman said: "I don't want to characterize what the Joint Chiefs have done at this point. What I'd like to do is to just leave it at the fact that there have been consultations with the Joint Chiefs, but those consultations ... remain private."

Pentagon sources said Gen. Gordon Sullivan, Army chief of staff; Gen. Carl Mundy, Marine Corps commandant; and Adm. Frank Kelso, chief of naval operations, favor the most restrictive of the options.

The proposal states that homosexuality is incompatible with military service and defines homosexuality as "conduct only," not as status. It also retains the current Pentagon grounds for discharging homosexuals — homosexual conduct, attempting to marry or marrying a member of the same sex, or declaring one's homosexuality.

The other options vary in their statements on the incompatibility of homosexuality and military service.

A White House official said Mr. Clinton still expects to get the final department recommendation by July 15. "He wants to see what the options are and what their recommendations are, and then he'll go from there," said the official, who asked not to be named.

Senate sources said that if Mr. Clinton chooses a policy that only three service chiefs endorse, it will leave the policy vulnerable to legislative changes by congressional supporters of retaining a ban on homosexuals.

"We would certainly observe that the chiefs are split, and we would then have the latitude to go further," said a senior Republican Senate aide involved in the drive to keep the ban as is.

Other aides said it would be difficult for Congress to make more restrictive a policy carrying the unanimous support of the nation's highest-ranking military officers. That message was passed from Congress to some of the chiefs during their deliberations the past few weeks with Mr. Aspin, the aides said.

Any split among the Joint Chiefs likely would be exposed during hearings the Senate Armed Services Committee and its chairman, Sen. Sam Nunn, plan to hold once the policy is announced.

Mr. Nunn strongly favors an outright ban but has stated he is willing to support some form of "don't ask, don't tell," under which troops would face discharge if they declared their homosexuality but recruits would not be asked if they are homosexual.

Mr. Nunn and other senators can be expected to question the generals and admirals on their exact interpretation of each policy clause and the grounds for discharging homosexuals.

"Nunn is very, very methodical," said a Republican operative working to retain the ban. "We're talking a dramatic change in the nature of the military. This is a traumatic crossroads we're crossing, and Nunn is not going to steer the military on a course that is wrong."

Mr. Clinton privately told homosexual activists at a Democratic Party fund-raiser last month that if Congress codifies a homosexual ban, he will not veto the legislation.

■ *Frank J. Murray in Tokyo contributed to this report.*

CGE 001169

IN THE LOOP

White House May Clamp Down on Passes

By Al Kamen
Washington Post Staff Writer

A "couple handfuls" of Clinton pals are the proud possessors of one of the ultimate power symbols in Washington: a permanent White House pass that allows free access to much of the compound without having an appointment or requiring clearance at guard stations.

But that perk may fall victim to the administration's heightened attention to ethics problems following the mess over the firing of the travel office staff.

White House Chief of Staff **Thomas F. "Mack"** McLarty said last week that an internal review of the fiasco convinced him that too many people had been granted too much access and a new policy would tighten things up.

Aides say the new policy could go into effect by the end of the month, putting the Clinton White House on track with previous administrations that also wrestled with the issue and ultimately determined that such passes be granted in only the rarest of circumstances.

White House officials aren't saying who has passes now, but the most well-known is **Harry Thomason**, the television producer and Friend of Bill (FOB), whose efforts to oust the White House travel office staff were well-documented in the internal review.

Thomason "should have avoided continued involvement in a matter in which his business partner and his friends stood to benefit and in which was an appearance of conflict of interest," the report said.

It suggests Thomason had a "special assignment" to advise the White House on the staging of presidential events but wandered beyond that when his attention turned to the travel office.

The problem with such no-limits access is that the pass-holders are not vetted for conflicts of interest in any way.

Pass-holder or not, some legal analysts think Thomason and other FOBs who hold passes, get White House office space, have—and act on—specific assignments are legally Special Government Employees (SGE), a designation that subjects them to ethics regulations and laws. These individuals don't have to be paid or even have a specific job but only be "designated" to perform "some duties" regularly or intermittently, in order to fall under conflict-of-interest provisions.

An FOTC (that's Friend of This Column) writes that Thomason is an SGE and, as such, violated federal conflict-of-interest laws by working the White House on a matter in which he had a financial stake.

Asked if the White House examined this issue, a senior official there said the lawyer in charge of ethics, Beth Nolan, looked into it and concluded Thomason was not covered by the law.

But the official said that the "management review" had been forwarded to the Justice Department, which could determine on its own whether any criminal statutes may have been violated.

Wanted: Someone to Catch NAFTA Arrows

■ With hundreds of government jobs still open, the Clinton team is looking to fill a new one: point man for NAFTA.

This individual would head the effort to get the North American Free Trade Agreement through Congress—side agreements, environmental tangles and all.

The theory is that NAFTA, facing heavy opposition from Democrats and strong criticism from **Ross Perot**, needs special help.

Sources said the first choice for the task was former Oklahoma representative **Jim Jones**, who has already been tapped to be ambassador to Mexico. Jones said no thanks to the additional NAFTA duties.

A lot of names—Democatic and Republican—have since been injected into the debate, with Democratic strategist **John Sasso** a leading contender. He may face competition from former Arkansas representative **Beryl F. Anthony Jr.**

On the Republican side, a few business and industry and trade names are being bandied about, including **James Robinson**, former head of American Express, and **Wayne Berman**, a Washington consultant and investment banker who was the top aide to Commerce Secretary Robert A. Mosbacher in the Bush administration.

Is It Club Membership or Partisanship?

■ Odd how the Senate Judiciary Committee Republicans, led by **Sen. Larry Pressler** (R-S.D.), have been outraged over the membership in an all-white country club of **Eleanor D. Acheson**, nominee for assistant attorney general for policy development.

Others who have been members of the same club have had little trouble getting confirmed. Take **Robert S. Mueller III**, former assistant attorney general in charge of the criminal division in the Bush administration.

Nary a peep was heard during his September 1990 hearing from the now-indignant committee Republicans over Mueller's membership in the Brookline, Mass., country club.

Mueller, on his committee questionnaire, acknowledged his membership, dating to 1982, saying that "until 1989 [when Acheson and others "integrated" the club] the Country Club restricted full membership privileges to males. It no longer has such a restriction," he wrote the committee, citing new admission rules against bias.

However, the club membership is still all white.

Foley Aide Denies Ambassadership Report

■ Rumors have resurfaced that **House Speaker Thomas S. Foley** (D-Wash.) is on the administration's list to be the next ambassador to Britain. A top Foley aide says, "It's not true" and "it's ridiculous." A senior State Department official also denied the reports.

Summit Sets Aid For Russia

A-1

$3 Billion Package Falls Short of Target Sought by Clinton

By Daniel Williams and Paul Blustein
Washington Post Foreign Service

TOKYO, July 9 (Friday)—Under intense U.S. pressure, the world's seven richest nations cobbled together a $3 billion package of aid Thursday to develop private industry in Russia. The package is less generous than President Clinton had wanted and contains a higher loan-to-grant ratio than he had proposed.

The allies together produced only $500 million in grants and the total package fell $1 billion below a $4 billion target set by Clinton in the spring. That, despite "arm twisting," in the words of Treasury Secretary Lloyd Bentsen, that included telephone calls from Clinton to reluctant leaders of the Group of Seven industrialized nations.

The leaders gathered here for their annual summit also issued an economic declaration today that repeats many of the sorts of exhortations issued at previous meetings for coordinated actions to boost global growth.

Japan, for example, which has been under fire from its Group of Seven partners for its huge trade surplus and failure to stimulate its economy out of recession, pledged to "implement fiscal and monetary measures as necessary" with an eye toward achieving "strong domestic demand" and "significantly reducing external imbalances." But the language included an escape clause of sorts for Japan's conservative Finance Ministry, stating that Tokyo will be "keeping in mind the need for long-term fiscal prudence."

As in the case of the Russian aid package, the economic declaration reflected the Clinton administration's inability to force its will on the other industrial powers. The U.S. Treasury had pressed the Group of Seven to set targets for growth and reducing Japan's trade surplus but the other summit participants rejected the idea.

Japan was also at the center of one the few summit surprises when it declined to commit itself publicly today to an indefinite extension of the Nuclear Nonproliferation Treaty. Japanese officials said they have no intention to acquire nuclear weapons but did not have time to prepare a position or have enough debate at home. Japan is concerned about the prospect of Communist

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North Korea acquiring nuclear weapons. [Story, Page A17.]

With Russian President Boris Yeltsin arriving in Tokyo at the invitation of the group, U.S. officials bent summit rules in making the aid announcement in order to avert embarrassing questions about the hitches in getting donations. Normally, such announcements of joint action are made in concert with all the other summit participants—Britain, Canada, France, Germany, Italy and Japan.

"We have commitments," Bentsen said. "Let me put it another way so I can stay within the rules. I'm optimistic that we're going to have that $3 billion."

Clinton tied the creation of the fund to his favorite summit topic—jobs for Americans. "It's also very good for Americans. I mean, there's a lot of business to be done in Russia by Americans," he told reporters, adding that it would "create American jobs."

He was speaking after a court dinner Thursday at Japan's imperial palace, where leaders of the other six states—Britain, Canada, France, Germany, Italy and the United States—dined with the emperor and Crown Prince Naruhito and Princess Masako.

Despite a crowded schedule here, Clinton was mindful of his home audience and avoiding any hint that a foreign foray signified lack of interest in domestic events—a perception that hurt his predecessor. In a radio broadcast to the United States, Clinton commiserated with flood victims and told them he was "keeping in touch" through officials in Washington.

Yeltsin took the opportunity of his afternoon arrival in Tokyo to try to ease strained relations with Japan. He read a statement expressing his "regret" for having canceled a trip to Japan last September.

Japanese Foreign Ministry officials had hoped Yeltsin would say something of that nature, because his abrupt decision to scrap both the September visit and a less-firmly scheduled visit in May caused considerable ill will here.

Ties between the two nations have remained chilly for most of the past five decades because of a dispute over the Kurils, a group of islands seized by Soviet troops at the end of World War II. Tokyo has been reluctant to extend substantial aid to Moscow until the islands are returned, and Yeltsin's decision to abort his trips has put Japanese officials in an even greater bind, because public antagonism toward the Russian president makes it difficult to comply with U.S. requests for assisting his government.

Accordingly, Yeltsin's conciliatory words seemed likely to ease tensions somewhat, and he further pleased his hosts by expressing his willingness to discuss "all issues," including the islands.

At a meeting Thursday, Japanese Prime Minister Kiichi Miyazawa indicated his appreciation for Yeltsin's words by saying he had read the arrival statement and regarded it as addressed to the Japanese public. He also told Yeltsin that a solution to the islands dispute need not be discussed during this trip, but that "is it important to move in that direction," according to a Foreign Ministry official.

Yeltsin replied that he expected to discuss the island issue during a trip here that has been tentatively scheduled for September or October, the official said.

Russia is pressing for membership in the Group of Seven, but there is no likelihood of that in the near future, U.S. and European officials said.

The economic statement issued by the Group of Seven today will put indirect pressure on Japan to cut its $130 billion world trade surplus—$50 billion of it with the United States—and help boost world economic growth.

Group of Seven representatives have been touting an agreement to cut tariffs as the biggest achievement of the summit. The accord was meant to jump-start stalled trade talks. Participants in the talks have set a Dec. 15 deadline for completing the negotiations, which include knotty problems of trade in agricultural goods. "We've done a hop and a skip," Canada's trade minister, Thomas Hockin, said, "so we can do the jump on Dec. 15."

In a reminder that the agreement reached Wednesday was not sufficient to ensure a completion of a global trade accord, French Foreign Minister Alain Juppe renewed his country's opposition to previously agreed restrictions on farm export subsidies. "There is no agreement on agricultural market access," he told a news conference.

France was the only country expressing reservations, as it has on many aspects of talks on global free trade that have dragged on for seven years. "It appears that the draft agreement is very much in line with what France has wanted and we can cautiously characterize it as being positive," said Jean Musitelli, the spokesman for President Francois Mitterrand.

In preparation for the official announcment of aid to Russia, U.S. officials took pains to express confi-

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THE WASHINGTON POST FRIDAY, JULY 9, 1993

CGE 001170

The Washington Times TUESDAY, JULY 13,

Lingering whiffs of Travelgate

The White House tried to sweep away the Travelgate fiasco recently by issuing a report that openly admitted error, named a few names, and promised to sin no more. Administration officials tried to minimize coverage of the document by releasing it on the eve of the Tokyo Summit, when reporters were more concerned about shopping in the Ginza district than hanky-panky in the travel office.

But despite this public-relations wizardry, Travelgate will not die — at least not yet. The affair has a kind of seedy soap-opera quality about it: White House officials, overeager to seize control of the White House Travel Office (which handles flight arrangements for the press and for White House personnel), fired the seven-member office staff, concocted allegations of mismanagement, then pressured the FBI and possibly the IRS into harassing victims of the putsch. In attempting to clean up the mess, the administration hired firms with personal or political ties to the president for such key work as arranging travel, chartering flights and investigating the travel office.

The Nixon administration collapsed over something much smaller than a possible attempt to compromise the FBI and IRS.

The White House cannot credibly argue that the scandal represents the indiscretion of a few young staffers. The list of people involved reads like a Who's Who of the administration. It includes Chief of Staff Mack McLarty, White House Counsel Bernard Nussbaum, Associate Counsel William Kennedy III, senior adviser George Stephanopoulos, Communications Director Mark Gearan, personnel director David Watkins, media affairs chief Jeff Eller, Hollywood mogul Harry Thomason, dozens of lesser stars in the Clinton political universe and first lady Hillary Rodham Clinton. Normally, one must throw a state dinner to assemble a group with this much political throw-weight.

Republican leaders in Congress, dissatisfied with the administration's shabby inquiry into the affair, have asked the president to answer a series of detailed questions. They also plan to seek a full congressional investigation of Travelgate.

The key questions fall into several categories:

Conflicts of interest: Harry Thomason promoted the interests of his airline charter company while serving as a "special government employee" of the White House. Air Advantage, owned by another Friend of Bill, Penny Sample, got White House business while she served as a volunteer in the travel office. One or both of these Clinton pals may have violated criminal conflict-of-interest statutes by pushing deals that worked to their personal benefit.

Also, Darnell Martens, one of Mr. Thomason's partners in the charter company, somehow got into a position to ask Ms. Sample to volunteer for travel-office duty.

Cronyism: Travelgate exposes a spider web of personal and professional entanglements within the administration. Three key players, Hillary Rodham Clinton, Deputy Attorney General Webster Hubbell and William Kennedy III, all worked for the Rose Law Firm in Little Rock. The firm has represented the Worthen Bank, which owns Worldwide Travel, the agency assigned to handle travel arrangments when the Travel Office Seven got the sack.

Mack McLarty and David Watkins both were longtime clients of Worldwide Travel and friends with the firm's owner, Betta Carney. Mr. McLarty and Mrs. Carney also worked together at the Worthen Bank in the mid-1970s. Worldwide Travel, the Worthen Bank and Betta Carney all have contributed significant sums to Bill Clinton's war chest over the years, in his days as governor of Arkansas and later as presidential candidate.

On another track, the administration's "outside" auditor for the travel

see SNOW, page F4

Tony Snow is a columnist for the Detroit News.

SNOW

From page F1

office was not an outsider at all. Larry Herman, an accountant for the venerable firm of KPMG Peat Marwick, already was working with the office of the vice president when asked to help investigate the travel office.

The first lady. At several junctures in the affair, Chief of Staff McLarty sent carbon copies of memos to Mrs. Clinton. The administration's official review hints that the first lady took an active, if distant, interest in the matter. This raises the issue of what, if any, limits the law places on Mrs. Clinton's administrative activities.

Corruption. Perhaps the most troubling questions involve William Kennedy III. Mr. Kennedy clearly pressured the FBI into mounting, then announcing a probe of the travel office. He claimed he would contact the Internal Revenue Service if the FBI didn't act immediately. And he told FBI officials the matter had aroused what the report calls "high levels of White House interest" or levels of interest high at the White House.

Just to add to the intrigue, IRS agents pounced on the owner of UltrAir, the charter company that handled flights in the pre-Clinton era, soon after Travelgate became national news.

None of this necessarily adds up to anything, but it's fishy enough to merit a close look. After all, if a host of administration officials will bend the rules over something as trivial as the travel office, what might they do when something truly big is at stake?

The Nixon administration collapsed over something much smaller than a possible attempt to compromise the FBI and IRS by turning them into agents of political influence. The allegations in this scandal dwarf those of Watergate. Americans deserve a fair, probing investigation, not just to answer the question the administration's report failed to answer but also the ones it dared not ask.

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THE WALL STREET JOURNAL TUESDAY, JULY 6, 19

C6430

Clinton Plans Summit in Fall On Joblessness

President Flies to Tokyo For G-7 Trade Parley; Jobs Creation Is Aim

By JEFFREY H. BIRNBAUM
Staff Reporter of THE WALL STREET JOURNAL

SAN FRANCISCO – Calling chronic unemployment one of the most vexing problems in the industrialized world, President Clinton said he will convene an international jobs summit this fall.

Before flying to Tokyo for his first meeting with the leaders of the Group of Seven industrialized democracies, Mr. Clinton said that his purpose at this week's G-7 summit was to create more jobs at home through expanded trade and international cooperation. As a step toward those goals, the president said in a speech here that he had asked his top economic and labor advisers to invite their G-7 counterparts to a conference in the U.S. to consider "the causes and . . . answers for this stubbornly high unemployment," which he called a "global crisis." Besides the U.S., the G-7 group of nations includes Britain, Canada, France, Italy, Germany and Japan.

Array of Announcements

The president released an array of controversial decisions over the weekend, from extending for 16 months the U.S. ban on nuclear testing to removing obstacles to international lending to Vietnam. Article on page A14.

(On the trade front, Japan has revived the faltering talks with the U.S. to create a new "framework" for bilateral trade. But hopes of securing meaningful Japanese cooperation on the trade problem have seemed to fade. See article on page A8.)

In the days leading up to this week's summit, the president has reiterated his commitment to reducing international trade barriers and coordinating economic growth strategies—the two traditional subjects for an economic summit. But in conversations with other heads of state, including German Chancellor Helmut Kohl and British Prime Minister John Major, Mr. Clinton added a third issue to be discussed this week: job growth. The president told the other leaders that he was determined to find ways to translate global economic growth into more jobs at home and abroad, a concern that is the genesis for the jobs summit.

Clinton administration officials said the jobs summit, which may be held at Camp David outside of Washington, is meant to discuss the many microeconomic policy changes that could help job creation keep pace with economic growth.

The U.S. is the only one of the G-7 countries where employment conditions have improved during the past year. Japan's unemployment rate remains just over 2%, but the jobless rate in Europe is over 10% and rising.

The sentiment in Mr. Clinton's speech yesterday was in keeping with the main theme—and constant paradox—as he embarks on a trip to Asia: Even though he is traveling abroad, he wants to relate almost everything he does to helping U.S. workers and the sluggish economy.

In his speech to the National Education Association, for example, he connected his efforts overseas to improving the lot of U.S. students. "A foreign summit with all its protocol and interpreters and communiques may seem awfully remote from the work you do in our schools," he said. "But, in fact, the two . . . are closely related."

He explained: "The line between our domestic and foreign policy has completely evaporated. . . . Everybody's job, either directly or indirectly, is affected by global competition."

Mr. Clinton even tried to highlight this connection when he toured flood-ravaged Eldridge, Iowa, near the banks of the swollen Mississippi River last night. Sitting on bales of hay, he told local farmers that his efforts to expand U.S. agricultural exports to Japan and elsewhere was meant to improve their difficult lot.

He added that he intended to release hundreds of millions of dollars in emergency assistance to the flood-affected areas. "We are trying up there to be responsive, to be helpful," he said. "I'm sorry about all the water."

Here in San Francisco, Mr. Clinton played down expectations for major breakthroughs in Tokyo. But he and his aides still hope that trade negotiators will make substantial progress in talks aimed at lowering tariffs on industrial products so that the heads of state will have something to crow about later this week.

U.S. Trade Representative Mickey Kantor and his counterparts from Canada, Japan and the European Community are to hold what could prove to be a pivotal negotiating session today in Tokyo. If the G-7 nations can reach a compromise on the thorny market-access issues, they will substantially improve the chances of completing the long-stalled Uruguay Round of trade talks by year's end.

Mr. Clinton noted that this week's trip is not only his first G-7 summit, but also his first visit to Asia as president. In a speech scheduled at a Japanese university Wednesday, Mr. Clinton will discuss the U.S. view toward Asia, where there are doubts both about U.S. trade policies and the U.S. military commitment to the region.

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Clinton Announces Several Decisions, Including Extending Nuclear Test Ban

By MICHAEL K. FRISBY
Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON – President Clinton released an array of decisions over the Fourth of July weekend, including extending for 15 months the U.S. ban on nuclear testing and removing obstacles to international lending to Vietnam.

By timing the announcements over a holiday weekend, the administration hoped to draw attention away from the policy stands, which included accepting a recommendation to close 130 military bases and reduce operations at 45 more. The Base Closure and Realignment Commission has estimated $2.3 billion in annual savings from the plan. Independent of the commission's recommendations, the president said he would close 90 bases overseas.

Mr. Clinton proposed spending $5 billion in an effort to blunt the blow to the communities that would be hit the hardest by the closings.

Domestic Focus Sought

Mr. Clinton's aides sought to resolve these issues before tomorrow's start of the economic summit in Tokyo of the leaders of the Group of Seven industrial nations. And following the international summit, aides wanted Mr. Clinton to be free to focus on the domestic budget bill, which faces an uncertain future on Capitol Hill.

All disputes weren't resolved, however. Mr. Clinton must still forge a compromise that would allow homosexuals in the military, an explosive issue that he thinks has hurt him in opinion polls.

He must also ease the friction with many African-American leaders, a key part of his political base, who feel stung by his failure to stand by his nomination of Lani Guinier to head the Justice Department's civil rights division. Some blacks are upset that, despite their strong urging, the president hasn't appointed Mary Berry, a popular member of the U.S. Commission on Civil Rights, as commission chairman. They threaten to continue causing political troubles and are demanding that a black join the president's inner circle.

Many blacks are also angered by Mr. Clinton's endorsement of Virginia Sen. Charles Robb, an embattled Democrat who is up for re-election next year. Sen. Robb is being challenged by Douglas Wilder, the nation's first black governor. Political experts were shocked by what they considered an unwise decision to dive into the intra-party contest.

The release of an internal review of the firing of White House travel office workers showed a disorganized staff whose actions have contributed to the problems of Mr. Clinton's first five months in office. Four staff members were reprimanded: Jeff Ellers, a communications aide; David Watkins, head of White House administration; William Kennedy, an associate counsel; and aide Catherine Cornelius.

The travel office makes arrangements for the media traveling with President Clinton as well as for White House staff members who are on business. The reports show that Ms. Cornelius, who helped arrange press travel during the presidential campaign, was told by Mr. Watkins to gather information on the office, which has been accused of keeping poor financial records.

Chief of Staff Thomas "Mack" McLarty apologized to the seven fired workers for the insensitivity showed by the White House, such as linking their dismissal to a Federal Bureau of Investigation probe of the travel office. Mr. McLarty said that five of the seven fired workers who had no management roles will be reinstated to government jobs.

Potential Embarrassments

Among the findings that may embarrass the president are the disclosure that his pal TV producer Harry Thomason had pressed the case that the travel office be altered; and Hillary Rodham Clinton was monitoring activities in the office and was told beforehand that the workers were to be fired. The report bolsters the perception that Mr. Thomason and others were trying to help friends do business with the White House and that Ms. Cornelius, a distant cousin of the president's, was seeking to remove the travel office employees so she could run the office.

The report concludes that it "is not a good practice" to allow non-staff members working on special assignments to become involved in other business. Mr. McLarty said a review is under way to determine if some outsiders' White House passes should be revoked.

The president also probably will be criticized for opening the door for the International Monetary Fund to adopt a plan supported by France and Japan to allow Vietnam to refinance $140 million of debt to the IMF. Some veterans groups and families of Americans missing in action attacked the president's decision. But the U.S. was increasingly isolated from the rest of the world in its policy toward Vietnam, and other veterans groups and Republican and Democratic politicians, who were decorated Vietnam War veterans, support this decision.

Ruble Is Expected to Be Steady

MOSCOW – The government expects the ruble to remain within a 5% range of 1,000 rubles for the near term.

The Russian currency remained steady against the U.S. dollar in trading last Friday, closing at 1,059 on the Moscow Interbank Currency Exchange.

Russia's Finance Minister Boris Fyodorov said the ruble's recent stabilization is a result of strict monetary measures instituted by the government and central bank over the last two months.

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CGE 001175

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release July 2, 1993

PRESS BRIEFING
BY
CHIEF OF STAFF MACK MCLARTY

The Briefing Room

Bernard Nussbaum
Counsel to the President
2nd Floor West Wing

12:45 P.M. EDT

MR. GEARAN: Good afternoon, and welcome. (Laughter.) Thank you for having us here.

On May 25th, the White House announced that the Chief of Staff Mack McLarty would be conducting a review. It's an internal management review of the White House Travel Office and the decisions that were accompanying and the events around the dismissal of the seven White House Travel employees. He would be assisted in that project with the Director of the Office of Management and Budget Leon Panetta.

The report that you were provided today is the result of that internal management review. It is based on the interviews that were conducted with more than 40 persons inside and outside the White House, as well as a review of all of the relevant documents produced by those persons. I think you will find the report that's given to you is both thorough and complete. And the Chief of Staff is here, as well as the Director of the Office of Management and Budget, to give you their statements and to answer your questions. We also have John Podesta, the Staff Secretary, who was assisted by his deputy, Todd Stern, in the preparation of this report.

Mr. McLarty.

MR. MCLARTY: As Mark noted, today Director Panetta and I are releasing a management review of the actions by the White House staff regarding the White House Travel Office. The review ascertained what happened in the Travel Office matter, and as a result, we are implementing improvements in procedures.

The management review, as Mark also noted, was prepared and submitted to us by John Podesta and Todd Stern. Mr. Podesta, as many of you know, is the White House Staff Secretary, and Mr. Stern, as Mark said, is his deputy.

Neither of these lawyers had any direct involvement with the White House Travel Office prior to this report. The report, as Mark suggested, is thorough and, we believe, candid. And I certainly personally appreciate John and Todd's work, as does Leon.

The report details that mistakes were made and identifies some ill-advised actions. It does point out that the Travel Office had significant management problems and those are detailed in the Peat Marwick review, which has previously been released and which is included in your packet of materials.

The key findings about the Travel Office from the Peat Marwick report include unaccounted-for funds, a lack of financial accountability, billings by estimate, a poor cash management system, and a clear lack of documentation. This is established not only by

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this review, but is also confirmed with the savings we have already achieved from different management practices and competitive bidding.

It is also important, I think, to remember that the Travel Office, like all other White House staff, serves at the pleasure of the President. There was good business and good government justification to implement some prompt changes in the Travel Office.

But to our regret, we erred in implementing these needed changes. From a management standpoint, in other words, we did the right thing but we clearly did it in the wrong way. The management review report describes and acknowledges mistakes and sets forth, as I noted earlier, the actions we have taken and are taking to correct them.

I would like to specifically address some of these issues. The report notes that there had been rumors of problems in the Travel Office circulating for some time. At the White House Correspondents Dinner a couple of months ago it was noted that the cost of press travel was becoming increasingly expensive.

The report addresses Harry Thomason's involvement in this matter also. Though it may have been appropriate for Mr. Thomason to suggest potential areas for improvement and savings, his persistence led to the perception that he was intervening. The White House Office of Management and Administration and the Chief of Staff's Office should have thanked Mr. Thomason for his information, looked into the matter seriously, but certainly more deliberately and carefully. Based on what we now know, Mr. Thomason's belief that savings and efficiencies could be achieved seems to have been borne out. But we certainly wish the implementation had been free from any intervention.

The report submitted to Director Panetta and to me also criticizes aspects of the White House dealings with the FBI. One is the initial involvement. Upon being advised of potential allegations of problems in the Travel Office, an associate White House counsel called the FBI to seek guidance as to how to look into an internal matter or internal security matter. That call did not violate any stated procedure or policy. However, when the FBI did not respond as quickly as the associate counsel had hoped, he erred in using language which could have been interpreted as pressing the FBI, and in mentioning the possibility of seeking guidance from other agencies such as the Internal Revenue Service.

I would note that the FBI, with the concurrence of Justice Department officials, determined on its own to commence an investigation. Also, the Internal Revenue Service was never contacted.

In any event, the Counsel to the President has instituted a new policy in which the Attorney General had concurred that any future calls regarding the White House in internal security matters will be first routed through the Department of Justice.

The second matter concerning the FBI was the disclosure by the White House of the FBI investigation to the Travel Office. This absolutely should not have happened. And why it did is addressed in very specific detail in the report. Those who serve at the pleasure of the President know that they may be dismissed. But no one should expect his or her dismissal would be publicly connected by the White House with an FBI inquiry.

On behalf of the entire White House staff, I personally and professionally apologize for the disclosure to the employees who were working in the Travel Office and to their families and friends.

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The third concern deals with the FBI press release and-or press responses, and the meeting which took place at the White House with the FBI information official. Those attending the meeting were acting in good faith. But inviting an FBI representative to a communications meeting was insensitive to the appearance of White House influence. This, too, is specifically detailed in the review.

In addition to apologizing for the disclosure of the FBI investigation, I would now like to briefly address the treatment of the Travel Office employees. This action clearly should have been handled in a more sensitive manner, in retrospect. At my direction, action was taken later to extend indefinitely the paid administrative leave of the five employees who had no financial authority. The five employees will be reassigned to comparable governmental positions, but no final decision on their permanent status will be made until the Travel Office inquiry has been completed.

I am disappointed with some of the actions taken by various members of the White House staff upon whose recommendations and judgments I must rely. But as Chief of Staff, I accept responsibility for those mistakes. I am particularly and I personally regret that I did not review the staff recommendation to me for dismissal with more caution, more thoughtfulness, and more scrutiny.

The mistakes call for some corrective actions, and these are also outlined in the report. They include: The Counsel to the President has issued a revised guidance to all White House personnel clarifying that initial White House contacts concerning ongoing FBI investigations or criminal activity will occur only between the Counsel's Office and the Attorney General, Deputy Attorney General, or Associate Attorney General.

Secondly, the Counsel to the President has issued a revised guidance to all White House personnel clarifying that it is never appropriate to contact the IRS to institute an audit.

Thirdly, the White House Press Office will not disclose ongoing investigations except in extraordinary circumstances and only with the approval of the White House Counsel and Chief of Staff or Deputy Chief of Staff.

The Director of Communications has issued guidance to all White House Communications Department personnel which clarifies the procedures for contacts between the FBI Public Affairs Office and the White House Press Office.

The White House has selected through competitive bid and experienced travel agent to manage the commercial travel, which already has and will result in savings to the government. The White House has instituted a competitive bid process to select press charters, which will result in savings to the traveling press corps.

The White House Travel Office is implementing a new accounting system developed by the Office of Management and Budget and has stringent internal control procedures in place to assure sound financial management.

The White House Office of Management and Administration has requested GSA, in consultation with OMB's Office of Financial Management and the White House Correspondents Association, to assess the current interim systems in place for the Travel Office and make appropriate recommendations for the final structure of the White House Travel Office during the month of August 1993.

The Chief of Staff's Office, with the assistance of the Counsel's Office, will issue appropriate rules for access to the

White House by persons who are not in full-time government positions and whose access is not already controlled by other procedures.

In addition, Leon and I have fully reviewed the criticisms in the report with the staff members involved. We've had some very frank and direct discussions, and I have made it clear that I will not tolerate any repetition of the conduct which has been criticized. I expect my instruction to be strictly obeyed, and I expect there will be no repetition of the conduct in the future.

I have issued reprimands to David Watkins, William Kennedy, Jeff Eller and Catherine Cornelius. And Ms. Cornelius will be reassigned to another position which has not yet been determined.

Finally, this management review is being referred to the Attorney General and the Justice Department for her full review.

That concludes my comments. At this time, Director Panetta has a few comments, and then we'd be glad to take questions.

MR. PANETTA: Mr. McLarty's statement I think represents a pretty complete summary of the management review report, its conclusions and its recommendations. And, obviously, I recommend that you look at the report itself because I think it is a very accurate and candid assessment of what took place.

I was asked to assist in this review because I was a senior White House official who was not involved with the events relating to the Travel Office, but because OMB does have a financial management section. We were responsible for looking at the operations of the Travel Office, but also responsible for overall management issues within the federal government. My role was to examine the work of Mr. Podesta, Mr. Stern, and to participate in key interviews and discussions associated with this review.

In addition, as I mentioned, the Office of Management and Budget has developed a new accounting procedure and also developed new financial management systems that were clearly needed in the Travel Office. I think it's important to point out the problems that were discovered at the Travel Office because the fact is that this was an operation that was very poorly managed. And however the circumstances that led us to dealing with it, I can assure you that what we found there was a situation that required urgent action.

This was an area where they had unaccounted-for funds almost totally $18,000. There was no formal financial reporting process, no reconciliation of financial information, no documented system of checks and balances on transactions and accounting decisions within the office, no apparent oversight of financial activities, no general ledger or cash receipts disbursement journal, no aging reports, no reports of outstanding accounts receivable, no apparent rebilling when receivables had remained outstanding for a given period of time, no segregation of authority between those who could sign and those who could endorse checks, very little documentation in terms of billing, and no written contract between the Travel Office and the primary domestic charter company that it used.

Obviously, it was necessary that we move quickly and try to improve the management of that office.

I think it's also important to point out here that this was an internal review, conducted within the White House for the purpose of determining what exactly happened in the situation, what went wrong from a management point of view, and what steps are necessary to try to improve controls and procedures within the White House to ensure that nothing like this happens again. The report we

are issuing today is an accurate, candid reaccounting of the events related to the Travel Office. It is also, I believe, a very blunt assessment of the actions of a number of White House staff members. And I recommend that you read the report and the accompanying documents.

The report clearly states that in an effort to deal with what, as I pointed out, was a very real management problem within the Travel Office, mistakes were made -- mistakes of judgment, mistakes of inexperience that included inappropriate actions with respect to the FBI, allowing the appearance that personal interest and favoritism could play a role in management decisions and unfair treatment of White House employees.

As difficult as this review has been for the White House staff involved, as well as Mr. Podesta and Mr. Stern, Mr. McLarty and myself, I truly believe that in the end it will help ensure that some good comes from these events and that important lessons are learned, and that everyone here at the White House continues striving to do a better job for what we came here for, which is to better serve the President of the United States and the American people.

Q Mr. McLarty, the people that you've identified misused government institutions and trampled on the constitutional principle of presumption of innocence, thereby blackening the reputations of people. The question is, sir, why are they still on the government payroll?

MR. MCLARTY: Well, I don't think that's quite a fair characterization. I think the report, as you review it carefully, will suggest that the initial call to the FBI was in accordance with policy and was proper to ask for guidance about what to do about this matter. I think at that time, after several other calls to get to the proper people, as I understand the facts, the FBI did review this matter -- I believe they interviewed Ms. Cornelius -- made an independent determination to go forward with a review. And I think, Gene, in fairness, Mr. Foster, Deputy Counsel, after this period, said, no, would you wait because we now have an audit by an outside audit firm that we believe we should do first.

Let me also say as background there is no internal audit in the White House, per se, so that was being looked into. The FBI, as I understand it, rather -- I won't say reluctantly. I don't want to speak for them -- but said, okay, we will wait. But that was at the clear suggestion of Mr. Foster that we slow this process down, which I certainly supported.

After the Peat Marwick audit and review, which I have spoken to, as has Director Panetta, the FBI reviewed that, as I understand it, and determined that they should go forward with an investigation, again, on their own, as I noted in my comments. Where the mistake was made was in any way our disclosing that review from the White House.

In terms of the actions taken, this is an internal management review and I, frankly, relied on Mr. Panetta for his thoughts and counsel about what was the proper action here because I felt like he was one step removed from this, although it is ultimately my responsibility to the President in that regard. And he felt after our discussion I think independently -- and Leon can speak to that -- that the actions we have taken are appropriate, under the circumstances, all things considered, particularly given a full report.

Q With all due respect, sir, in exchanges with members of the press corps, there were allegations made based on hearsay, based on no evidence whatsoever. In addition to that, the FBI matter was pursued even after some of us suggested that that

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wasn't the appropriate course because it was -- your office was using a -- loaded term -- using buzzwords to impugn the integrity of people who had not been proved guilty of any crime.

MR. MCLARTY: Well, I don't know about those specific conversations and discussions, but I would say that, again, the decision, as I understand the facts, to pursue the review was made totally independently by the FBI after having been requested or recommended by the Counsel's Office not to proceed with that investigation or review until the audit had been completed. Now, the FBI could have proceeded but that was our --

Q Mr. McLarty --

MR. MCLARTY: Just let me finish, Terry, if I may. I think that there had been a number of rumors, if you want to call them that. But I understand your point. Since I was not in on those discussions, Gene, I don't know how to directly respond to that.

Q Could you explain the practical impact of these reprimands that you've issued? Are they identical? Is there any loss of pay involved in this? Just tell us about that.

MR. MCLARTY: No, there's no loss of pay. I think the practical impact -- I think I'm experiencing some of it right now in this briefing. But, obviously, this has been a difficult period, as Leon just suggested.

Q Are there letters in files, sir, or anything like that?

MR. MCLARTY: Leon, do you want to address some of the specifics? The answer is no, Brit, there's not. But let Leon address some of that.

MR. PANETTA: We've just announced reprimands for the people involved here. I think that's more than sufficient in terms of what's involved here. There was no criminal action here. There were no criminal violations involved here, as best as we can determine. These were --

Q What were the reprimands for?

MR. PANETTA: Just a minute. Let me answer the question. These were mistakes of judgment and mistakes related to inexperience in many instances. And our feeling was that we needed to point that out. We've had a serious discussion with each of the people involved as to the mistakes that were made. We made very clear that these mistakes are not to be repeated again. We also made clear that we would make public the fact that these reprimands have been made with regards to each of these individuals. And I think, considering the situation, that that is sufficient in terms of dealing with this.

Q Was Mr. Kennedy on the list of those reprimanded?

MR. MCLARTY: He was.

Q For what specific action? What was he reprimanded for?

MR. MCLARTY: In terms of the judgment and decision to leave any appearance of pressure or whatever on the FBI for timeliness or a more prompt review of this matter.

Q What were the reprimands for the others?

MORE

MR. MCLARTY: I had already acknowledged Helen, but we'll get to you next.

Q Is the President going to apologize personally to the real victims of this whose names and reputations were blackened? Are you going to pick up their legal fees? Is the FBI investigation still going on? Since you addressed it, you guys addressed it -- I know you can't talk about FBI -- but are they in purgatory, or will they know when it's over?

MR. MCLARTY: Well, there's been no -- first, the FBI review is ongoing and we should not and will not comment about that. That's number one. Number two, there's been no discussion of fees. That does not seem appropriate at the time. The President has been briefed on this, but not specifically in the matter that you raise in terms of apology.

Q You're taking the responsibility and the President is not?

MR. MCLARTY: I've already accepted the responsibility. I think the President has spoken about overall responsibility, not of this matter, but in general before. But certainly as Chief of Staff, I have responsibility. I've already spoken about staff responsibility.

Q Did the President know about it while it was going on?

MR. MCLARTY: Helen, let me say one other thing, if I may. I think in terms of communication with the seven people involved, I think, John, we have a letter or a clarification that we are prohibited from doing that or --

MR. PANETTA: Yes. The Attorney General or the Justice Department made clear that we ought not to interview any of the individuals involved here as long as there is this pending investigation. And I think in answer to the question, really, it would really be inappropriate to proceed with any additional action involving those employees until we see what the results of that investigation are.

Q But your investigation against them has cleared them basically, hasn't it?

MR. PANETTA: Well, we have apologized for the actions that were taken because we do feel that they were not done with appropriate sensitivity or care. But we also have to be careful that we do have an ongoing investigation here, and we ought to await the results of that before we draw any final conclusions.

Q Sir, last week --

MR. MCLARTY: I think I promised right here. And when I've nodded at several of you as you've raised your hand, that's just acknowledging, not that you'll be next. But we'll get to -- try to get to all of you.

Q Can you explain the reason why Miss Cornelius and the others were reprimanded? What were the specific reasons for those reprimands?

MR. MCLARTY: I don't know that there were specific reasons in a way that you expressed the question. I think there frankly needs to be some limit into discussion of personnel matters. I think the reprimands are very clear. And I think as you review the report, it really will become apparent in terms of the misjudgments or mistakes that were made.

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Q Can you give us some idea on Miss Cornelius, since that's where much of the interest is? Just generally speaking, why was she reprimanded? What mistakes did she make?

MR. MCLARTY: I think the involvement of the Travel Office suggested that maybe some judgment there was not as good as it could have been. In hindsight, I think she was placed, frankly, in what proved to be a difficult situation. And I think, again, hindsight always has some wisdom.

Q There are several, throughout this, certainly errors of judgment, as you say, and inexperience. But on page 11 on the top of the page, the first graph refers to Watkins telling Dee Dee Myers that of all of this, which behind the scenes was clearly stimulated by him and Cornelius and others, was personal and professional interests in the fate of the Travel Office -- he told her to tell us that all of this was just conducted as a routine part of the Vice President's national performance review. Where I'm from in Minnesota, that's not an error of judgment. That's called lying.

MR. MCLARTY: Tom, I think -- I don't think I would quite characterize it that way -- (laughter) -- in Arkansas. (Laughter.) But the national -- there was -- as you know, the Vice President has the NPR review. And all of the departments in the White House were on that. I think the facts or the concern about the management practices there, which are outlined, prompted more quick action than otherwise would be the case. The review was done in the same general format as NPR. The Peat Marwick aspect was additional, Tom, you're correct in that. So I see your point, but I don't agree with your assessment.

Q Let me follow up on Tom's question. Dee Dee Myers also told us specifically that Catherine Cornelius was not put into the Travel Office to assess what was going on in the Travel Office or to spy, if you will. And yet this report in the summary indicates that she quite clearly was. Was she misinformed or was she --

MR. MCLARTY: I think there was a lack of communication in that regard. I don't know that spying is used in this report. I think that's your characterization.

Q If you want me to go to the summary that --

MR. MCLARTY: No, there was clearly lack of communication. More importantly, I think, than even that point was the FBI review, which I've already addressed. That was the most serious gap in communication and clearly the most [illegible] consequences. [illegible] I'll get back over there.

[illegible] Last week in the Congressional Record in open [illegible] at the Senate of the United States Congress this was brought up. And they're very concerned because they worked with these people for many, many generations and many years and they feel that these men were not treated right.

MR. MCLARTY: I think I've already acknowledged that. I think that's a correct assessment.

Q I notice that American Express was awarded the new contract. Now, was this made under the -- of Jim Robinson or under the new CEO, Mr. Goler? And has Mr. Goler himself reviewed this contract, or has he left this up to lower-level employees?

MR. MCLARTY: The answer to the second part is I don't know.

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Q I can find out.

MR. MCLARTY: I think it was a competitive bid. John, do you want to address how the bids were --

MR. PODESTA: Yes. They conducted a bid.

MR. MCLARTY: John, you'd better speak up a little bit.

MR. PODESTA: I doubt the talked to Mr. Goler, but I'm not sure who at American Express they talked to, but it was -- they assessed three vendors who could do the business, given the international aspects of it and took bids over the phone over the weekend and selected American Express.

MR. MCLARTY: I think I'd already acknowledged Ann. We'll go to you next.

Q Two questions, Mack. The first is, what was the First Lady's role in this? I see her noted as having contacts with Mr. Thomason. And also --

MR. MCLARTY: I don't believe Mr. Thomason, but go ahead.

Q Well, okay, sorry. What was the First Lady's role in this?

MR. MCLARTY: Hillary, in a meeting with me -- it was a stand-up meeting of about five minutes -- asked about this. She was aware of it. I don't know whether it was from Mr. Thomason, Ann, or another way. That's the reason I -- when you said Mr. Thomason I reacted as I did. And just simply suggested from what she had understood we could certainly improve efficiency here, it appeared to be mismanagement, had heard some of the rumors that have been alluded to earlier. That was about the extent of the conversation with me. As I recall it, we also covered a couple of other matters in that conversation. And I think she also asked me about it one other time as to the status after the Peat Marwick review.

Q Did she review this report and ask for changes in an earlier draft?

MR. MCLARTY: No, she didn't.

Q She had no review of this other --

MR. MCLARTY: No, not to my knowledge.

Q Could I follow up that?

MR. MCLARTY: Wolf, I think you're next. I'm trying to be reasonably orderly here and fair.

Q Catherine Cornelius, what will her job now be?

MR. MCLARTY: I think, Wolf, I said that had not been determined in my comments. But she would be reassigned, and I don't think I gave quite as precise an answer as I would have liked in the fact -- to an earlier question -- that I think to the best of my knowledge Miss Cornelius has been very professional and capable in her duties. And I wanted to make that clear.

Q What about -- the five people will be reassigned to other government agencies, but not necessarily in the White House -- the five who are going to be reassigned to other government agencies

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but not necessarily in the White House -- do you have specific jobs in mind for them? Will you help them find jobs?

MR. PANETTA: The Office of Management and Budget is not in the process of looking for those opportunities. We also, again, before we take that action, though, want to ensure that we have a complete report from the Justice Department with regards to the issue.

Q They complain they were never interviewed either.

MR. PANETTA: The reason they were not interviewed is because we specifically, and I think it's included there, had a letter from the Justice Department saying that we ought not to interview them as long as there is this pending investigation.

MR. MCLARTY: Ann had a follow-up which I had acknowledged.

Q Your report shows a memorandum to you dated May 17th with copies to her, to the First Lady.

MR. MCLARTY: That's correct. That's included in the report, that's right.

Q So did she get routine updates on --

MR. MCLARTY: No, she did not. I think Mr. Foster suggested, I believe, to Mr. Watkins since she had made an inquiry either of me or him that he might keep her apprised and that's why she was carbon-copied on that memoranda.

Q Let me just parenthetically say, Mack, this briefing would have been I think more productive for all of us if we could have seen this report before -- we are now in the process of reading it while we ask you questions which seems --

MR. MCLARTY: Your points well-made. It had been our hope that we could give it to you earlier. It's a thorough report and John and Todd have spent a lot of hours on it and we wish we could have gotten it to you earlier. That was our original intent. Your point's well-made.

Q Has Harry Thomason's pass been pulled? You talk about access to the White House --

MR. MCLARTY: John, we have talked about passes and so forth on going forward. We've talked about it, John, I don't know whether not just Mr. Thomason's, but others. I'm not sure of the precise status, that's the reason I --

Q I'm specifically interested in Mr. Thomason -- does he still have free run of the White House?

MR. PODESTA: Mr. Thomason's not in town.

Q That's not the question.

MR. MCLARTY: I think it's a fair question. I think in my comments, John, I tried to outline, and we talked about this at some length and it goes in a small way to Ann's point, that -- no, I'm going to try and answer your question very specifically -- that access had to be very precisely defined and tightened up and the answer is not just Mr. Thomason, but others that are not formally associated with the White House in some way will not have hard passes.

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Every administration has had this, at least that's our understanding, this dilemma of how do you control access. And I tried to leave a very clear impression that we intend to implement a very definitive policy and we would have liked to have done that today, John. Frankly, we just didn't have quite enough time to fully think it through, because you don't want to do it so in a way that doesn't work. Obviously, the point is one of the problems here was too much access not just from a physical standpoint, but in terms of involvement in White House activities, as well-intentioned as they may be. And I accepted responsibility for that, as I should.

And that matter is going to be addressed in a very specific way and I think you -- I hope I have made it clear what the conclusion will be. We just want to do it in a thoughtful way where you don't have people who do have a regular association with the White House, perfectly appropriate, have cumbersome or ineffectual ways of dealing with their ordinary business.

I've tried to be precise and, John, we owe you a better follow-up and we will. We tried to talk it through and get it resolved in an orderly way, but we didn't.

MR. PODESTA: When we looked into it, there are a number of people who have access to the complex and we, frankly, took on the review within this week and we just didn't get through it.

Q How many, John?

MR. PODESTA: There's a recommendation in the report that Council, in consultation with Mack, will issue -- that Mack will issue rules after being --

Q Do you have any idea how many people this is outside of the volunteers?

MR. PODESTA: There are volunteers, there are contractors, there are other government employees, non-government employees, and we just weren't able to close the loop by today.

Q You just don't even know, there might be thousands?

MR. PANETTA: There's not. The problem here, I think as Mack has pointed out, is we clearly -- there is a need to restrict access but we have to do it in a way that we're careful about security requirements, we're careful about the people that do maintain access. But I can assure you that our approach here, and I think Mack has made that clear, is that we are going to review those policies and limit access.

Q When Harry Thomason does have access here in the future, will he have access to phone and message service as he has in the past here in the White House offices of Mr. Watkins?

MR. MCLARTY: No, I don't think that will be the case.

MR. PANETTA: He does not have an office in the White House.

Q No, but he did have -- if you asked for him you got Mr. Watkins office.

MR. MCLARTY: He had a project and an assignment here and I think, not just given these circumstances, but in a careful way that does not need to be the case with him or any other person.

Q When the original announcement was made, reference was made to the fact that the press had been overcharged; there were

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allegations of overcharge. Again, as Ann noted, we haven't had an opportunity to read this whole thing. Was that ever substantiated?

MR. MCLARTY: Well, I think the data that Leon and I have reviewed suggests two things. First of all, on the commercial -- let's take the charter because that deals directly with the press. With the competitive bidding the charters appear to be running -- I think there's been four charters -- about 20 percent less than prior to competitive bidding practices. And it is certainly the intent of the travel operation and the White House for the service and safety and quality, and that's addressed in the report, to be the same.

So it appears that competitive bidding has resulted in significant or measurable savings from a press standpoint, which is very important to a number of, and probably very important to all of you, but maybe more important to some than others.

On the commercial side, I think it is very clear that there will be at least $100,000 savings a year of the White House personnel that travel through the reorganization of the White House -- of the Travel Office, which is at taxpayers' expense. So it certainly suggests that there will be measurable savings from the reorganization or practices.

Q We'll probably have to wait for a couple of more trips to see a pattern, but the West Point trip was considerably higher in cost than the same trip just two years ago.

MR. MCLARTY: Well, we both need to review carefully the data to see if it supports what I just suggested. I believe it will based on the analysis I've done.

Q Mack, since the media is often criticized for blowing things out of proportion, how big a deal do you feel, how big a transgression do you feel the American people should think of this? Not the management of the office itself, but how you handled it. Not the mismanagement of the Travel Office.

MR. MCLARTY: Well, I think, certainly, any time that people are not handled properly it's a big deal. And I think from that aspect I've already spoken to that rather specifically.

Q Mack, the report speaks of the appearance of favoritism and then goes into very detailed examples of these appearances. How did you come to the conclusion that there was no favoritism involved here given all the details and the people involved, the intricacy of this cronyism network?

MR. MCLARTY: I think John and Todd can probably speak to that with a little more specificity since they did some of the actual interviews. But I think, Jim, it is logical to walk through that Mr. Thomason's, for example, primary business is certainly not air charter, he's not active in that. I think he felt there was a more efficient way to run this operation, and I think his intentions were to suggest that. That's just fine. What should have happened is we should have thanked him for his thoughts and then deliberately and carefully reviewed the matter. That's where the mistake was made.

Q But given the details of this report, how can anyone draw any other conclusion except that people who went into that office then attempted to get their friends, turn the business their way?

MR. MCLARTY: Jim, I don't think that's a fair conclusion. I think in terms of the World Wide situation, for example, and are probably alluding to that, that's I think a long-time travel agency if I understand it. They just simply wanted the

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ability to bid competitively on the commercial side of the business. I don't think you draw that conclusion. I think the report tried to be very direct and cover all the facts and you could draw that conclusion. But that's not, upon review, the conclusion I reached.

Q Mack, getting back to the FBI --

Q How did you determine the IRS was not involved? How did they get sicced onto UltrAir if nobody called them and why did you put such a strong prohibition in the report?

MR. MCLARTY: Well, the prohibition in the report, I think, really speaks for itself. Since the IRS had been brought up here we wanted to cover that aspect and I believe should have.

Q How do you know that they weren't called from here? How were they called?

MR. MCLARTY: I think the Attorney General and others confirmed that.

MR. PANETTA: The IRS has confirmed that those contacts were not made. But, obviously, when the IRS was raised during one of the courses of the conversations, we wanted to make very clear in terms of White House policy that that cannot happen in the future. And that's why --

Q How did they get on the case?

Q How much was the Peat Marwick study?

MR. MCLARTY: I don't know the answer to that question.

Q Could you find out for us?

MR. MCLARTY: We can. I don't know the answer --

Q Are you guys at all concerned about the possibility of lawsuits? Have you given any thought to that, about maybe having to defend against lawsuits?

MR. MCLARTY: That has not been discussed with me.

Q I mean, you have accused or at least sort of left hanging in the air the idea that a criminal investigation --

MR. MCLARTY: I think you an always have litigation on this or any other matter.

Q Was the President aware that the Travel Office was being dismissed before it was dismissed? Was he aware that Mr. Collingwood was coming here before it happened? And was he interviewed --

MR. MCLARTY: He was interviewed, Mr. Podesta interviewed him. He was not aware of the other --

Q Neither one?

MR. MCLARTY: I don't believe he was, not to my knowledge. And I think in terms of perhaps his being aware of some of this perhaps he was illy served in that regard.

Q So Mrs. Clinton was and he wasn't? The May 17th letter said I'm going to fire them tomorrow.

Q -- I'm going to fire them, so she knew but he didn't?

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MR. MCLARTY: I think he was aware of -- I think it's outlined in the report -- I think Mr. Thomason may have mentioned something to the President about the Travel Office, and I don't recall my briefing him on this situation specifically. Frankly, did not think that was on the daily briefing sheet, which may have been a mistake on my part.

Q How many people are working in the Travel Office now? How many are in there right now?

MR. MCLARTY: Let's do this. I think we've taken a number of questions as well as provided a thorough report, which I do wish we could have provided earlier. John and Todd will be available later today for more thorough background briefing. And they do have a very good understanding of the fact.

To answer Wolf, I think there are two full-time employees, two detailees. That's four total people in the Travel Office. The American Express on a contract basis -- that's totally at their expense and that's included in the savings. So, there's four versus seven in the past. I think there's a net savings of three.

Q Was Mrs. Clinton interviewed for this?

MR. MCLARTY: She was, she was interviewed.

Q Could we have the staff briefing now instead of later today?

MR. MCLARTY: Let's let Mr. Gearan, Communications Director, make that judgment.

Q When the White House dealt with the reporters, the media office, two people. Myers and Stephanopoulos, took whole-hog what was given to them and came out here. You also have some sort of a cutoff line now where they don't just accept everything that's handed to them and come out and --

MR. MCLARTY: That's addressed, Helen, in some detail in the report. But I think I underscored in my comments -- and I think my comments gave really a pretty thorough review of the report -- that the communication was not as it should have been between certain parts of the White House and the Communications people that briefed the press. And that led to some serious mistakes that we've acknowledged.

Thank you very much.

MR. GEARAN: We'd be happy to have John Podesta and Todd Stern exhaust with further questions.

Q Is there any way to portray the actions taken here as anything other than a slap on the wrist? Is there anything -- given there's no loss of pay and no loss of status.

MR. GEARAN: I think Mack spoke to it as the Chief of Staff speaking to it as a complete report, a thorough report, with exhaustive details and a reprimand both personally and publicly to the persons involved with this.

Q If I can just -- the report, the summary and the comments by Mr. McLarty and Mr. Panetta talk about the problem being an appearance problem -- the appearance of insensitivity and so forth -- but I don't see anywhere here where it says there was an actual mistake made, say, in firing these employees. If it wasn't a mistake to fire them, then why are you reassigning them?

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MR. GEARAN: I think we should get John and Todd up. No, I mean, I'm happy to -- but they did the report.

Q Can I ask you a communication question before you do that? The Watkins' statement to Dee Dee didn't seem to be quite right in this --

Q Watkins lied to everybody.

Q -- a recent thing that Dee Dee had with the FBI report -- are you at all concerned about a problem that still may exist in terms of getting information from within the White House to a spokesman and -- of the press? And is anything being done to, for want of a better term, get Dee Dee back further into the loop?

MR. GEARAN: The answer is, yes, we're concerned.

Q Mark, can --

Q He's answering a question.

Q Hold it, he's answering a question.

MR. GEARAN: Your colleagues have a few thoughts on the matter.

Q You weren't here every day and this matters to us.

Q Will you let Mark answer please?

Q It's very important.

MR. GEARAN: Let me just answer. The answer is, yes, we're concerned if that is the perception of anyone in this press room. We'll make every effort, and are making affirmative efforts within the White House to ensure that anyone speaking from this podium has the requisite information to give you the kind of information you need to do your jobs. There are internal matters that we're doing to ensure that in meetings and briefings.

Q And not to desecrate people without evidence.

Q The issue here is not --

MR. GEARAN: I think what we might do is to conduct the background here with John and Todd on the Travel Office report, and I'd be happy to visit with you about communications issues.

Q This is a related communications question that goes back to Tom's question. David Watkins lied to Dee Dee, right? And as a result, Dee Dee came out here and lied to us. She wasn't aware of it; she lied to the American people. Why is Watkins only getting a reprimand?

MR. GEARAN: I want to have John explain how the National Performance Review came into that paragraph, because I think they need some explanation of why that was cited, because that is what -- when persons went into the Travel Office. Let me have John and then I can follow up on the communications link to it, because there's a background that I think would be instructive.

MR. PODESTA: Well, let me start with the National Performance Review. Watkins' shop, specifically Jennifer O'Connor and several other people, were in the process of going through the Office of Administration and indeed had completed going through the Office of Administration on an office-by-office basis as part of their management review, which was linked to the National Performance

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Review. The linkage is -- the National Performance Review itself is sort of a superstructure for activities going on in every agency.

At the time that the decision was made to have Peat Marwick go in, a decision was also made to send in the performance review team to look overall at the management of the Travel Office. That happened on Thursday, the 13th of May. The group that went in -- O'Connor and company had been going through office by office. The Travel Office employees were told that was part of the regular review process and that Peat Marwick was there because the financial management that they had was unique. They had a bank account that was not an audited government bank account and, therefore, outside auditors needed to be brought in.

That effort was conducted over the weekend within the context of that review. People were informed that it was part of that review. Talking points were prepared by Watkins' shop. In the context of that, the firings were carried out in the context of that overall sort of view. I think the better judgment probably would have been not to have brought the National Performance Review into the picture. We considered that. Todd and I were given a pretty free range, I think that you can see, to make specific criticisms of people and conduct. And I think we ultimately concluded, after kind of writing it one way and writing it another way, that there was enough linkage to this review process that it was fair.

Q John, though, you will contrast Watkins' memo to Mrs. Clinton in which he says this was stimulated by Harry Thomason's rumors of criminal activity and Catherine Cornelius' observations in that office, and the top paragraph on page 11 in which he tells Dee Dee, the talking points are that this is just a routine review conducted by the National Performance. Those are pretty striking in their --

MR. PODESTA: I think that --

Q And had Dee Dee told us Harry Thomason and Cathy Cornelius were involved from the first day, it certainly would have put a different cast on this story.

MR. PODESTA: The characterization here was that the review was accelerated by Cornelius and by --

Q Whose characterization?

MR. PODESTA: I'm sorry --

Q Whose characterizations was accelerated? We never heard anybody say accelerated. We heard that -- she came in here and --

MR. PODESTA: I'm just reading from the memo.

Q I know. But she came in here and baldly stated that this was pursuant to the National Performance Review, which was a hot one. Was it not? I mean, that's --

MR. PODESTA: Excuse me?

Q She came in here and stood where you're standing and said that this whole thing had been carried out pursuant to the National Performance Review. And I hear what you say about it having achieved some connection to it, but to say that it was done pursuant to that is a whopper, isn't it?

MR. PODESTA: Well --

Q You can use the word, lie.

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Q Well, it's not correct.

MR. PODESTA: I think there was linkage between the performance review and this process.

Q We're stipulating that, but there was also linkage between Harry Thomason and Cornelius as well.

Q -- also linkage to Harry Thomason, too, but that was not stated.

MR. PODESTA: That is correct.

Q You would concede, would you not, that that was a bit of an exercise in spin control by Mr. Watkins?

MR. PODESTA: I think there's a difference between that and lying, which is what someone back there accused her of. And I don't think -- I don't think she lied.

Q On the UltrAir IRS, we've been told that the White House did not contact the IRS. Did, in your research, did you find out why it was, the very week that this all was coming forward that IRS officials appeared in this company that had never even filed an IRS form?

MR. PODESTA: We thought under the circumstances that it was better that IRS review internally the matters at the IRS and that having a White House review of what happened at the IRS was not appropriate.

Q So do you not know why --

MR. PODESTA: The IRS conducted that review, and that's been -- the results of that review are made public. We found no --

Q At your request?

MR. PODESTA: We found no indication -- we found no indication -- and we interviewed everyone -- we found no indication of anyone contacting the IRS. There was no hint of it. Kennedy -- excuse me - the FBI agents involved did say that Kennedy raised the IRS in his conversation. "Where should I go? Should I go to the FBI? Should I go to the IRS? I'm looking for guidance." And he got the guidance that they would come and visit with him. After they did, he left the meeting. Cornelius came in. By the time he came back, they said they had sufficient predication to go forward. At that point, sort of simultaneously, Peat Marwick is being interviewed by Watkins. That's all happening on Thursday afternoon.

Watkins decides to go forward with Peat Marwick. Again, this is sort of all laid out. And Kennedy and Foster hold the FBI from going in, at which point Kennedy has his answer which is he's got the Peat Marwick review and the findings will be made available to the IRS -- excuse me, will be made available to the FBI, and the FBI is going forward.

Q Since you say the IRS --

MR. PODESTA: We found nothing to indicate that there was any conversation with the IRS.

Q So what was the IRS's motivation then?

MR. PODESTA: I think you should talk to the IRS about that.

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Q They won't tell you -- you know that.

Q No, they won't tell you what -- they won't tell you the details surrounding any of their audits.

Q I don't think this resolves that question. I think it's still up in the air.

Q Going back to FBI involvement, the issue is not just disclosure that the FBI was looking into this. The Communications Office here proactively ballyhooed the fact of FBI involvement. They did so apparently with White House lawyers sitting in on the meetings at which the strategy was developed. And I still -- didn't Bernie Nussbaum sit in on the meeting on Thursday -- on Friday afternoon, the day the Cornelius memo came out and the White House put out FBI guidance?

MR. PODESTA: I think if -- Todd reminds me that there's -- there are two incidents involving counsel and the Communications department that deal with the IRS. One is on Wednesday --

Q The FBI --

Q Freudian slip. (Laughter.)

MR. PODESTA: That's why I know I don't want his job. (Laughter.)

And the FBI -- two experiences. One in which counsel attempts in good faith to get the reference to the FBI out of the talking points on Wednesday morning. They acted promptly as soon as they saw it. I think they thought they had taken care of the problem. As it turned out, they hadn't taken care of the problem and there's sort of a series of events which leads to Dee Dee talking to Terry prior to her getting knowledge of -- I dropped the dime, I guess.

Q I have a question about Exhibit G, I think it is.

MR. PODESTA: Excuse me. Okay. That's issue one.

Issue two is Collingwood coming on Friday to the meeting in the Communications department which we think was inappropriate. But the counsel had been called for a different purpose. They didn't -- they were not consulted as to the appropriateness of Collingwood coming to that meeting. Collingwood was called. Our counsel were called. They came to the meeting. Collingwood walked in. They didn't know Collingwood was coming to that meeting. George said we need to know what you're saying. We want to be -- we want to -- we don't want to go beyond what we can say. Collingwood -- and Collingwood confirms this to us -- said in that meeting what he had already said to reporters that morning, which is that there was an investigation -- a criminal investigation going on. And he went back to the FBI headquarters, did the response. Again, that's laid out in fair detail -- and faxed it back. Our press office released it as an FBI release. I think that was a mistake.

MR. GEARAN: Secretary Christopher's briefing will be at 2:45 p.m.

Q In this room?

MR. GEARAN: In this room.

Q That means we only have an hour to go.

Q Only an hour to go.

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MR. GEARAN: No, we don't mean to -- we'd be happy to bore you further here, but I just wanted to make sure people knew the schedule.

Q Will you use just one airline in the future or is it going to be several airlines that are going to have the contract for the --

MR. PODESTA: Competitive bids.

Q Who authored Exhibit G, which is a confidential memo?

MR. PODESTA: That's the Darnell Marten memo. That is referred to in the report.

Q One other question about the memo --

MR. PODESTA: The Darnell Marten memo was essentially a memo to the file that he was creating on a lap-top.

Q One more question about the National Performance Review -- and I realize that's outside the scope of this report. Have any other federal government employees been fired as a result of the National Performance Review? Does it move that quickly?

MR. PODESTA: Other than this particular incident, I have no knowledge or awareness of what's going on in the national --

Q -- IRS did an internal review and that review was made public. I don't see any reflection of that in --

MR. PODESTA: There was a public statement made by the IRS Commissioner.

Q Why is there no -- how do you document it? I mean, do you just accept that? Do you accept it? And do you know what the source of their -- were they following on a newspaper clipping? What was their finding?

Q What did they say? That they did it on their own?

MR. PODESTA: It seemed to us -- that is, this us -- that pursuing an internal investigation of the IRS at this moment didn't make sense for the management review of the White House.

Q I understand that, but you say they've made the results public. What were they? We're not aware of this public --

Q John, don't you think maybe there should be a special prosecutor, because then they could look at the IRS, the FBI, the White House and --

MR. PODESTA: Not given the thorough review and the thorough job that's done in this report.

Q John, excuse me -- John, getting back to my question, you're aware of a public review that I'm not aware of. What does it say? How did they find out about it?

MR. PODESTA: It says there was no contact between the White House and the IRS.

Q They don't give you any indication of how they got onto UltrAir?

MR. PODESTA: They did a review of the audit and --

MORE

CGE 001194

Q Out of the blue?

MR. PODESTA: Was the audit out of the blue? I refer you to the IRS.

Q No, don't give me that. You know they won't answer it.

Q Did they indicate to you how they learned that UltrAir was out there and that they should go look at their books? Was there any indication --

MR. PODESTA: No one indicated anything to us.

Q Mack said that he was disappointed in a number of White House staff people. He said four were reprimanded. Is he disappointed in people who were not reprimanded, and who and why?

MR. PODESTA I think that's a question for Mack. I think you can read the report, but that's a question for Mack.

Q Was there ever contemplation that any other White House official -- contemplated or discussed that any other White House official would be reprimanded or punished in some way?

MR. PODESTA: I would refer that question to Mack and Leon.

Q What airlines are getting the new contract --

Q Can we go to people who haven't asked questions yet?

MR. PODESTA: Ma'am, you've asked several questions. You've asked several questions. I don't think Ann's had a question.

Q I have not had several, I only had one.

Q I want to talk a minute here about the IRS issue. I understand that you cannot investigate the IRS. And I understand what you say, that they've issued a report, which I have read. In fact, that IRS statement is heavily redacted in that it is nothing but black lines with a conclusion. Is there any White House concern, considering the IRS's privacy regulations and their refusal to waive privacy in this issue, even though UltrAir has issued statements allowing it, that you will never know exactly what happened in this question, and nor will the public, and your statements have no teeth; that is, who in this White House is going to say, oh, John, I admit it, I did the worst thing I could have done, I called the IRS and sicced them on you?

MR. PODESTA: I think beyond who would call up and come down to our office and admit it, there was a course of conduct, and the conduct was at the FBI, it wasn't at the IRS. There was no -- there was no pursuit of the matter, and I think, from our perspective, that adds weight to the fact that they concluded that there was no call from here. There was no pursuit of the matter that would have taken it off to the IRS.

Q Two days after the firing, IRS people showed up at UltrAir's office without the standard papers and without UltrAir having ever filed a tax return on which they could base an audit. That is conduct, John, that occurred within 48 hours of the White House suggesting bribery and kickbacks. Now, how can you say that's not conduct?

MR. PODESTA: It's conduct by the IRS, but it's not conduct by the White House.

MORE

Q You think there's no linkage?

MR. PODESTA: Do I think there's no linkage between the -- I know no facts about the IRS audit of UltrAir.

Q John, what was the behavior that was found in your investigation -- what was the behavior you found regarding passholders who were not government employees that requires a change in the policy?

MR. PODESTA: Well, I think that there is an issue of when someone's here in a capacity that -- where you're not an employee and you're dealing with employees and talking to employees, and it's unclear what status you're in the room with them on, that under -- upon reflection, requires some guidelines as to who ought to get passes and who shouldn't.

Q Is it a legal problem or an appearance problem?

MR. PODESTA: No, I don't think it's a legal problem.

Q Do you think it's some problem in the functioning of the White House?

MR. PODESTA: I think there is an appearance problem and I think there's a problem vis a vis the employees themselves knowing who they're dealing with -- who is an employee, who is not an employee.

Q Was Harry throwing his weight around and intimidating full-time employees?

MR. PODESTA: I don't think he was intimidating full-time employees. I wouldn't characterize that.

Q You said behavior regarding employees --

Q You left the first part kind of out.

MR. PODESTA: I didn't hear what he said.

Q Was he throwing his weight around.

MR. PODESTA: No, I don't think he was throwing his weight around.

Q Did Mrs. Clinton see this in draft form?

MR. PODESTA: No.

Q In retrospect, was it a mistake to fire these five employees of the Travel Office who didn't have any financial involvement? Was it a policy mistake, not just an appearance problem?

MR. PODESTA: I think that given the fact that -- I think the fact that they were reinstated with pay and now they are being reemployed pending the outcome of the investigation answers that question.

Q Your answer would be yes, then? Would that answer be, yes, it was a mistake to fire them? Because the beginning of the report talks about it being a problem of appearance and appearing to be insensitive.

MR. PODESTA: Everyone here works at the pleasure of the President. There needs to be no cause to fire somebody.

MORE

Q Then why are you rehiring them?

MR. PODESTA: Under the circumstances, given the fact that these people were fired for cause and given the facts surrounding the disclosure of the FBI investigation, we think the course of conduct we're taking is reasonable.

Q If they were fired for cause -- I'm sorry.

MR. PODESTA: If they could have been fired --

Q But they were fired for cause?

MR. PODESTA: They were -- not in a formal sense the way people are in other positions where they have status. But there was cause associated with the Peat Marwick deal. We were -- I must say -- I want to clarify one point, which is somebody at the beginning of the conference said, this review vindicates their activity. I don't believe that it does. We did not investigate what they were doing in the Travel Office given the fact that when we asked to interview the employees we were informed by Justice and advised by Justice that we shouldn't do that.

Q In answer to her question, that this -- it may not vindicate their activities, but it vindicates them in the sense you hired them back here and said they are worthy to work in the government. So how are we supposed to take that? I mean, are you saying they may be crooks, they may be sleazeballs, they may be liars, they may be whatever, but we weren't able to check it out but we want them in our government again?

MR. PODESTA: I think what we're saying is we didn't investigate that. We didn't check it out. We couldn't check it out --

Q You knew they had no financial authority or management authority.

MR. PODESTA: We concluded they had no financial authority or management authority.

Q What is it that --

MR. PODESTA: But whether they were employees that were unneeded, needed, what the organization of the White House was, whether they were good employees, bad employees, what their duties were was basically impossible for us to look into.

Q Why?

MR. PODESTA: Because we couldn't interview them.

Q Well, why are they being rehired if they were fired for cause?

MR. PODESTA: They are being reassigned. I'm not drawing any conclusions that they were --

Q You're not vindicating them either.

MR. PODESTA: I'm not drawing any conclusion that they should have been fired for cause, I'm not drawing any conclusion at all. And therefore, under the circumstances, they're being reemployed.

Q Can I just get a clarification on Thomason? Would it be fair to say --

MORE

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MR. PODESTA: I don't think we know, quite frankly. We just don't know.

Q You don't know what?

Q I want a clarification on Thomason. Has he had his pass pulled, or is it that you're trying -- that you're going to reprimand him somehow but you're still trying to figure out how?

MR. PODESTA: We're going to issue guidelines on the issuance of passes to nongovernment employees.

Q He still has a pass? He can still come and go as he pleases?

MR. GEARAN: Mack spoke to that and what he said was the guidelines are not issued as of today. He is going to take a look at it with the Counsel's Office and issue guidelines for nonemployee passholders.

Q What airlines have been chosen --

MR. GEARAN: I don't know, but they are done competitively.

Q But is it one airline or several?

MR. GEARAN: It's a competitive process.

Can we get any more questions on this? We'd like to -- we've successfully bored everyone? Thank you very much.

END 1:55 P.M. EDT

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Prepared in Anticipation of Congressional Hearings

DRAFT - Sherburne & Nemetz
May 15, 1996

Foster

1. Notification

   a. **Nussbaum** -- was at Galileo with Zimroth having dinner when he was paged and told it appeared that Foster had committed suicide.

   b. **Williams** -- was at home and received a call from HRC who asked her to wait for a second call. HRC told her that Foster had killed himself. She called Evelyn Lieberman who picked her up and drove her to the West Wing.

   c. **Watkins** - was at a movie theater with his wife, where they had gone to see "In the Line of Fire." Watkins was paged by the White House Signal operator. Watkins placed a call from a public phone to someone in the White House and was told that Foster was dead. He said it was of the utmost importance that the death be confirmed, and was told that Kennedy and someone else were on their way to the hospital to identify the body. He also learned that two people were on their way to the Foster house to notify Mrs. Foster. Watkins wanted to go with them. This was arranged.

   d. **Burton** -- learned of Foster's death from Watkins, and told McLarty. McLarty directed him to get more information; he then talked to the hospital and the Park Police. He went up in the elevator with McLarty and the President and was there when the President was told the news. He gave the President an account of his conversation with the Park Police.

   e. **McLarty** -- Shortly after the interview with Larry King began, Mack McLarty was heading back to his office, planning to go home, when he encountered Bill Burton. Burton said he had disturbing news. He said that the Park Police had informed David Watkins that a person fitting Foster's description had been found dead, the victim of an apparent suicide. Mclarty asked Burton to monitor the situation. They discussed the need to notify Foster's family, the President, and the First Lady, who was in Little Rock with her ailing father.

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McLarty paged Webb Hubbell from the Secret Service work station outside the Residence library. He called Webb because he and Foster were good friends and had spent the weekend together. McLarty recalled telling Hubbell what he knew and asking him to go to the Foster house.

Soon Stephanopoulos and Gearan sensed that something was wrong and came out. Mack told them what was going on. McLarty decided to call Mrs. Clinton in Little Rock, but to hold off telling the President until after the show ended. He called Mrs. Clinton at about 9:40 and told her the news. She was shocked to hear of Foster's death.

The President had agreed to do an extra half hour of the Larry King show. However, during a break following the first hour of the show, at 10:00, McLarty stepped in and said that the President would be unable to extend the interview because he needed to discuss other matters with him. The President asked if there was an international crisis; McLarty said no, but that it was very serious.

McLarty and the President went upstairs to the living quarters and sat down, perhaps in a bedroom. McLarty told him about Foster. The President wanted to go to Foster's home. McLarty told the President that Hubbell was already there. The President did not want to arrive at Foster's house in a motorcade. While the President called Mrs. Clinton, McLarty talked to the Secret Service about how they might go to the Foster house unobtrusively. It was decided that they could go in a van.

f. **Neuwirth** -- Bernie called him at home from the White House between 10:30 and 11:30. He called his brother afterward. He stayed home in his apartment.

g. **Pond** -- Woke up at 5 a.m. and saw that she had a message on her answering machine. (As was her habit, she had turned off the ring on her telephone the night before.) The White House operator had called the night before to tell her that Nussbaum was calling; Linda Tripp had also called. Pond called the White House operator, who told her that Nussbaum had called to tell her about Foster's "accident;" the operator suggested she call Tripp instead of Nussbaum as Nussbaum had been up late. She asked the operator to patch her through to Linda. She then called Tom Castleton and John Carey, who worked in personnel.

h. **Castleton** -- telephoned by Pond around 6 a.m.

i. **Mills** -- had just [illegible] home from the White House at about 9 p.m. when she received a call from Dana Lawrence in the Office of Personnel Security. She returned to the White House right away.

j. **Kennedy** -- left work at 7 p.m. Livingstone called him at home between 8 and 8:30 and said that Foster was dead. Craig said he had spoken with the Park Police. Kennedy was aghast and asked Craig to confirm the information. Craig called back later and said he had confirmed that Foster was dead, and said that it had been a suicide and that the body was found in a park. Craig also said he had learned from the Park Police that the body was en route to a hospital. Kennedy was familiar with the hospital and said he would meet Livingstone there. Kennedy arrived first. It took 45 minutes before they could get confirmation that the body was there. Finally, they were permitted to see the body. After viewing the body, Kennedy called McLarty at the White House and spoke with him briefly. McLarty already knew about the death; the President was still on Larry King. Kennedy also called Nussbaum, who said he was going to go to Foster's house. Kennedy decided to go to the Foster house also.

k. **Livingstone** -- was at home and got a call from the Secret Service. He talked to Watkins and learned that Bill Kennedy was at the hospital. He went to the hospital and met Kennedy there. He called Watkins from the hospital.

l. **Scott** -- Webb Hubbell, Susie Hubbell, and Marsha Scott were eating dinner at the Lebanese Taverna, along with two of the Hubbells' children, when Hubbell was paged. Hubbell returned the page and said they would have to leave, but suggested that the children stay to finish their dinner. Marsha's first thought was that they had been invited to see a movie at the White House. On the way to the car, Hubbell told Susie and Marsha the news. They drove to the Hubbells' house, but realized they were locked out because they had left the keys with the children. Sheila Anthony lived near the Hubbells. Marsha and Webb walked to Anthony's house, while Susie Hubbell waited outside the house for the children to return from dinner. Marsha and Webb found Sheila Anthony at home with Vince Foster's other sister and her daughter, who was visiting from out of town. Marsha told them what had happened. They discussed the importance of finding Beryl Anthony, Sheila's husband, who was out with Foster's two sons, and also called Barbara Pryor. Eventually the group headed for the Foster house.

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m. **Sylvia Matthews -- Special Assistant to Bob Rubin, had helped brief the President for the Larry King show, and stayed to watch the taping on video in a room across from the library in the Residence. Sometime during the taping, she learned that Vince Foster had committed suicide.**

n. **Huber** - Burton called Huber at home on the night of the 20th. She did not go to the White House or to the Foster house.

o. **Susan Thomases** -- Thomases was called by Nussbaum or HRC at home the evening of Foster's death. HRC called Thomases from Arkansas sometime after 9 p.m. Thomases was watching Larry King Live. HRC asked Thomases to stop by and see the President the next day because he would be very upset. They spoke for 5 to 20 minutes.

p. **Cliff Sloan** -- Was notified of the suicide by Nussbaum at around 11 p.m. He assumed Nussbaum was in his office.

q. **Helen Dickey** -- Was watching the President on Larry King in the solarium on the 3rd floor of the Residence. John Fanney from the Usher's Office, who runs the elevator during the weekday evening shift, came to tell her of Foster's death because he knew they were close and did not want her to hear on the news. She called her mother, her father, Ann McCoy, Ann Stock, and Roger Perry in the Governor's mansion. She then spoke to the President and Mack very briefly in the Residence; he was jotting down some remarks. Then she went to the Usher's office and waited for her mother.

r. **Robin Dickey** -- Was watching TV at home when Helen called, hysterical. First called Helen and John Sloan, who are very good friends of hers and the Fosters in Arkansas, and then drove to the White House. Parked on East Executive Drive and then met Helen in the Usher's Office before leaving for the Foster house.

2. July 20 -- Foster Office

a. **Nussbaum** -- 15 minutes after the Larry King Live show was over, Nussbaum went to his West Wing office. He noticed the door was open and the light was on. He entered Foster's office and found Williams on the sofa and Thomasson sitting behind the desk.

i. Thomasson said she was looking for a note. Nussbaum assisted her. They were looking for something obvious that Foster would have left for them to find. After a few minutes, Thomasson and Williams left together. Nussbaum followed them

out of the suite. Neither took anything from the office.

ii. Nussbaum wandered around the West Wing, returning to his office to make phone calls to his staff. He remembers Sylvia Mathews asking about retrieving Foster's trash. Nussbaum said fine. While he was in the Chief of Staff's office with Burton and Neel, someone walked in with the trash. At that time the Counsel's Office was locked so the trash was left in Neel's office.

(1) Nussbaum does not remember any discussion about burn bags.

iii. Nussbaum believes he locked the door to the suite and set the alarm at some point before leaving the West Wing but he believes he probably left the suite unlocked during some of the time he roamed the West Wing.

iv. Nussbaum left the West Wing to go home at about midnight. He made more telephone calls once he got home.

b. Williams -- first went to her own office, then to Gearan's office where several people had assembled. Gearan asked her to review a press statement. She returned to her office, vaguely realizing that HRC's schedule would be affected by the events. She took no notice of the Counsel's Office during any of her trips by it.

i. Williams entered the Counsel's Office suite at about 9:30 or 10 p.m. The door was open and the light was on. She remember there were people around -- maybe cleaning people. She walked into Foster's office. Thomasson was already there, sitting at Foster's desk. Her eyes were red and it was apparent she had been crying.

ii. Thomasson told Williams that she was looking for a note, observing that a note would give comfort to Lisa Foster. Thomasson's search did not seem purposeful to Williams.

iii. Williams sat down on the couch in Foster's office and wept.

iv. Within a few moments, Nussbaum entered Foster's office, seemingly at a loss. He helped Thomasson look around for a note. Nussbaum left the office. [Check.]

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v. **Williams left the office, having been there a total of about five minutes. Patsy was still behind the desk when she left.**

vi. **Williams went back to either her office or Gearan's office. She has some vague recollection of being on the staircase in the West Wing with Nussbaum.**

vii. Lieberman took Williams home.

viii. Williams later spoke again to HRC and tried to comfort her.

c. **Thomasson** -- Was eating dinner at Sequoia. As she was leaving, her pager went off. She called the switchboard and was asked to hold for David Watkins. She held for about five minuites and Watkins got on the line and told her that Foster had killed himself. Watkins said he was at the Foster house with Mack and David and that they wanted her to go to Foster's office to look for a suicide note.

Patsy went to the White House in a cab, and was let in through West Executive gate. She went to the first floor and ran into Bernie, and said that David asked her to look for a note. They went to the Counsel's Office suite. Everything was open, the lights were on, and the cleaning lady was there. Patsy looked at the top of the desk and in the drawers. She was looking for something that was just sticking out. She looked in the briefcase; there were lots of files in the briefcase.

Bernie left Vince's office and Maggie entered. She sat on the sofa and started talking and was crying a lot. She said she had had so many conversations on the sofa with Vince and she could not imagine being there without him. They chatted/cried for several minutes. Bernie came back in and Williams left. A few minutes later, Bernie and Patsy left also. Patsy was in the office for a total of about 20 minutes. Neither Bernie, Patsy, or Maggie took anything from the office.

Patsy went back to the first floor, where she saw Dana Lawrence, John Emerson, Deb Coyle, and Bruce Lindsey. She paged David and told him to call her. He called and she told him that she had not found anything. He asked her to get the press release delivered to Foster's house.

d. **Mills** -- sometime after she arrived at the White House, Mills went to the Counsel's Office. The door to the Counsel's Office was open, the lights were on, and

Bernie was there. The door to Foster's office was also open and the lights were on. Mills spent some time with Bernie in his office while he spoke on the telephone. She may have left the office with Bernie to go to Mark Gearan's office. She believes they left the door open.

e. **Burton** -- Does not recall any order from McLarty to seal Foster's office.

f. **Gearan** -- Gearan had conversations with Nussbaum preparing for the press briefing during which Nussbaum said he had looked in Foster's office for a note and had not found one.

After the President had come back from Foster's office, Gearan spoke with Gergen; Gergen was calling from the Residence. He told Gergen that the office was locked; he knew this from Burton.

3. July 20th - Other White House Activities

a. Trash Bag and Burn Bag

i. **Sylvia Matthews** - had remained after Larry King ended to see if she could be of any assistance in dealing with the aftermath of the suicide. She assumed a post answering phones in McLarty's office. After a while, she went upstairs to retrieve some of her work from her office. When she passed the Counsel's Office, she noticed that the door was open, but she did not see anyone there. (This suggests she went upstairs after 10:42, when Officer Flynn had opened the door to the office for the cleaning staff.) She then returned to McLarty's office.

At some point, Matthews overheard Burton's end of a telephone conversation with the Park Police, and became aware that the Park Police had not found a suicide note. It occurred to Matthews that the trash from Foster's office should be searched for a note. She found one of the women responsible for collecting trash, and went with her to the second floor of the West Wing. The woman showed Matthews a trash bag that contained the trash from Foster's office. Matthews opened the trash bag and found inside it the smaller bag of trash from Foster's office; it was on top and she was able to identify it quickly because it contained routing slips and credit card receipts with Foster's name on them. Matthews returned to McLarty's office with the trash bag. She went through the trash bag and created an inventory of what was inside

it. She did not find a note. She decided to lock the trash bag in the office of Roy Neel, Deputy Chief of Staff.

Later that night, Matthews had the idea of searching the burn bag. Matthews went upstairs to look for the burn bag but found the office door locked. (This suggests she looked for the burn bag after 11:42.) She went to the uniformed Secret Service officer stationed outside the Oval Office and asked him to retrieve the West Wing burn bag. The Secret Service brought the burn bag to Matthews in McLarty's office. She started to serach through the burn bag. Gene Sperling was also present. Sperling and Matthews became uncomfortable as they realized that the burn bag contained material collected from all offices in the West Wing. They stopped searching the burn bag and put everything back inside it.

Mathews discussed the issue with Nussbaum, who advised them to return the burn bag to the Secret Service, noting that there was only one burn bag for the whole Counsel's Office suite. Matthews expressed her concern about this decision to Paster, who suggetsed she speak with Mark Gearan. Matthews participated in a conference call with Gearan and David Gergen at which it was agreed to send the burn bag back. Matthews recalled no other significant events that evening. She left the White House at 1:00 or 2:00.

ii. **Burton** - was told to notify people in Arkansas about Foster's death. He went to McLarty's office and began making phone calls. While he was there, he saw Sylvia Matthews going through Foster's garbage. She put everything in a white plastic bag and put in Roy Neel's office.

4. July 20th - Foster House

a. **Watkins** - Watkins and his wife left the movie theater and drove home, where they waited about 20 minutes for the two police officers to arrive. When they arrived, Mr. and Mrs. Watkins got in the back of the car and drove with them to the Foster house. During the ride, the two officers asked some general questions about Foster's state of mind.

It took ten or fifteen minutes to drive to the house. When they arrived, no one else was there. They walked up to the house; the police officers, who insisted on doing the official notification themselves, walked ahead, with Watkins right behind. As they went

up the steps, another group of people, including Webb Hubbell and Foster's sister, came up behind them.

They entered the house and Mrs. Foster came down the steps. The male officer told them that Foster had committed suicide. Mrs. Foster became hysterical; she could not possibly have been interviewed. The two women and Webb Hubbell rushed up the stairs to be with Mrs. Foster; it is possible that they may have brushed into one of the agents, but Webb Hubbell did not shove anyone. The women ministered to Mrs. Foster and the agents stood around.

Between 10 and 11, the President appeared with McLarty. At around 10:30, McLarty and Watkins, and possibly David Gergen, had a conversation during which McLarty asked if a suicide note had been found; someone said, maybe we should look for a note. Watkins had Thomasson paged and she called him. She was not at the White House; Watkins did not know whether or not she already knew that Foster was dead. Watkins asked her to look in Foster's office for a suicide note. About one and a half to two hours later, she called and reported back that there was no note.

Watkins stayed at the Foster house until about 3 a.m. and then went home.

b. McLarty -- Stayed at the Foster house for about an hour. Senator and Mrs. Pryor, Sheila Foster Anthony, Beryl Anthony, several neighbors, a physician called by Senator Pryor, David Watkins and his wife, and Webb Hubbell were there. Mack made several phone calls to the White House from the Foster house. He was aware that Burton was in Mack's office, Nussbaum was in the Counsel's Office, and Gearan was in the Communications Office.

David Gergen and Vernon Jordan also arrived at the Foster house. They worked on notifying the press; Gergan and Mack called Gearan and asked him to prepare a press release. There was concern about Foster's mother in Hope, who had not yet been notified. There was some debate about whether to wake her up. Mack does not recall how it was resolved.

c. Scott -- Webb, Susie, Sheila, and Marsha drove to the Foster house, and arrived at the same time as Watkins and his wife and the Park Police. Lisa came downstairs in a bathrobe, and before anyone could say anything the Park Police told her Vince was dead. She became hysterical, and the women comforted her while the men talked on the phone.

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Hubbell said they needed to seal Vince's office and that DOJ had to get involved; he said this repeatedly. It did not occur to anyone to call the Secret Service.

Scott drove back to Hubbell's house to pick up Suzy and bring her back to the Foster house. When she returned, she saw Bill Kennedy and Craig Livingstone; they were sitting in a car on the phone.

d. **Kennedy** -- After leaving the hospital, Kennedy and Livingstone drove in Kennedy's car to his house, where they picked up Kennedy's wife and then drove to the Foster house. Clinton, Gergen, and Jordan were still there when Kennedy arrived. Kennedy stayed at the Foster house for about 2 hours. Kennedy recalled that Livingstone was in the car using the phone for a long time; Kennedy asked him to stop using the phone because he was afraid he would drain the car battery. Clinton invited Kennedy to go back to the White House for a visit, but he declined. After leaving the Foster house at around 2 a.m. Kennedy drove Livingstone back to the hospital to pick up his car.

e. **Livingstone** -- Kennedy and Livingstone left the hospital in Craig's car, leaving Kennedy's car at the hospital. They drove to Kennedy's house to pick up his wife. They left Craig's car at Kennedy's house and took her car to Foster's house. They arrived there around 10 or 11.

Craig had a conversation in which it was said that someone ought to be at Foster's house in the morning in case someone stakes it out.

Livingstone sat in Kennedy's wife's car and used the phone to call friends. Hubbell and others also came out to use the phone.

Craig went back to Kennedy's house with Kennedy to drop her off. The two got in Craig's car and drove to the hospital to get Bill's car.

f. **Helen Dickey** -- Drove to the Foster house at around 11:00 with her mother, arriving shortly after the President had left. They stayed until about 1:00 or 1:30. She left at one point to get cokes and ice. Recalls seeing David and Ileen Watkins, Webb Hubbell, Vernon Jordan, Bill Kennedy, Marsha Scott, Mack, David Pryor, David Gergen, Sheila and Beryl Anthony, and Bernie Nussbaum at the house.

g. **Robin Dickey** -- Drove to the Foster house with Helen in her car. She recalls Suzy and Webb Hubbell, David and Ileen Watkins, and Senator Shelby's wife being there.

Got there before the President. Mrs. Foster was not there when she first arrived -- she may have gone to pick up her kids somewhere -- but when Robin first saw her she already knew of the death.

Dickey remembers the President coming in the front door with Mack. He was wearing a light colored suit. His presence was very obvious; he hugged everyone; everyone else sort of disappeared.

Dickey remembers seeing Craig Livingstone outside. At some point during the night, Livingstone helped her make a phone call from a mobile phone in one of the cars outside.

h. **Thomasson** -- delivered the press release personally to the Foster house, and was in the house for five or six minutes. She had a cab drop her close to the house and then walked. She spoke with David Watkins and Sheila Anthony. She also recalls Webb being there. The President was no longer there.

5. July 20th - Residence

a. **McLarty** -- returned to the Residence with the President; Gergen and Jordan may have accompanied them. Recalls that Mickey Kantor, David Gergen, Vernon Jordan, and the President were there. They sat in the kitchen for about 45 minutes, drinking whiskey and talking about Foster. They also had some food. Kantor was going to Japan the next morning.

While they were there, Gergen and Mack talked to Gearan by telephone regarding the press notification. Gearan said it had occurred.

Gergen said something like, Mack, you want the office sealed don't you. Mack said yes. Then Gergen told Gearan, Mack wants the office sealed. Gearan indicated the office was locked. Mack does not believe he gave an order to seal the office; he assumed Bernie had control over the Counsel Office suite.

b. **Scott** -- The President invited Marsha to go back to the Residence. She asked Mickey Kantor to go with her. When she arrived, Mack, the President, Vernon, and Gergen were sitting around the table in the kitchen drinking and talking about Foster. Helen and Robin Dickey were also there.

c. **Kantor** -- Kantor had been with Vernon Jordan and David Gergen at Ben Bradlee's house when David got the news about Foster. They all wound up at Foster's home. Marsha suggested Kantor go to the White House with her.

He was there for about 45 minutes. He sat around in the kitchen with Mack, Gergen, Vernon, the President, and Marsha. They had a disjointed conversation about how to handle the situation. Kantor remembers some mention of sealing Foster's office; Vernon left with Mickey out the front door; Vernon drove Mickey home.

d. **Jordan** - Jordan had been with David Gergen and Vernon Jordan at Ben Bradlee's house; they all wound up at the Foster house. Jordan went to the White House with Gergen. Jordan recalls Mack being there, but has no recollection of Marsha or the Dickeys. He also recalls Gergen talking on the phone with Gearan. Jordan said the office should be sealed; Gergen talked to Gearan who said the office was locked.

e. **Helen Dickey** - Drove with her mother to the Residence, would up on the second floor in the kitchen with Marsha and the President. Just the four of them were there; the others had already left. They played music and sat around talking. Robin and Marsha left at around 3:30 or 3:45. Helen sat up with the President until around 5:30 and then went to bed.

f. **Robin Dickey** -- Recalls going back to the Residence with Helen. Remembers sitting at the table with WJC, Helen, and Marsha Scott, talking about Vince. Robin was drinking Absolut on ice. (She was the only one drinking vodka.) She may have seen David Gergen and/or Vernon Jordan, but isn't sure. At around 3:15 or 3:30, Helen and the President walked her and Marsha to the elevator and they left. Robin then drove home.

6. July 21st

a. arrival at office

i. **Nussbaum** -- When he arrived at the Counsel's Office, Betsy Pond was already there. She had been straightening things up in Foster's office, anticipating there would be visitors.

ii. **Pond** -- arrived at the office around 7 a.m. (usual arrival time was 9-9:30 a.m.). The door to the outer office was secured. Pond opened it and entered Foster's office to flip the security access switch. She returned to her desk and phoned the guard.

(1) Pond then entered Foster's office and notices papers strewn on the coffee table. She straightened the papers and turned them face down on the coffee table. She was in the office for about two minutes

(2) When she left Foster's office, she closed the door and called Nussbaum for instructions. He told her not to let anyone go into Foster's office.

(3) Neuwirth arrived next at about 7:30 a.m. He stood in the doorway to Foster's office but did not go in. He went into Nussbaum's office. Tripp came in around 8 a.m., followed by Gorham and Castleton. Tripp was wearing jeans, and said she had been up all night. Pond told her that no one was to enter Foster's office. Mills, Nolan and Sloan arrived and joined Neuwirth in Nussbaum's office.

(4) Nussbaum arrived at about 8:30 or 9 a.m. and entered his office and closed the door.

iii. **Neuwirth** -- Pond was in VF office when Neuwirth arrived. He told her she should leave VF office as it was. Neuwirth went into Nussbaum's office to wait for him to arrive.

iv. **Castleton** -- Arrived in office around 8 a.m. The door to VF office was closed. Gorham, Tripp, Nussbaum and Pond were there. Castleton does not remember Neuwirth being there.

v. **Kennedy** -- Kennedy arrived at the White House in time for the Counsel's Office staff meeting, but there was no meeting.

vi. **Sloan** -- Came to the meeting at 9 a.m. Melanne was in talking to Bernie; Steve was also there. They filed in to the office and Bernie said there were a few issues that needed to be discussed.

vii. **Gorham** - arrived at the office between 8:30 and 9:00. Neuwirth and Pond were in the office; Steven was standing just inside Foster's office; Pond was at her desk. Gorham stepped inside the office to look and see if anything was different. Neuwirth told Pond and Gorham not to go inside.

People later arrived for the staff meeting, but Nussbaum said it was cancelled. Livingstone showed up at the Counsel's Office around the time of the 9 a.m. meeting. He was dressed casually and seemed emotionally upset.

viii. **Livingstone** -- Craig got up at 5 a.m. He sat in his car outside Foster's house between 6 and 7. He called the press office from his

mobile phone and reported that all was quiet. He left the house and parked and arrived at the office between 7:15 and 7:20. Craig was asked by the Press Office to do a memo showing the timeline. He dictated something, which was typed by an intern.

b. securing Foster's office

i. **Nussbaum** -- At the Counsel's Office staff meeting, Sloan and Neuwirth raised whether Foster's office should be sealed. Nussbaum thought this was somewhat extreme as it was not a crime scene but did not see the harm and instructed that the secret service be called to secure the office.

ii. **Neuwirth** -- Counsel's Office staff had gathered in Bernie's office. It wasn't really a staff meeting. At some point there was a discussion among Bernie, Sloan and Bill Kennedy that lead to the conclusion that they should ask the Seret Service to seal VF office. No one said it was a bad idea or shouldn't be done.

(1) Neuwirth called Watkins and asked who he should contact to put a lock on the door. Watkins gave him two names from the WH Secret Service detail -- Don Flynn was one of . Not uniformed. He made the call and in response to the call there was an agent posted at the door. Later that day, a lock was placed on the door.

(2) Neuwirth has some recollection that prior to securing the office, Bernie may have stepped inside the office to talk to someone or use the phone.

iii. **Sloan** -- One issue Bernie raised was whether Foster's office should be sealed. Neuwirth and Sloan said yes; the others thought that was an overreaction. Cheryl said she thought that Foster was left-handed, and that the gun had been found in his right hand. A call was made to the Secret Service to post a guard outside the office; a guard eventually came but it seemed to take awhile.

The Park Police were downstairs and wanted to go into Foster's office. Bernie was not sure about how Interior and DOJ were going to coordinate.

iv. **Pond** -- at some point Pond was instructed to secure Foster's office. She didn't know how to

make it happen. She and Tripp made phone calls to the military office and the Secret Service and a guard came over around 10 a.m. Later -- after the staff meeting in the OEOB -- Pond began calling locksmiths to see about getting a lock on the door to Foster's office.

(1) Nussbaum left the office around 9:20 p.m.; Pond left at about 9:30 p.m. while the locksmiths were still installing the lock.

(2) There were two keys to the office that the locksmith left with the guard downstairs. Nussbaum kept one copy of the key and gave the other copy to Gorham the next morning/

v. **Castleton** -- Recalls that the office was sealed on 7/21 between 10:30 and 11 a.m. A lock was installed and the office was locked.

vi. **Gorham** -- Heard some discussion about having someone come and stand outside the door to Foster's office. She recalled several different officers standing outside the door. She also remembers seeing workers installing a lock on the door, but does not recall being present when the work was completed. There were two keys to Foster's office -- Nussbaum had one and Gorham had the other. She believes she received her key from Neuwirth, sometime before the funeral.

c. meeting with Park Police in Watkins' office

i. **Nussbaum** -- About 10 a.m., Nussbaum attended meeting in Watkins' office with Stephanopoulos, Kennedy, and probably Livingstone and the Park Police at which the Park Police reported on the circumstances of finding Foster and confirmed their view that his death was a suicide.

(1) When additional Park Police show up (about noon) asking to speak to various people, Nussbaum realizes there will be multiple inquiries. After consulting with Mack and Burton, Nussbaum calls Heymann to determine whether there is a way for DOJ to coordinate.

ii. **Neuwirth** -- There was a meeting in Watkin's office sometime during the morning, maybe around 9 a.m., with Bernie, Bill Kennedy who had been asked to identify VF body. The Park Police may have given some description of the circumstances of finding VF.

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iii. **Kennedy** -- Kennedy learned from Nussbaum that there would be a briefing by the Park Police. The briefing was held in Watkins's office. Nussbaum, Hubbell, Watkins, Roy Neel, and two Park Police officers were there. The briefing lasted 30 to 40 minutes. The Park Police reported that they had received a telephone report regarding a body and had found Foster's body, his car, and his White House pass. They described the position of hte body, the gun and the powder burns.

When the Park Police briefing was breaking up, Nussbaum was chatting to Webb Hubbell. As he walked over to them, Kennedy heard Hubbell say to Nussbaum, you need to stay out of this and let DOJ handle it.

iv. **Watkins** -- arrived at the office at 8:00 or 8:30. The first meeting Watkins attended on Wednesday was the 10:00 a.m. briefing by the two Park Police officers in his office. During the meeting, someone (perhaps one of the Park Police officers) raised the issue of securing the office and Nussbaum said it had already been taken care of.

d. President's visit to Counsel's Office

i. **Nussbaum** -- at some point during the morning, WJC came to the Counsel;s Office with McLarty. They came into Nussbaum's office and shared stories about Foster.

ii. **Neuwirth** -- the Counsel's Office staff had gathered in Bernie's office. The President showed up with Mack. Bernie went into VF office to retrieve a photograph to give to the President.

iii. **Pond** -- WJC came to the Counsel's Office with a photographer. Pond does not remember McLarty being with him. WJC asked for coffee and said he had been up most of the night. Nussbaum brought WJC into his office. Nussbaum later stepped out and was admitted to Foster's office by the guard to retrieve the kindergarten picture.

iv. **Gorham** - The President came to the Counsel's Office at around 10:30. He talked to Gorham and the others in the outer office.

e. Noon meeting in OEOB

i. **Pond** -- At noon there was a staff meeting regarding Vince. The President, McLarty, and Nussbaum spoke. Pond then returned to the

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Counsel's Office. At some point, she began calling a locksmith or the Office of Administration regarding a lock.

f. afternoon meeting in Nussbaum office with Park Police

i. **Nussbaum** -- about 5 p.m. representatives of the Park Police and Margolis and Adams met in Nussbaum's office and requested access to Foster's office and interviews. Nussbaum, aware the office contained sensitive material (e.g. Freeh file, Supreme Court nominee file), suggested that the review of Foster's office wait until the following day. He understood they were interested in looking through Foster's office ofr a suicide note or extortion threat.

(1) Furthermore, he told those assembled, he wanted to prepare witnesses for interviews and arrange for them to have lawyers from the Counsel's Office present. No one expressed an objection

(2) Nussbaum proposed conducting a search of Foster's office in the presence of investigators. No one objected.

ii. **Neuwirth** -- met with Margolis and Roger Adams with Bernie in Bernie's office. Neuwirth was aware that Bernie had been talking to Heymann. These conversations about VF office focused on privilege and the fact that VF had material in his office that fell within the core zone of privilege. The conversation was thoughtful and not contentious.

(1) Margolis proposed that attorneys from DOJ could play a role in confirmiong that materials in VF office were in fact privileged and not related to a suicide note. Margolis thought this would be helpful to Bernie. Margolis thought that DOJ was not a stranger to the privilege, but Bernie did not agree.

(a) Roger Adams had been in the Counsel's Office as a detailee before going to work with Heymann and Margolis.

(2) Bernie was concerned about DOJ access to privileged materials and invoked the common understanding that the privilege exists to allow the White House to maintain privacy with respect to internal deliberations.

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Bernie indicated he would have to think further about how to solve this problem.

(3) The understanding coming out of this meeting was that the question of how to deal with the privilege issue was unresolved and that DOJ and the White House would think about it further. There was no agreement about how they were going to proceed.

iii. **Sloan** - At the 4 p.m. meeting,there were some general questions asked about Foster. Bernie said the office had been sealed at 10 a.m.. Margolis said that was a good idea.

The investigators were told that the bage of trash from Foster's office had been intercepted and sotred in Roy Neel's office. Everyone agreed that Sloan should get the bag and put it in Foster's office. Sylvia Matthews had looked at the bag with Gene Sperling. The Park Police made a request to interview the secretaries. It was clear that they would be coming to the White House the next day. Cliff understood that the investigators wanted to enter the office to see if there were a suicide or extortion note; he remembers Margolis mentioning this.

g. interview preparation

i. **Nussbaum** -- instructed Neuwirth and Sloan to prepare the witness that the Park Police would be interviewing in the morning. The preparation was for the purpose of calming them down.

ii. **Neuwirth** -- does not recall this as a prep session. He does recall that he, Sloan and Bernie met with the people who sat in the outer office, either individually or in a group, and asked them if they knew of any reason VF would kill himself. All said they did not. Gorham mentioned conversations with Lisa Foster related to financial matters and conversations with Foster about spiritual things. They also were told informally that the Park Police wanted to interview them and that this was nothing to worry about. They were simply advised to be truthful.

iii. **Pond** -- at some point late in the day, Nussbaum told Pond and the other secretaries not to leave the area as the investigators wanted to interview them. They went into Nussbaum's office where Nussbaum advised them they were likely to get interviewed and that Sloan or Neuwirth likely

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would be present. He urged them not to worry about the interview; that it was routine and that they should tell the truth.

iv. **Castleton** -- Neuwirth and maybe Nussbaum (he doesn't remember Sloan was there) met with Pond, Tripp, Gorham and Castleton for about 25 minutes to help them get comfortable with being interviewed by the Park Police the following day.

v. **Gorham** -- Neuwirth and Nussbaum told her she would be interviewed. They instructed her to tell the truth, and to say exactly what she knew.

h. Other activities at White House

i. **Thomases** -- was in Washington on Wednesday and went to the White House. She met with the President and talked about Foster; they did not discuss the documents in Foster's office or a suicide note. After meeting with the President, Thomases spoke to Maggie Williams and asked whether a note had been found. Maggie told her that Patsy had been in Foster's office and looked or a note. Thomases and Maggie discussed Foster's mood and concerns about his state of mind.

7. July 22

a. Interviews

i. **Nussbaum** -- throughout the interviews, no investigator expressed an objection to the presence of a lawyer.

ii. **Neuwirth** -- sat in on the interviews of Deb Gorham and Tom Castleton and took notes. In one of the interviews, the investigator made a call to the Park Police and mentioned someone from the Counsel's Office was planning to sit in on interviews. Sloan and Neuwirth may have sat in on the Park Police interview of Bernie. When Neuwirth was interviewed, Sloan was present.

(1) During Gorham's interview, she was asked a question to which Neuwirth did not think she had given a complete answer based on information she had provided to the Counsel's Office. He did not say anything to her during the interview because he did not want to coach her. After the interview, Neuwirth told Cliff and Bernie that he thought she had omitted something. Neuwirth and Cliff agreed that Neuwirth should make arrangements to

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tell those who interviewed her to get this additional information, which occurred probably after the office search.

iii. **Sloan** -- sat in on the interviews of Pond and Tripp. The interviews were completed around 11:00. Sloan saw his function as facilitating the interviews.

iv. **Pond** -- the interviews began around 9:30. Pond's took place in Rasco's office. There were four people there in addition to Sloan. Sloan said nothing other than reminding her that she had told him she had seen Foster on 7/20 at the Freeh nomination.

(1) About 15 minutes into the interview, Nussbaum entered the room and asked if everything was going OK. He did not direct his question to anyone in particular. Cliff waved him out, indicating everything was fine.

(2) The interview lasted about 1/2 hour.

v. **Castleton** -- interviewed by the Park Police for about 10 minutes on 7/22. Steve Neuwirth was present. No recollection of anyone objecting to presence of Neuwirth. The interview was relaxed in tone; Castleton has little information to provide.

vi. **Gorham** - said her interview was conducted in Maggie Williams' office. Steve Neuwirth was present; Gorham was not aware of anyone objecting to his presence. She was interviewed by two men.

b. White House consideration of the proper way to permit investigators to review Foster's office

i. **Quinn** - On the morning of the search, McLarty asked him to sit down with Bernie and familiarize himself with the procedure for seraching the office. In his view, Mack simply wanted a second opinion on how the search would be handled, and he trusted Quinn's judgment. Quinn found out from Burton and Neuwirth that Bernie was essentially planning to give the Park Police free access to the office. Quinn felt that as a lawyer you have a duty to consider privilege issues.

Quinn attended a meeting in the Vice President's office with Neuwirth, Lindsey, Burton, Nussbaum, and perhaps others. Quinn and Nussbaum did most of the talking. Quinn said that the White House

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lawyers should first review the documents and list the privileged documents. Quinn first thought that Nussbuam was planning to let the Park Police in without a pre-review, but then Nussbaum said that he would be there and would set aside privileged documents. Quinn had the impression that this position evolved over the course of the meeting. At the end of the meeting, there was still disagreement about what was to be done, but Quinn was more comfortable with Bernie's proposed approach.

ii. **Nussbaum** -- recalls conversations with Bill Burton, McLarty and Jack Quinn who wanted to know how Nussbaum was handling requests for access to Foster's office. They expressed uneasiness with permitting non-White House officials to rummage through Foster's office.

iii. **Burton** - does not recall how he became involved in discussions about how the search of the office would be conducted. Burton viewed himself as representing the Chief of Staff's office. Burton does not have a specific recollection of a conversation with McLarty. He said McLarty's agenda was simply to get a consensus. Burton's own position was that investigators should not be allowed to rummage through the office. At the end of the meeting, Nussbaum said the search could be conducted in a manner that would give investigators what they needed while protecting privileges.

iv. **Neuwirth** -- on the morning of 7/22 there was a meeting in Mack's office that ended up in the Vice President's office. Those present were Nussbaum, Bill Burton, Neuwirth, Bruce Lindsey and Jack Quinn. The topic was what to do about the request of investigators to search the office in light of privilege issues. The conversation was at the level of general principles -- i.e., the duty to protect the institution of the presidency. There was no discussion of particular documents.

(1) Burton suggested consulting with Quinn who also asked questions about precedential effect and observed there had been an historial erosion of the privacy of what went on in the White House. Everyone recognized that the Park Police had a legitimate interest in examining the state of VF office. Everyone had the impression that the purpose of any such search was to look for a suicide note or some other writing by VF that would

shed light on the suicide. The discussion ended not too long before the investigaors, Adams and Margolis showed up. There was a consensus that it would not be a good idea to provide unfettered access to investigators, because it might amount to a waiver. Neuwirth understood that as a result of this meeting, Bernie had made a decision about how to handle the search.

(2) Neuwirth also was aware that at some point, Bernie learned that HRC was concerned about the issue of investigators going into VF office. He said he had been talking to Susan Thomases and gave Neuwirth the impression that Susan had said that HRC was concerned about giving people free rein in the office, but he does not have any first hand knowledge that this was the case.

v. **Mills** - Did not think that law enforcement officials should be present during the search of the office. Jack Quinn had a similar view. Williams wanted to make sure proper deference was paid to the documents and was concerned about letting investigators simply go through them. Bussbaum was initially in favor of open access. Mills was unaware of any communications with HRC regarding the documents.

vi. **Thomases** -- recalls two conversations with Nussbaum about the review of documents in Foster's office, one before the review and one after. Thomases does not recall what led up to the conversation before the office search; she talked to Nussbaum all the time. She believes that Nussbaum called her. She had the impression that Nussbaum was not simply going to let the Park Police look at the documents, but she does not remember what his concerns were. She believes that Nussbaum was bouncing ideas off her, which is typical of their relationship. Thomases does not recall <u>ever</u> speaking with HRC about the office search.

In the conversation after the search, Nussbaum told her that it had gone well. He told her that some of the officials involved had grumbled, but had not really objected.

c. Review of Foster Office

i. **Nussbaum** -- before beginning search, Nussbaum explained the ground rules to Margolis: Nussbaum

would review the documents and describe what he was looking at. This approach was necessary because Foster had sensitive material in his office. If anyone wanted to review anything, they would ask.

(1) Nussbaum did not represented the investigators would be seeing all of Foster's files. There was no deliberate decision not to review Foster documents in the outer office. No one thought about it.

(2) Nussbaum sat behind Foster's desk and would pick up documents or a file and describe it generally and then put it back.

   (a) He made a pile of material that appeared to be recent or ongoing matters.

   (b) He also found personal papers of Foster's (lease, checkbook, etc.), which he gave to Mike Spafford, Foster's personal attorney who was present. Those present did not object. They were instructed to contact Spafford if they wanted to review any of the material he was taking.

   (c) Nussbaum noticed Clinton personal files (e.g. tax files) and identified them for the investiagors who expressed no interest.

(3) At some point Sloan noted that an FBI agent appeared to be reading documents. Nussbaum told Sloan it was OK.

(4) Nussbaum recalls reaching into briefcase and removing the Travel Office file, which he kept to work on.

(5) the search lasted 2-2 1/2 hrs. The investigators leave with an understanding that they were to get back to the Counsel's Office to follow-up on requests to review material.

(6) Nussbaum understands that the office review is completed.

(7) at some time later, Heymann called Nussbaum at home and suggested the office should be kept intact. Nussbaum disagreed because it was a working office and files already had

been transferred. This conversation could have been 7/22 or 7/25.

ii. **Sloan** -- Sloan took the investigators to the cafeteria in the OEOB. They sat around for a few hours.

Before the office search, Nussbaum explained to the group waiting to enter the office that Bussbaum would descripe the documents. Sloan recalls Margolis being on the phone with Heymann, who had a concern about the procedure. Sloan said Heymann should talk to Nussbaum, and put Nussbaum on the phone. Sloan has a clear impression that Nussbaum talked to Heymann and the issue was resolved.

The review of the office began at around 2 p.m. Sloan took notes. Bernie put the documents in three piles -- Foster personal documents, documents the investigators were interested in, and everything else. The "everything else" pile got so high that Bernie simply began to leave things in drawers.

At some point, Scott Salter stood up and Neuwirth said, the guy is looking at the documents.

Bernie reviewed the documents in the briefcase toward the end of the review. The travel office file is reflected in Cliff's notes.

At the end of the review, it was agreed that Spafford would take Foster's personal effects, and that if anyone wanted to see them, they would speak to Spafford or Hamilton.

In the presence of the Park Police, Bernie told Sloan to get Maggie and go through Clinton's personal stuff. This became moot, however, because either Bernie or Neuwirth did it. He learned of this later when discussing wiht Bernie and Steve about whether they needed to retain all of the documents from Foster's office. They discussed the applicability of the Presidential Records Act.

iii. **Neuwirth** -- Just before the office review began, Neuwirth believes that the investigators were gathered outside the Counsel Office suite. Neuwirth does not know if they went into Bernie's office to discuss ground rules. Neuwirth says the event in VF office was not a search, more like a review. He described it as an effort to

accommodate the Park Police request to find out what was in VF office and to minimize the risks to privileged status of the material.

(1) **Bernie showed people where he was looking and would give a general description ("this is White House work") of a document or file. He would identify the subject matter, if a personal item. The investigators made requests to review certain material, and were accommmodated within a few days after the search.**

(2) At the start of the process, Margolis reiterated his position that DOJ should be allowed to confirm Bernie's characterization of documents.

(3) Bernie did what he did. He created a pile of Foster personal items (bank statements, pictures, newspaper articles) and a pile of items that the Park Police indicated they wanted to review.

(4) At the conclusion of the review, with the agreement of all those present, Spafford removed the personal documents.

(5) Cliff Sloan was given the job of reviewing the items the Park Police said they wanted to see for privilege and arranging for them to review the items. Ultimately, they were allowed to see everything they asked for./

(6) Neuwirth left the room a few times during the review. He is not sure he was in the room when Bernie looked in the briefcase. He remembers being aware the briefcase was there.

(7) Neuwirth had the impression that the people in the room, including a tall FBI agent, were trying to see what Bernie was reviewing. Neuwirth whispered to Sloan that the tall FBI agent looked like he was trying to see. Sloan said something to the agent. Bernie tried to calm everyone down.

(8) Neuwirth has no recollection of a burn bag. He is not sure he was in the room when the review ended. He recalls a request that they review what was on VF computer and that they asked for phone logs and calendars.

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(9) **At some point that day Bernie said it would be a good idea to do an inventory of VF office. Later, Bernie told Neuwirth to take the weekend off.**

iv. **Spafford -- received a call on 7/21 from Jim Hamilton saying that Nussbaum had asked Hamilton to represent the family of VF and to be present at the review of the office. Hamilton asked Spafford to attend.**

(1) Spafford arrived at around 9:30 - 10 a.m. on 7/22 and waited until 1 p.m. [in WW lobby?]. He understood they would be reviewed the contents of VF office with law enforcement people -- Hamilton had told him the Park Police were involved.

(2) the Counsel's Office was somber, although there was lots going on. Spafford was introduced to Bernie. He was later introduced to Margolis. He remembers that Margolis and Bernie met in Bernie's office. Margolis was a smoker so had been waiting downstairs.

(3) Just prior to entry, Bernie invited Spafford into his office with Neuwirth and Sloan. Bernie gave the impression that he had discussions with Margolis about how to conduct the search. [Was Margolis present, too?] He viewed it as a search for a suicide note. Bernie was concerned about conducting the search in a manner that protected privileged material.

(4) Spafford understood that Margolis and Bernie had agreed to Bernie's suggestion that Bernie review the documents and describe their contents and work out a way for the law enforcement types to review what they were interested in. Spafford did not have the impression that Margolis was unhappy with this arrangements. He does not remember any phone calls.

(5) Bernie also expressed his preference that VF personal documents be given to Spafford and that Spafford and the investigators make their own arrangements for reviewing them.

(6) Neuwirth said that Bernie had made a cursory review of the office on 7/20 but had found nothing. After that, the office had been

sealed. Spafford had the impression that no one else had entered the office.

(7) **They entered VF ofice around 1 p.m. with Margolis, someone else from DOJ, one or two FBI agents, two Park Police, two secret service, Bernie, Neuwirth, Sloan and Bill Burton. The latter four were behing the desk and the only people of those present who were in a position to see the documents.**

(8) The review opened with Bernie explaining to Margolis, who was clearly taking the lead for the law enforcement types, how the review would be done. Margolis agreed that this is how they were going to proceed for now.

(a) law enforcement would ask questions about particular documents and Bernie would answer them if he could. The private documents would be given to Spafford, with whom Margolis would work later.

(b) Margolis said there were going to be documents they would want to look at. He recognized the concerns about privileges but said they hd an obligation to review the documents. He agreed they would work out how to review the privileged material later.

(c) Margolis said they would want to review some documents ooner rather than later. He understood this review was a first cut to (a) look for a suicide note or (b) any evidence of threats (Margolis gave the example of a letter that constituted a threat or was written in an angry tone (c) identify any documents they would want to review in depth later.

(i) Spafford's notes show that Margolis was concerned about critical letters, doctors names, anything health related, or evidence of financial troubles

(d) the tenor was not confrontational. Everyone recognized there were difficult privilege issues involved and that White House staff would be used to conduct further review of documents. Spafford

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had the impression that those present understood this was not a normal way to proceed but may be called for in this unusual circumstance.

(i) Margolis asked Bernie to have someone on Bernie's staff look in the computer and make sure nothing is in it. He also asked that someone on Bernie's staff listen to VF's dictaphone immediately.

(9) The search proceeded with Bernie dividing documents into three piles:

(a) important documents that required review sooner rather than later;

(b) a miscellaneous "other" pile that was all work related. Margolis asked to have this pile reviewed by the Counsel's office to detemrine if anything had been misfiled or related to any of the categories of concern that had been identified by Margolis. Some entire file cabinets were designated as "other"

(c) VF personal documents

(10) There was only one point were the search became confrontational. One of the Park Police of FBI agents stood up and was clearly trying to read a document upside down. Sloan said "Hey -- are you trying to read documents?" Nussbaum admonished Sloan that were were all trying to be cooperative and to settle down. Margolis reiterated Nussbaum's remark to Sloan.

(11) Bernie started with the material on top of the desk. As Bernie described the material, Margolis would ask questions -- e.g. Bernie would say "this is a map of metropolitan Washington." Margolis would ask "does it have any markings on it in the viscinity of Fort Marcy. Although Bernie said no, Margolis asked that the map be put in a pile for further review.

(a) Bernie identified black notebooks with clients. Those went into VF pile but with note that Margolis wanted to review further.

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(b) Bernie said he had the trash retrieved. Margolis argued that the material in the trash had been abandoned so no privilege claim could attach. Bernie was unsure of that and examined the trash himself. Margolis was interested in a credit union slip.

(12) Margolis asked if it was VF normal practice to carry a briefcase around wherever he went. Bernie said no, that he used his briefcase as just another place to file things. Bernie took the contents out of the briefcase and put them on the desk and described them. Spafford recalls that the briefcase was suffed with folders and losoe papers.

(a) Margolis never asked any questions about the travel office file.

(13) Spafford took detailed notes of the discussions about the search and the search itself. No investigator has reviewed the notes to date (2/12/95). Neither would Spafford share them with us. We asked that he review his notes to determine whether there was any identification of the travel office file or of a Whitewater file.

(a) With respect to the briefcase, Spafford's notes show that Bernie described the contents as "White House Travel Office Management work" and that no one expressed any interest in this material.

(b) Spafford's notes contain nothing about Whitewater or Arkansas real estate investment other than what was perscnal to VF

(14) At the end of the search, Margolis gave a synopsis of the status of the investigation, mentioning VF use of an old gun and observing that it is unusual for a suicide to occur without a note.

(a) Spafford believes there was some discussion about limiting further access to the office, with Margolis requesting that nothing be removed without prior consulation with Margolis.

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(b) **Spafford had the impression that there would be continuing discussions between Nussbaum and Margolis and that Nussbaum was going to make every effort to protect the integrity of the contents of the office. Nussbaum said, however, that he needed access/use of VF's current, working files and that he would have to balance the need for the use of documents involved in ongoing matters with the need to protect the integrity of the document while there was an ongoing investigation.**

(15) Spafford says there was no doscussion about whether there were VF files elsewhere, outside of VF office. At some later point, he was asked about VF files kept at his home.

(16) Spafford agreed to call Margolis the following morning. Margolis waited for Spafford downstairs while Spafford boxed the VF personal material. They met up under the WW basement awning. Margolis told Spafford he could get a grand jury subpoena for the personal documents but would prefer to proceed cooperatively. Spafford said they would cooeprate but that he needed to consult with Hamilton and review the material. Two others were present during this conversation -- maybe Marklin and the FBI agent.

(a) Spafford told Margolis that he would keep the documents secure. Margolis said OK and that he was entrusting the documents to Spafford's custody.

(b) As soon as Spafford returned to his office, he made a complete index of the documents. They included

(i) income tax returns
(ii) frequent flyer material
(iii) resumes of VF children
(iv) bank account statements
(v) material related to VF former law firm
(vi) personnel matters
(vii) one small file of material from the President that Spafford returned to Bernie because it clearly was not personal

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(viii) **documents related to the sale of a house in Arkansas and rental of a house in Georgetown**
(ix) **documents related to kids jobhunting efforts**
(x) **articles critical of VF**
(xi) **tape of a lecture to the Arkansas Bar**

v. **Gorham** -- saw a bunch of men (and no women) including Nussbaum, a Swidler & Berlin attorney, and male officials from various organizations enter Foster's office. They went in and closed the door. She does not recall whether Nussbaum or Williams went into Foster's office again that day.

vi. **Burton** -- does not recall who asked him to be present for the search of the office, but in his view he was representing McLarty. Burton stood behind Foster's death with Sloan and Neuwirth. He left the office two or three times to take phone calls.

Burton said that several times during the search, Margolis said he wanted something and the Park Police would overrule him, saying that they did not need it. Burton said no one expressed disappointment with the search.

Burton said Margolis wanted to take some of Foster's personal documents, while Spafford wanted to take them back to his office. The Park Police again overruled Margolis and agreed that Spafford could take the documents home.

Burton does not recall any discussion of whether the office would be kept intact, but he assumed the files would be distributed.

8. Clinton Personal Documents

a. **Nussbaum** -- determined that the Clinton personal material (investment files, financial files, tax files) in Foster'soffice should to to Bob Barnett, the Clinton's personal lawyer.

i. Nussbaum called Williams and told her the search had been completed and that Foster's personal lawyer had taken Foster personal material. He asked her to come and take Clinton personal material he had identified and make arrangements to get it to Barnett.

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ii. Williams arrived and he urged her to look around the office for any additional material that should be provided to the Clinton's personal lawyer. He mostly stayed in the office with her while she looked around. She was there around 20 minutes.

iii. Nussbaum recalls Williams returning a file related to the residence renovation that had been mistakenly included with the Clinton personal documents. He believed that Neuwirth or someone else had mentioned this to him.

b. Williams -- received a call from Nussbaum about 3:30 or 4 p.m. He told her he was dispersing the files in Foster's office -- that he had sent Foster's personal files to Lisa Foster and he was giving material related to ongoing matters to other lawyers. He asked Williams to pick up the papers that belonged to WJC and HRC and get them to their personal lawyer.

i. Williams did not sense that Nussbaum's request was urgent, but that he wanted the personal documents distributed by the end of the day. She did not rush to get to Foster's office, although she cannot remember how much time passed between Nussbaum's call and her arrival.

ii. She had the sense that the Park Police search of the office was completed, but she cannot remember Nussbaum saying so specifically. Nussbaum did tell Williams that he had spoken to DOJ; she had the impression that DOJ said it had no objection to providing the Clinton personal files to the Clintons' personal attorney.

iii. When Williams arrived, the office was a mess -- it was clear that papers were being sorted. Nussbaum indicated a pile of documents to Williams and told her they were what he had identified as Clinton personal files. He asked Williams to look around to see if she spotted anything he missed.

iv. Williams did not examine the documents in the pile already assembled by Nussbaum.

(1) She did look around for a file related to stock left to Chelsea Clinton by Mr. Rodham as Foster recently had mentioned to Williams that he was working on a question involving this transfer.

(2) Williams remembers identifying a file titled "income tax", which she picked up and added to the pile.

(3) Williams remembers asking Nussbaum if a file related to residence renovations should be included with the personal documents. Nussbaum said it was a working file and should remain in the Counsel's Office.

(4) Nussbaum left the office a few times while Williams was in it to take telephone calls.

v. At some point -- either before she went to Foster's office or after she was already there -- Williams called Bob Barnett to make arrangements for picking up the Clinton personal files. Barnett told Williams to call him when they were ready and he would send someone to pick them up.

vi. At some point while she was in Foster's office, Williams decided that it was getting too late in the day to still get the documents over to Barnett. She was leaving for Foster's funeral the next day and did not want to wait around for Barnett's messenger. She called Barnett and spoke to either him or Silvia and told him she wasn't going to send the documents that day.

vii. Williams called HRC in Arkansas and told her that she had their personal records but would be unable to get them to Barnett that night. She asked HRC what she wanted Williams to do with the documents. HRC told Williams to call Carolyn Huber who had a key to a closet on the third floor of the residence in which the Clintons kept other personal records. HRC told Williams to keep the documents there until they could be given to Barnett.

viii. Williams called Huber, who was anxious for Williams to get there quickly because she wanted to catch the Metro before it got dark.

ix. Williams believe Nussbaum arranged for Castleton to help her carry the box of documents -- a xerox box with a lid on it -- to the residence. Huber accompanied Williams and Castleton upstairs, showed them the location of the closet and left, leaving the key with Williams.

x. Williams remembers pushing other boxes in the closet aside to make room for the box from Foster's office. She locked the closet door and she and Castleton left.

xi. Williams spoke to Bob Barnett the next day on the flight to Little Rock. She did not think about

the documents again until Tuesday, July 27, when Barnett came to see HRC about something else. Williams asked him about the files and he made arrangements for a messenger.

xii. **When the messenger arrived, she and he went to the closet. Williams still had the key and opened the door. The box was undisturbed. Without opening it, the messenger taped it. He asked Williams to sign a receipt of some sort and then left with the box.**

c. **Castleton** -- assisted Williams in moving 1 or 2 boxes from the First Lady's West Wing offices to the residence, maybe one big box with something smaller on top although he is not at all sure there were two.

i. Castleton has no specific recollection of Williams asking for help but he understood that she needed assistance in moving something. He knew she was in the counsel's office at some point but he was not paying attention to her presence. He was working on the details of putting together a flight manifest for the trips to the funeral. He just infers she must have made a request for help.

(1) understood that the box contained personal documents of the President and the First Lady that had been in VF office.

(2) understood they were being transferred to the residence to the President and First Lady could review them.

(3) does not recall how he gained these understandings but believes the person making statements to this effect was female and that the statements were made in the presence of others sitting in the Counsel's office anteroom -- possibly Linda Tripp or Betsy Pond. He does not think Gorham was in the room at the time.

ii. Castleton assisted Williams late in the day on 7/22 -- he thinks it was dark at the time.

iii. Castleton recalls that the documents were in the First Lady's office, near or on a couch. Castleton recalls standing in the elevator

iv. The box was longer than a xerox box by 1-1 1/2 feet; about a half foot deper; wider by a half foot. It weighed between 10-20 lbs.

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v. **Castleton also remembers they were bringing gowns to the residence. He thinks Maggie carried the gowns and recalls that at some point, when Maggie needed to free her hands, he had both the box and the gowns (although he is not sure)..**

vi. **Remembers taking the elvator and walking past the press office, outside along the Rose Garden, through the Palm Room. They took an elevator up to the top floor of the living area of the residence. When they got out of the elevator, they were in a cramped hallway where they took a right. They passt two dorrways, both of which were open. They went in the door at the end of the hall.**

(1) Maggie spoke to several people on the way.

(2) The room was relatively small (about the size of the barbershop) and had boxes all over the loor that looked like they had not yet been completely unpacked. The contents appeared to be Arkansas memorabilia and campaign mementos.

(3) The closet had a door. Castleton had to move boxes aside in the closet to make room for the one he had brought. The other boxes contained things like sutffed animals, pictures in frames, a baseball bat.

(4) does not remember going to the East Wing. Castleton was with Maggie the entire time.

(5) did not notice whether Maggie locked the closet door. He remembers waiting for her to do something and while waiting looked in at a nearby room that looked like a study.

(6) After going back down on the elvator, Castleton returned to the office. Maggie did not go all the way back to the office.

d. **Huber** - Williams called Huber on the 21st or 22nd. Williams said HRC asked her to call Huber so that Huber could show her were to store a box in the Residence. She described the documents as "a box of documents from Vince." Huber met Williams and "a young man" on the third floor of the residence, and took them to third floor office where Huber works on the Clintons' personal albums, correspondence, etc. The box was placed in a small closet in the office where Huber keeps several boxes of tax records. Sometime subsequently, she noticed that the box was gone.

According to Huber, the President and First Lady do not go to that office to review records.

e. **Neuwirth** -- After the investigators left, Sloan and Bernie worked in VF office categorizing documents. Neuwirth may have seen Maggie in the office but is not sure. He later became aware that the Clinton personal documents had been removed. On the flight back home from the funeral, Bob Barnett introduced himself ot Neuwirth and in that conversation he indicated he would be receiving certain material from VF office in his capacity as the Clintons' outside attorney and mentioned having talked to Maggie about this. He also said he understood that Neuwirth was going to be picking up some of Foster's work. Neuwirth had the impression he was getting the documents that weekend.

f. **Gorham** - Around Tuesday or Wednesday of the week after Foster died, Gorham was called in to Foster's office. Nussbaum was sitting on the sofa eating lunch. Williams was there with a box. They asked Gorham what was in Cabinet II. She started to read from the file list, and they said they would read it themselves. Gorham recalls seeing Williams leave with Tom Castleton carrying a box for her. Gorham recalls asking Tom to carry the box, but she does not recall whether Nussbaum asked her to or she took the initiative to ask Tom to help Maggie with the box.

9. Friday the 23rd

a. **Gorham** - Everyone left for Andrews AFB at 7:00 or 7:30 a.m. in vans from the White House. Gorham saw Pond and Tripp in the office before they left; Gorham left her bag and sneakers in the office. Gorham flew on Air Force I with the President, along with six or eight other people from the Counsel's Office. Tom Castleton and Maureen McDonald stayed at the Counsel's Office on Friday. Gorham returned to the office to pick up her things at around midnight; no one else was there.

10. The Note

a. Finding the Note

i. **Nussbaum** -- On Monday, 7/26, Nussbaum told Neuwirth to make an inventory of the documents in Foster's office so he could distribute the working files. He instructed Neuwirth the collect any remaining Foster persoal files and provide them to Spafford.

(1) Nussbaum was called to come back to his office where he found Neuwirth sitting at the

conference table putting scaps of paper together. He read the note and knew that if he had found it on Foster's desk, he would have turned it over to the investigators. He had no doubt the note needed to be provided to the investigators.

ii. **Neuwirth** -- started to do the inventory after the morning staff meeting. The purpose of the inventory was to let Nussbaum know what working files were in Foster's office so that he could distribute them appropriately. The door to Foster's office was locked over the weekend, and had to be opened for him. Neuwirth took a lunch break and finished the inventory later in the afternoon. He did not get any help, except that Deborah Gorham showed him where Vince kept various things and provided access to Vince's computer files. There was nothing of interest on the computer.

Nussbaum had instructed Neuwirth to collect any remaining Foster personal files and provide them to Spafford. Neuwirth found some large black-and-white personal photographs and put them in a box so they would not get damaged. Neuwirth then saw a leather bag which he thought belonged to Foster. He picked it up and carried it over to the box. He was concerned that he would damage the pictures if he put in on top of them; he therefore turned it to fit on the side of the box. As he did, some scraps of yellow paper fell out. He rubbed his hand along the bottom of the briefcase and found more pieces.

Neuwirth asked someone in the outer office to page Nussbaum. He started to piece the paper together on a table in Nussbaum's office. He recognized the handwriting as Foster's. As Neuwirth was finishing piecing the paper together, Nussbaum came in.

iii. **Gorham** -- On Monday or Tuesday, Neuwirth went into Foster's office to do an inventory. Neuwirth called her in to the office and asked her some questions. He was seated at Foster's desk going through the drawer.

While she was in the office helping Steve, Gorham had to move Foster's briefcase a couple of times because it was in the way. She believes she saw something yellow at the bottom of the briefcase. She also saw a manilla folder.

Sometime later, she became aware of some commotion. Bill Burton, the First Lady, and Maggie Williams came in at various times.

Still later, Nussbaum asked her to put a white envelope in the safe in his office and not to list it on her inventory or look at it.

b. Disclosure of the Note

i. **Neuwirth** -- After Neuwirth showed Nussbaum the note, Nussbaum went to get McLarty. He returned with Bill Burton (Mack was traveling with the President in Chicago), and they all called McLarty in Chicago. Nussbaum advised Mack that the note had been found, and they discussed the fact that the note did not talk about suicide. Mack said he would call right back. Bernie went next door and returned with HRC. He told her the note had been found, and they had some minimal discussion. Mack called back when HRC was still in the room. At the beginning of the call, HRC said it was important for the people in the room to decide how to handle the matter, and left.

David Gergen was on the call with Mack. They decided that Lisa Foster should see the note before they did anything with it. They also decided that the President should be told, but there was no point in the immediate future when the President could be told, since he was giving a speech and then traveling home with the congressional delegation. They decided they would wait until the next day to tell the President.

Burton thought there was a legitimate question whether the note really related to the suicide, and raised a question regarding the nature of the obligation to make the note available to investigators. Burton and Nussbaum thought it would be useful to do some quick research on the issue. There was never a question about making the note available; they were just anticipating questions the next day. Steve researched (a) guidance whether this was really a suicide note; and (b) whether not providing the note would constitute obstruction of justice.

Steve spoke to Bernie at 9 a.m. the next morning, and told him he was not aware of any rationale for withholding the note.

ii. **Nussbaum** -- thought it important the WJC and HRC become aware of the note before it was turned

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over. He went to see McLarty, who he learned was traveling with WJC in Chicago. Nussbaum told Bill Burton about the note.

(1) **he found HRC who came to his office and looked at the note and told Nussbaum to do what he thought needed to be done. She was emotional.**

(2) Nussbaum, Burton and Neuwirth called McLarty. Gergen was with Mack in Chicago. McLarty said notification of WJC would have to wait.

(3) Nussbaum called Hamilton who advised that Lisa Foster would arrive the following afternoon at 3 p.m. Hamilton and Nussbaum agreed that the note should not be turned over until after Lisa Foster had been consulted.

(4) The following afternoon, Nussbaum showed Lisa Foster the note. Hamilton expressed concerns about the privacy of the family.

(5) About 5-6 p.m., Nussbaum asked Reno to come to the White House. Before she arrived, [someone] informed WJC about the note. He was already aware of it and did not want to see it.

(6) Reno arrived with Heymann around 6-7 p.m. McLarty and Nussbaum were present. Reno said the note should be given to the Park Police. Nussbaum recalls that Heymann called the Park Police. Somone arrived about 1/2 hour later.

iii. **Burton** -- Burton was in his office when Nussbaum came in and said they had found a note. Burton accompanied Nussbaum back to his office and they called McLarty in Chicago. Gergen was with him. The First Lady came in briefly and told them to handle the matter. After some discussion, Nussbaum said they would research the privilege questions and decide in the morning what to do. The next day, the decision was made to turn over the note, and the Attorney General came to the White House with Phil Heymann. Reno said that the note should have been turned over earlier. Burton said that there were serious privilege questions and she was being unreasonable. After the meeting with Reno and Heymann, Burton went with McLarty to the Residence to see the President; HRC was present. McLarty praised Burton in their presence for being aggressive in defending privileges.

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c. **McLarty** -- was traveling with the President in Chicago. He returned to the hotel and was making phone calls at about 4 or 5 p.m. when Burton called with Nussbaum, who told him that Neuwirth had found a note in a briefcase. They discussed the need to notify the President and provide a copy of the note to the authorities. Nussbaum raised the issue of notification of the family and Mrs. Clinton and the potential applicability of executive and attorney-client privilege. They also talked about notifying the President.

McLarty consulted Gergen and called Nussbaum back. McLarty said that should review the issue first thing in the morning, which would give Nussbaum time to review the legal issues.

The following day, McLarty met with Nussbaum and Jim Hamilton, who agreed the note should be provided to the authorities. They tried to call Lisa Foster, but she was already on a plane returning to D.C. Mrs. Foster came to the White House and they met in Nussbuam's office. They told her they had to tell the authorities about the note. Nussbaum thought DOJ was the proper authority to notify.

McLarty and Nussbaum went to the Oval Office to tell the President about the note. The President directed them to do whatever they had to do to handle the note properly. They had already scheduled a meeting with Reno on another subject, so they decided to give her the note then.

Reno, Heymann, Nussbaum, McLarty, and possibly Gergen met later that day. They showed Reno the note. Nussbaum wanted to give the note to Reno, but she instructed them to give it to the Park Police. Reno asked why it had not been turned over already, and they discussed the notification concerns.

Nussbaum called the Park Police and two officers came in about 30 minutes later. Nussbaum gave them the note and told them how it had been found.

d. **Kennedy** -- Nussbaum called Kennedy and asked him to come to his office and told him that the note had been found. Nussbaum told him that the note had been found by Neuwirth in a briefcase; Nussbaum had previously examined the briefcase but had overlooked the note. The note had already been shown to the Foster family and turned over to the Park Police. Nussbaum and Kennedy discussed the note and agreed that the comment that "the FBI lied" would probably lead to an investigation.

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e. **Gorham** -- A day or two after the note was found, Bernie called Gorham into his office and told her that they had found a note in Foster's briefcase. He asked her when the last time was that she saw the briefcase. She told him she had seen the briefcase when she moved it during Steve's inventory of the office. Upon Nussbaum's persistent questioning, she told him she had seen a flash of yellow and a dark tan or gold-colored folder or envelope in the briefcase.

f. **Lindsey** -- **[Jane's note are garbled; need to review with her.]** was involved with a meeting in Mack's office in the early afternoon, at which they discussed what to do with the note. The meeting lasted a hour or so. Mack, Gergen, Gearan, Bernie, and Jim Hamilton were there; Dee Dee and George were also there for a while. The discussion was free-flowing. They discussed producing the note to DOJ after redacting privileged material. They also discussed the need to protect Foster's reputation. Bruce did not remember the final decision, but that the drift was that it would be turned over to DOJ and that redactions would be politically unwise.

Lisa Foster arrived from Little Rock at 6:00 and the decision was made to get Janet and Phil over to the White House. Bruce was not there when Janet and Phil reviewed the note, but came in later and said he had concerns about making the note public. The human aspect of the situation was foremost in Janet's mind. At around 9 p.m., they turned the note over to the Park Police officer on duty.

g. **Sloan** -- On Tuesday night, Bernie told Sloan about the note, which had already been turned over. Sloan worked on Q's and A's regarding the note.

11. Post-Note Activities

a. **Nussbaum** -- Tom Collier callsed at some point, concerned that the late discovery of the note made the Park Police look bad. However, after the note was found, the investigators did not ask to review any additional documents.

b. **Neuwirth** --

i. After Vince died, the renovations matter and Vince's file on the matter was turned over to Steve. Steve received the file from either Maggie or Bernie. Bernie said that the First Lady or Maggie wanted Steve to pick up the work. Steve never disturbed the integrity of this file and

never got anything else that came from Foster's office.

ii. Vince, Maggie, and Steve had a very close relationship. Steve had become involved in litigation regarding the Health Care Task Force, and had become an all purpose point of contact in the Counsel's Office for the First Lady's office.

iii. Steve and Roy Neel were interviewed by the Public Integrity Section at the Department of Justice. Steve showed documents from the Renovations file to investigators.

iv.

c. **Spafford** -- On 7/27, Spafford received a file and two boxes of papers and books with a cover letter from Bernie. One book had 3 entries of VF musings, the most recent entry being about 6 months before VF death. This book had not been noticed during the 7/22 meeting.

i. Park Police reviewed this material and the material Spafford had taken on 7/22.

(1) Park Police looked at everything. They were asked not to look at some documents that were clearly personal but they wanted to so the lawyers let them, asking for confidentiality.

ii. Spafford did not create an inventory of the material received on (or near) 7/27 -- it was mostly books and pictures

d. **Gorham** - Nussbaum asked Gorham to pack up the personal effects remaining in Foster's office. She packed up two boxes with items such as pewter candlesticks, tic tacs, photos, and a law dictionary. She and Tom Castleton took them over to Jim Hamilton's office in a carpet car.

e. **Sloan** -- Before the note was publicly released, Heymann said that OPR would look into the comment that "the FBI lied," and that Public Integrity would investigate the other comments in the note. Neuwirth and Neel were assigned to deal with the ushers matter, while Sloan and Bernie would handle the rest.

July 15, 1995

MEMORANDUM TO THE FILE

FROM: Sherburne

Subject: Senate Deposition of Craig Livingstone

Randy Turk briefly reported on the highlights of Livingstone's 7/10 deposition, taken by Kip Johnson. Johnson asked if Livingstone had a briefcase (yes). Did you have it that day (don't recall -- but I don't believe I had it). Why don't you think you had it (because I hardly ever took it to work).

What time did you arrive at the White House on 7/21 (entry logs show I arrived at 8:14 a.m.). Did you go to the Counsel's office that morning (at some point I was in the reception area -- maybe once or twice; I may have looked in Foster's office without entering). Did you speak to Nussbaum that morning (may have had conversation with him or someone else from the Counsel's office about posting a guard outside Foster's office).

Do you know UD agent named Abbott (yes). Have you ever made a complaint against him (no; I have no idea why he would say what he is saying about me). Ben-Veniste later established that Livingstone had filed complaints against other agents who may be friendly with Abbott.

Do you remember talking to Markland (yes). What was conversation (all he did was ask if I had been in Foster's office and I said no). N.B. Turk says that Markland's notes say "Craig Livingstone not in Vince Foster's office today."

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LIVINGSTONE DEPOSITION

- The Night of July 20th
  - Livingstone was notified about the suicide directly by the Secret Service at about 9 p.m.
  - Livingstone met Bill Kennedy at the hospital where Foster's body was taken. He and Kennedy viewed the body and then notified people at the White House that it was definitely Foster.
  - Livingstone drove with Kennedy to Foster's house from the hospital. Although they had arrived at the hospital separately, they left the hospital together in one car. They stopped and picked up Kennedy's wife on the way.
  - Livingstone stayed outside the Foster house for most of the time he was there because he did not know the family and felt he did not belong there.
- The Morning of July 21st
  - Livingstone got up early and sat in his car outside the Foster house between 6 and 7 a.m. He did this because he thought reporters might come by and disturb the family.
  - He arrived at the office around 7:15.
  - Livingstone was asked by the Press office to provide a chronology of the events of the previous night. He did this. (Z000490-1)
- Removal of Documents from Foster's Office
  - As head of the Office of Personnel Security, it was part of Livingstone's job occasionally to bring documents relating to personnel clearances to and from the Counsel's Office. Therefore, he cannot deny that there were occasions when he did take documents from the second floor of the West Wing.
  - Livingstone does not remember moving any documents on the morning of the 21st and says he did not move any documents originating in Foster's office after Foster's death.

DF 781650

Draft -- July 9, 1995

PRIVILEGED AND CONFIDENTIAL
ATTORNEY WORK PRODUCT

Memorandum To: Jane Sherburne

Foster Travel Office File: Custody and Disclosure Issues

A. Custody Issues

During the July 22, 1993 search of Vincent Foster's office, Bernie Nussbaum took the Travel Office file from Foster's briefcase. Nussbaum says he took the file because it concerned an active matter for which he would be responsible. As Cliff Sloane's notes reveal, Nussbaum generally described the contents of the file during the search. Notes mention WHTO - Management Review

At some point, Nussbaum put the Travel Office file in his office, in drawers either behind or alongside his desk. Upon leaving the Counsel's office in late March or early April 1994, Nussbaum placed the file in the Counsel's Office in the secretarial area. Conversation with Larry Pedowitz, July 11, 1995; see Eggleston Memorandum, dated July 10, 1994 ("Eggleston Memo"), at 2.

Nussbaum told Eggleston of the file's existence sometime after he left the Counsel's Office. Approximately how long after is unclear, although based on statements contained in the Eggleston Memo, it must have occurred after May 2, 1994, when the GAO issued its report. Id. at 8 (recounting conversation with GAO after the issuance of report, and stating he was unaware of Foster file at time of conversation).

Pedowitz says that sometime after Nussbaum left, Joel Klein either sent Nussbaum a request that appeared to call for the file or called to ask about the Foster Travel Office file. (Pedowitz says it might have been Fiske request). Nussbaum told Klein about Foster file and Klein asked if anyone else in the Counsel's office had known of its existence. Nussbaum said that he had told Eggleston about the file. Pedowitz recalls a conversation (in which he participated) with Jane Sherburne, Lloyd Cutler, Nussbaum and Klein about the file.

Pedowitz says that Nussbaum has no present recollection of what prompted him to tell Eggleston about the file. He

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emphasized, however, that Nussbaum has no information indicating that Eggleston knew of the file prior to that time.

On an unspecified date, Eggleston reviewed the Travel Office file for compliance with Independent Counsel Fiske's subpoena, as modified by a May 11, 1994 letter agreement between Deputy White House Counsel Joel Klein and Fiske's assistant, Mark Stein (the "May 11 Agreement"). Id. at 2. Eggleston reviewed the file in the secretarial area of the Counsel's Office, and returned it to its previous location upon completing his review. Id.

Open Issues:

1. Does Bernie put the file in his office immediately after taking it during the 7/22 search? Is it shown to anyone else at that time? Does he tell anyone of its existence? When is the file placed in the secretarial area of the Counsel's office? Why is the file removed from Nussbaum office, and who removes it?

2. The GAO investigation was commissioned pursuant to a Supplemental Amendment to P.L. 103-50, signed by President Clinton on July 2, 1993.[1] By letter dated August 17, 1993, the GAO made several document requests, four or five of which arguably called for the Travel Office file.

   (a) Sloane, who assisted in the 7/22 search of the office, arguably should have been aware of the file. **(Pedowitz made a similar comment without prompting)** Did Sloane review the file for responsiveness to the 8/17 GAO request? **(Sloane claims that he was only involved in setting up interviews; claims he did not deal with document review (note that 8/17 document request is addressed to him).** If so, what was his determination? If not, why? Did Sloane discuss the file with Nussbaum or anyone else in connection with

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[1] In relevant part, the amendment provides:

> Notwithstanding any other provision of law, the Comptroller General of the United States shall conduct a review of the action taken with respect to the White House travel office and shall submit findings from such review to the Congress by no later than September 30, 1993.

the GAO request? If so, when and what was the substance of conversation?

(b) Did Nussbaum bring the file to anyone's attention in the wake of the GAO's 8/17 request? If so, whom? If not, why, since the file contained information relevant to the inquiry? Did Nussbaum personally review the file for responsiveness? **(Did not recall, but Pedowitz says his memory might be refreshed if he could review the requests.)** If so, when and what was his determination?

3. When does Eggleston learn of the file? What was the substance of his conversations with Nussbaum, and what triggered those conversations? When did Eggleston review the file for responsiveness to the Fiske subpoena (as modified by later letter agreement)?

B. Disclosure of Foster File in Travel Office Related Investigations

Apart from the White House's internal review[2] and the current House investigation, five other inquiries have focused squarely on events surrounding the May 19, 1993 dismissal of seven Travel Office employees. These are as follows: (1) the FBI internal review; (2) the FBI/Office of Public Integrity criminal investigation; (3) the IRS internal review and Treasury's subsequent inquiry regarding IRS contacts;[3] (4) the GAO investigation; and (5) the OPR investigation.

All of these investigations began during Nussbaum's tenure as White House Counsel. Nussbaum says that, as White House Counsel, he stayed on top of all Travel Office related investigations. Although presently he does not recall any document requests, Nussbaum does not believe Foster's Travel Office file was called for in any of these investigations.

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2 The White House's Internal Management Review was released on July 2, 1993.

3 The GAO report also refers to an inquiry by Treasury's OIG requested by Congressman Frank Wolf. Treasury released responses to Wolf's questions on April 1, 1994, which concluded that no IRS official took any inappropriate action and there was no evidence that the White House had contacted the agency about the matter. ~~I have not located these responses as yet.~~

DF 780010

Travel Office issues have also been examined by Independent Counsels Fiske and Starr in their respective inquiries into Vincent Foster's death and the subsequent handling of his files by White House personnel.

A brief summary of the investigations, relevant document requests and the White House's responses thereto follows.

1. FBI Internal Review. The FBI's internal review examined the contacts between FBI personnel and the White House regarding the Travel Office. The FBI's report dated May 28, 1993 -- a little over a week after the dismissals -- concluded that FBI personnel acted properly in response to the White House initiated contacts. Among other things, the report states that William Kennedy told FBI personnel the matter was being directed by high level White House officials, and that he would refer the matter to the IRS if the FBI did not act immediately.

   Documents Requested from White House. Apparently none. The FBI review predates most of the documents in the Travel Office file, including Foster's notebook entries, various memoranda and newspaper articles. In any event, the FBI apparently did not seek any documents from the White House nor attempt to interview any White House officials in this review. Although Todd Stern did not recall this FBI inquiry, he doubted any documents would have been requested from the White House since the review occurred so soon after the events in question.

2. FBI/Public Integrity Criminal Investigation. The FBI's criminal investigation of the Travel Office began shortly after the dismissals and led to the indictment of Billy Dale.

   Documents Sought from White House. The FBI seized records and other items from the Travel Office on June 10-11, 1993; other Travel Office documents and files in the possession of Catherine Cornelius and Brian Foucart were turned over soon thereafter. Although the FBI had assumed control over these items, they remained in the White House complex and a log of the items was prepared. In late December 1994, the FBI took physical custody of the documents pursuant to an agreement which gave the White House access to them and provided

DF 780011

they would be returned at the conclusion of the investigation or any ensuing proceedings.

In addition, the FBI and the Office of Public Integrity informally requested documents from the White House. Among other things, OPI sought documents relating to Harry Thomason and Darnell Martens, excluding those relating solely to the Presidential Inauguration. In late June 1994, Eggleston represented that his production of responsive documents was complete. However, in August 1994, Eggleston provided responsive pages from Foster's Travel Office file. This led to a rather angry letter from OPI, and apparently precipitated the subpoena issued in September 1994. Relevant portions of the Travel Office file were provided in response to the subpoena and the document requests.

3. IRS Internal Review. The IRS, in response to a inquiry initiated by Congressman Frank Wolf, conducted an internal review to determine whether any improper attempts had been made to influence the Service to audit UltrAir. UltrAir had served as the near-exclusive charter carrier for press travel prior to the dismissals. The IRS issued a final report dated June 11, 1993, and a supplemental report dated June 18, 1993, both of which concluded that no improper attempts to influence the IRS had occurred.

Dissatisfied with the lack of information released in the IRS' reports, Wolf asked Treasury's OIG to look into the matter and submitted written questions to be answered. Treasury's responses to Wolf's questions were released on April 1, 1994, and concluded that no IRS official acted improperly and that there had been no contact with the White House about the Travel Office matter.

White House Documents Requested. Apparently none. I have found nothing indicating that the IRS or Treasury requested documents from the White House in connection with this investigation. **(Note: These investigations must be distinguished from a later IRS investigation re Travel Office and the Administration's alleged failure to collect applicable excise taxes from the press. Documents re Travel Office operations were requested from the White House in that inquiry).**

DF 780012

4. GAO Investigation. As noted above, the GAO began an investigation of Travel Office events in July 1993; Congress requested a report from the GAO by September 30, 1993. An interim report was issued on that date which outlined various difficulties in obtaining documents from the White House, the Justice Department and the FBI. (Much of the dispute centered around the ongoing FBI investigations).

The GAO continued its investigation and issued a final report in May 1994. That report confirmed many of the conclusions of the Internal Management Review; among other things, it found that the FBI did not feel pressured to conduct an investigation of the Travel Office and that the White House had not contacted the IRS as had been speculated in the media.

White House Documents Requested. The GAO made several document requests beginning in August 1993. Those requests were very broad, and were narrowed in subsequent negotiations with Eggleston.

Foster's Travel Office file was arguably responsive to five requests contained in letters dated August 17, 1993 and December 7, 1993 from Nancy Kingsbury to Neil Eggleston. (Attached hereto). Those requests are as follows:

(a) Documents generated in the White House concerning the firings of the White House Travel employees, including memoranda, correspondence or other records, including computer or electronic mail records. (Reqs. 8)

(b) Records (incoming correspondence, notes telephone call notes, internal memoranda, computer records, or electronic mail) indicating problems with or complaints about the operations of the White House Travel Office (Reqs. 11)

(c) Documents, memoranda, or other records which identify the tasks, assignments, or roles to

DF 780013

be carried out for the White House by HT or DM (Reqs. 12)[4]

(d) Documents, correspondence, internal memoranda, telephone logs or other records of discussions, or other records, including computer records or electronic mail, describing or recording contacts between WH personnel and personnel employed by the FBI or the IRS concerning the WH Travel Office (Reqs. 15)

(e) Records, including written documents, computer records and electronic mail, made by WH officials concerning meetings or telephone discussions with officials of (a) the FBI, (b) the IRS, or (c) the Department of Justice, concerning the WH Travel Office (Reqs. 18)

The GAO also requested to survey "universe" of documents to determine if any requested classes of records were withheld. See Letters to Eggleston, dated 2/14/94 and 4/13/94. Eggleston does not recall ever allowing the GAO to conduct such a review, and believes the GAO did not pursue this matter. Eggleston, however, did not recall that two requests for such a review had been made.

Must pin down the sequence of events re this request, given that file was not produced nor specifically identified as withheld (no obligation to do so, however, under 4/23/94 letter).

In a letter dated April 23, 1994, Eggleston confirmed that (1) the GAO was not seeking documents created during the internal management review process and (2) the White House had not provided attorney notes and analysis prepared after the events in the Travel Office, except for notes taken by Kennedy during his meetings or discussions with FBI personnel.

The Travel Office file was not provided to the GAO. Although Eggleston was unaware of the file at the time he wrote the 4/23 letter, it would have come within the first part of that agreement and arguably the second as well.

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[4] The Travel Office File would be responsive to this request under an expansive reading of the request.

DF 780014

Pedowitz says that Nussbaum remembers Eggleston telling him that GAO was not requesting documents prepared by White House attorneys.[5]

Clinger's Criticism of GAO Report for Ignoring Evidence of a Foster Travel Office File. In a memorandum attached to a letter to Congressman John Conyers dated October 7, 1994, Congressman William Clinger criticized the GAO's failure to pursue evidence that Foster possessed Travel Office related documents and to determine the whereabouts of any such documents. The memo cites a GAO investigator's notes of a 9/24/93 interview with Nussbaum suggesting that he stated Foster's office contained materials regarding the Travel Office. Ostensibly to demonstrate inconsistencies among statements made by White House personnel, the memo asserts that Patsy Thomasson (1) told a GAO investigator during her 9/23/93 interview that she had not seen "anything relating to the travel office on [Foster's] desk," and (2) later in a written response to a question posed by the GAO in March 1994, stated that at no time did she find or was she told of references to the Travel Office in files maintained in Foster's office.

(Note: File was found in Foster's briefcase, which would explain why Patsy did not see the file -- it also makes the noted 9/24 response perfectly accurate).

In a footnote, the memo notes that the GAO's follow-up on the comment attributed to Nussbaum casts doubt on whether it was said. Handwritten notes alongside the interview notes state that none of the participants in the interview recalled the comment, and that the author said the notes referred to an anonymous 1988 letter complaining about the Travel Office.

Pedowitz, however, doubts that GAO would have asked others who were in Foster's office about the existence of such a file but not Nussbaum. He

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5 When asked about Sloane's knowledge of the file and his involvement with the GAO and OPR investigations, Pedowitz remarked that Sloane was in Foster's office when Nussbaum mentioned a travel office file and surmised that, as such, Sloane might have known of its existence.

says that had Nussbaum been asked the question, he undoubtedly would have responded yes.

5. OPR Investigation. In late July 1993, the Office of Professional Responsibility began investigating the FBI's contacts with the White House. OPR's investigation also delved into Foster's statement in the Note that "the FBI lied in their report to the AG." That aspect of OPR's investigation was halted after Fiske's appointment in January 1994, since the Note came within his jurisdiction.

OPR prepared a draft report dated March 18, 1994, which, among other things, summarized its preliminary findings concerning the meaning of the statement in the Note. The report's conclusions apparently are based on notes of Podesta's interview with Foster, and interviews with Webster Hubbell, Beth Nolan, Bruce Lindsey, Steve Neuwirth, David Watkins, William Kennedy, Sheila Anthony (Foster's sister), James Lyons, Janet Reno and Beryl Anthony (Foster's brother-in-law). Based on its admittedly limited inquiry, OPR concluded that the White House Report on the Travel Office and the possibility of Congressional hearings on the subject were of great concern to Foster. Foster apparently was extremely disturbed by statements attributed to Kennedy by FBI personnel, and OPR concluded the statement in the Note referred to the FBI's version of contacts between Kennedy and FBI personnel.

OPR's report has not been released to the public.

White House Documents Requested. Eggleston does not recall any written request for documents from OPR. However, OPR did make an oral request to review notes of the Management Review's interview of Foster. **(What was substance of this request; did they specifically ask for notes? -- what was said during course of negotiations re access to notes?)** The Eggleston Memo states that Eggleston and Nussbaum were reluctant to permit OPR to review the notes, but eventually acceded to OPR's request. Pedowitz says Nussbaum has no present recollection of OPR investigation, but Pedowitz mentioned that he did not believe documents were requested by OPR.

DF 780016

Eggleston says that he had no knowledge of the Foster File at the time of the OPR investigation. Why didn't Nussbaum mention the Foster Travel Office file during the course of the discussions about the Foster interview notes, particularly given the nature of OPR's inquiry? Probably could have obviated request for interview notes (which they sought to shield because it was product of an internal review) by offering to show Foster file.

What, if anything, was Sloane's involvement with the OPR investigation? The investigation was going on during his work with the GAO investigation?

6. Fiske's Investigation into Foster's Death. On May 4, 1994, a grand jury issued a subpoena to the White House in connection with Fiske's inquiry into Foster's death. The May 11 Agreement narrowed the subpoena, and provided the White House would produce, inter alia, "documents indicating that Mr. Foster was despondent or depressed or that he was thinking about taking or intending to take his life."

Eggleston, on an unspecified date, reviewed the Foster file for responsiveness; he deemed the report unresponsive to the subpoena as narrowed by the May 11 Agreement.

After Fiske issued his June 30, 1994 report on Foster's death, Lloyd Cutler inquired as to whether Foster had a Travel Office file. Klein, who unbeknownst to Eggleston had been providing Fiske's team with lists of files in Foster's office, stated that the Travel Office file did not appear on a May 11, 1994 index sent to Fiske.

However, a May 6, 1994 letter from Klein indicates that he sent Stein other indices of files in Fiske's office; the Eggleston Memo suggests that one of those indices reflected a file marked "Travel," which could have referred to the Travel Office file. Id. at 3; see also copy of relevant page of index annexed to memo. In addition, Fiske was provided with Sloane's notes from the 7/22 search, which listed "WHTO-Management Review" as one of files identified in Foster's office.

DF 780017

I have not found the indices sent under cover of the 5/6 letter; however, if the index referred to in Eggleston's letter was forwarded to Fiske, he would have been on notice of some sort of Travel Office file in Foster's office.

By letter dated July 5, 1994, Klein informed Mark Stein that three files, including the Travel Office file, inadvertently had been left off the May 11 index. Neither Stein nor Fiske responded to Klein's July 5 letter. Never requested, the Travel Office file was not provided to Fiske.

7. Starr's Investigation into Foster Document Handling.

On March 20, 1995, a grand jury issued a subpoena which sought, among other things (1) any and all documents and/or communications to, from, or by Vincent Foster, that refer or relate to the White House Travel Office (Item 1); (2) any and all documents and/or communications that refer to or relate both to Vincent Foster, and to the White House Travel Office (Item 2).

Foster's Travel Office file was produced to Independent Counsel Starr in response to these requests.

Open Issues

1. Did Nussbaum mention the Foster file to anyone, or review it in connection with any of the Travel Office investigations? If no, why?

2. Did Sloane review the Foster file in connection with the Travel Office investigations in which he was involved? **(Sloane did not recall a Travel Office file).** Did he mention the file to anyone?

3. Was the index listing "Travel file" provided to Fiske before his June 30, 1994 report was issued?

4. What was the substance of the negotiations re GAO's requested review of the "universe of files"?

Natalie Williams

Foster
suicide

THE WHITE HOUSE

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July 10, 1994

MEMORANDUM FOR LLOYD CUTLER
SPECIAL COUNSEL TO THE PRESIDENT

FROM: W. NEIL EGGLESTON
ASSOCIATE COUNSEL TO THE PRESIDENT

RE: FOSTER FILE

The attached memorandum discusses legal issues related to the Foster file. It does not address the separate issue of how the White House ought to proceed.

W.N.E.

cc: John D. Podesta

CGE 005909

CGE 005910

THE WHITE HOUSE

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July 10, 1994

MEMORANDUM FOR LLOYD CUTLER
SPECIAL COUNSEL TO THE PRESIDENT

FROM: W. NEIL EGGLESTON
ASSOCIATE COUNSEL TO THE PRESIDENT

RE: FOSTER FILE

The Foster file has some relation to four investigations. The following is my analysis of those investigations and my recommendations:

1. Independent Counsel.

With Mr. Klein and Mr. Krislov, I participated in the drafting of a letter to Mr. Stein, dated May 11, 1994, concerning how the White House would comply with the Independent Counsel's grand jury subpoena. A copy of that letter is attached. I believe that this was my first involvement in the Foster aspect of the grand jury investigation. My understanding is that Mr. Stein agreed with the procedures that letter set forth.

According to that letter, the White House agreed to:

> "1. Circulate a memorandum to all members of the White House Office staff directing those staff members to produce for review:
>
> a. all documents or files in their custody or control that were in Mr. Foster's office as of July 20, 1993.
>
> . . ."[1]

[1] We also agreed to collect other materials from White House staff not relevant here.

Following that collection process, the White House agreed to:

> "Review all documents that are gathered pursuant to paragraph 1 above as well as all documents that are currently under the custody and control of the White House Counsel's Office that are identifiable as documents that were in Mr. Foster's office as of July 20, 1993 . . . and produce to you:
>
> . . .
>
> c. all documents indicating that Mr. Foster was despondent or depressed or that he was thinking about taking or intending to take his life."[2]

I recall reviewing the Foster file for compliance with the subpoena. At the time I reviewed the file, it was in the Counsel's Office central files under the window in the secretarial area. I reviewed the file in the secretarial area, and returned it to the same location in the files when I was finished.

I did not believe at the time and do not believe today that the Foster file is responsive to the subpoena, as modified by the letter agreement with Mr. Stein. The letter agreement demonstrates that the Independent Counsel was looking for something like a suicide note, not merely documents that reflected that Foster was concerned about a work issue. Moreover, the Independent Counsel could have requested documents relating to the issues referred to in Foster's note. If he had, then the Foster file would have been responsive. The Foster file is not, however, responsive to the May 11 letter agreement.

The May 11 letter agreement with Mr. Stein does not indicate that the White House would provide him with a list of the files or documents that we collected from members of the White House staff that had been in Foster's office on July 20, 1993. I was unaware of any commitment to provide such list, and I was never asked--nor to my knowledge was anyone else working on this project asked--whether we had collected any files pursuant to this paragraph. As you know, we collected at least two other files that were not on the list provided to the Independent Counsel.[3]

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[2] Categories (a) and (b) do not apply to the Foster file.

[3] This memorandum makes reference to the collection of "at least" two other files. The reason for this phraseology is that we also collected other files that had the same general name as files listed on the indices, such as "Bruce Babbitt." I do not know whether the file we collected is the same file as the one

CGE 005912

Since I was not aware of any commitment to Mr. Stein to provide a list of the files collected from the White House staff, I also never checked at the time to see whether the Travel Office file is listed on the indices that we provided to the Independent Counsel. I have now learned that one of the indices that was provided to the Independent Counsel reflects a file called "Travel," which could have referred to the Travel Office. I have no knowledge of whether the Independent Counsel asked about the "Travel" file. A copy of the relevant page of that index is attached.

In any event, my understanding is that prior to the completion of his investigation into this area, the Independent Counsel was advised of the existence of this file.

2. Office of Professional Responsibility.

Last fall and until the appointment of the Independent Counsel in January 1994, the Office of Professional Responsibility of the Department of Justice ("OPR") conducted an investigation into whether the FBI lied to the Attorney General in its report on the Travel Office matter. According to the FBI, Bill Kennedy made certain statements to FBI agents about "high level" scrutiny and the involvement of the IRS. Kennedy denies that he made those statements. One line in Foster's note was that the FBI had lied to the Attorney General.

OPR investigates conduct by DOJ officials, including on occasion the FBI. It does not investigate the conduct of White House employees. In connection with its investigation, OPR interviewed a number of White House officials. OPR had requests for additional interviews pending when Fiske was appointed. After the appointment, we did not hear again from OPR. According to the GAO report, OPR completed its report of its investigation in April 1994. GAO reviewed the report, but the OPR report has not been made public.

I do not recall any written request for documents from OPR, and my files do not disclose any written requests. I only recall one oral document request--to review the notes of the Management Report interview of Foster. Mr. Nussbaum and I were reluctant to permit OPR to review the interview notes since the notes represented the product of an internal review. Eventually, we agreed to permit OPR to review the interview notes in my office, but not to keep copies. That arrangement was satisfactory to OPR.

I believe that the Foster file largely reflects the substance of the Management Review interview of Foster. Although we do not know the content of the OPR report, I believe that it

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listed on the index, or is another file with the same name.

CGE 005913

is unlikely that OPR's conclusions would have been different if it had reviewed the Foster file.

I do not believe that OPR made any other requests for documents. At the time of the OPR investigation, I was unaware of the Foster file.

3. Department of Justice Investigation.

Since May or June 1993, the Public Integrity Section of the Department of Justice has been investigating whether the Travel Office employees engaged in any criminal wrongdoing. At some point, that investigation expanded into whether Harry Thomason or Darnell Martens had a criminal conflict of interest; that is, whether they were special government employees who sought a financial interest in the operation of the Travel Office.

We have been providing documents to the DOJ concerning Harry Thomason and Darnell Martens. Certain notes in the Foster file are responsive to that request. The notes are largely cumulative of information we have already provided.

I think that I should provide the relevant portions of the notes in the Foster file to the DOJ as soon as possible, and no later than Tuesday. The DOJ does not have any particular interest in where any of these notes have been, and the DOJ investigation has been pretty leak free.

4. General Accounting Office.

The GAO Travel Office report was released on May 2, 1994. I was not aware of the Foster file until after the report was released.

At the insistence of the White House, GAO's requests for documents and the White House responses were always in writing. Before I began, the Travel Office matter was handled by Cliff Sloan under Mr. Nussbaum's supervision. At the time I arrived in September 1993, the GAO had already made a comprehensive document request. At first, I generally handled the interviews and Mr. Sloan continued to coordinate document production. I gradually assumed more of the document duties as well. By late fall, Mr. Sloan had withdrawn from the process.

A copy of a December 7, 1993 letter from GAO to the White House requesting documents and interviews is attached.[4] My practice was to respond to such letters in a separate letter addressing each paragraph of the GAO letter. If I had no

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[4] As the December 7 letter shows, it had been preceded by earlier letters. The December 7 letter was an effort by GAO to set forth where we were on various requests.

CGE 005914

documents responsive to a particular request, I would so state by letter. As you can tell, the December 7 letter reflects GAO's view of which requests had been satisfied as of that time and which had not.

The December 7 letter contained four general requests for documents:

"3. Information and records related to the preparation of the White House Travel Office Management Review, including a list of the people interviewed to prepare the review, copies of notes of meeting and interviews, and documents prepared or used to support the Review's factual statements and conclusions.

Not yet provided."

"8. Documents generated in the White House concerning the firings of the White House Travel Office employees, including memoranda, correspondence or other records . . .

Not yet provided."

"9. Documents, memoranda, or other records which identify the tasks, assignments, or roles to be carried out for the White House by Mr. Harry Thomason and Mr. Darnell Martens.

Not yet provided."

"15. Documents, correspondence, internal memoranda, telephone logs or records of discussions . . . describing or recording contacts between White House personnel and personnel employed by the FBI or the IRS concerning the White House Travel Office.

Not yet provided."

Following the receipt of this letter, I orally advised the GAO that certain of the requests were too broad and would require the White House to reveal internal deliberative documents and memoranda. I also told GAO that we were reluctant to provide our post-event factfinding documents, as well as the documents prepared in connection with the Management Review.

On January 19, 1994, the GAO supervisor, Nancy Kingsbury and I met in my office to review the remaining GAO requests for interviews and documents. At that meeting, Ms. Kingsbury agreed not to seek any materials prepared in connection with the Management Review.

CGE 005915

On February 14, Ms. Kingsbury sent a letter with an attachment of all outstanding document and interview requests that GAO wished to pursue. A copy of the February 14 letter is attached. Her cover letter states:

> "To assist with that effort [for GAO to complete its work], I have compiled a compulsively complete list of what appears to us to still be needed."

The attachment omitted three of the four paragraphs set forth above. The only paragraph that remained was the one calling for information concerning Harry Thomason and Darnell Martens.

The request in the February 14 letter related to Thomason and Martens was modified to permit the White House to provide information through interviews with knowledgeable officials instead of documents.[5] Thus, this paragraph was modified to read as follows:

> "D. Documents, memoranda, or other records which identify the tasks, assignments, or roles to be carried out for the White House by Harry Thomason and Darnell Martens, <u>or information from knowledgeable officials which would inform us about the tasks carried out by Mr. Thomason and Mr. Martens</u>. (Item 13, August 17, 1993)" (emphasis added)

At the time, we believed that this paragraph could be read not to call for the production of documents related to the actions of Thomason and Martens on the Travel Office matter since their involvement did not seem to fall within the meaning of "tasks to be carried out for the White House." Thomason was plainly a self-starter on this matter. Instead, we read this paragraph to be asking what official assignments Thomason and Martens may have had in the White House. To comply with this reading, we provided documents related to Thomason's Presidential imagery project, and a witness to explain that project. In any event, on the assumption that the request was broad enough to include the actions of Thomason and Martens in connection with the Travel Office matter, we complied with this request by providing interviews of all of the relevant White House officials.

Once we received the February 14 letter with its attachment, we no longer focused on the previous requests and considered any unanswered requests to have been withdrawn. The broadly drafted requests for documents relating to the firings of

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[5] As the attachment to the February 14 letter makes clear, this option to provide witnesses instead of documents was a return to the language that GAO had used in its August 17 letter to Mr. Sloan.

the Travel Office employees and for documents relating to contacts with the FBI or IRS were not contained in the February 14 letter. On the FBI issue, the GAO continued to request Mr. Kennedy's handwritten notes taken during his meetings with the FBI agents. We agreed to waive the privilege with regard to these notes, and the notes were provided.

In mid-March, the GAO sent a final list of outstanding document and interview issues. This was a narrowed version of the February 14 letter. We complied with all of these requests. A copy of that request is attached.

In a letter dated April 23, 1994, I set forth the agreement between GAO and the White House concerning the scope of our response to their document requests:

> "This letter is to confirm that the GAO has not requested documents prepared in connection with the White House Travel Office Management Review. The White House has made available, and GAO has interviewed, John Podesta and Todd Stern, the principal authors of the Management Review.
>
> The White House has also generally not provided attorney notes and analysis prepared after the events in the Travel Office. GAO did request, and the White House did provide, the notes that Mr. Kennedy took during his meetings or conversations with FBI officials."

A copy of this letter is attached. At the time I wrote this letter, I was not aware of the Foster file.

On the question of whether the GAO ever specifically asked about Travel Office records in Foster's office, the only request before the issuance of the report was in a written question to Patsy Thomasson, propounded in March 1994:

> "GAO QUESTIONS FOR MS. PATSY THOMASSON
>
> Various press articles have reported that Mr. Bernard Nussbaum, Ms. Margaret Williams, and Ms. Patsy Thomasson conducted a search of Mr. Foster's White House office immediately after his death. Since Mr. Foster was involved in the White House Travel Office matters, we would like to know if any documents relating to the travel Office were in his office. . . .
>
> 2. Did you find or were you told about any references to the White House travel Office in either paper or computer files in Mr. Foster's office? If so, please describe what

CGE 005917

you found or were told about and the disposition of the materials."

To respond to this request, I spoke with Ms. Thomasson. With Counsel's Office assistance, she responded in writing as follows:

> "The circumstances surrounding Mr. Foster's suicide are currently the subject of Special Counsel Fiske's investigation. Because of the White House's commitment not to interfere with that investigation in any way, the Special Counsel to the President has requested that I refrain from responding to any questions concerning the search of Mr. Foster's office on the evening of his death. I am prepared to state generally, however, that at no time did I 'find' or was I 'told about any references to the White House Travel Office in either paper or computer files' maintained in Mr. Foster's office. I hope you will find this information useful, and look forward to the time when I am in a position to fully respond to your inquiries."

No similar question was propounded to the White House generally, nor to Mr. Nussbaum.

Ms. Thomasson's response suggests that she was willing to answer GAO's question because she had no knowledge, but that if she had any information, she would refused to respond because the issue was under investigation by the Independent Counsel. At the time of this question and answer, I was not aware of the Foster file.

Shortly after the GAO report was issued, one of the investigators called me to ask whether my notes of the interview of Mr. Nussbaum indicated that Mr. Nussbaum had said that there had been Travel Office records in Foster's office. Apparently one of the investigators had a vague reference to that effect in his interview notes. I reviewed my notes and reported back to the investigator that my notes did not reflect any such comment by Mr. Nussbaum, but that my notes did not purport to be verbatim. I told him that I recalled that I had objected strenuously to questions during Mr. Nussbaum's interview (as well as during others) about Foster's death and any search of his office since it was far outside of GAO's mandate to investigate the events in the Travel Office in May 1993.

At the time of this conversation with the GAO investigator, I was not aware of the Foster file.

I have not reviewed the Foster file recently, but my recollection is that the only potentially new information relates to a note and a calendar reference to a meeting among Foster,

Thomason and Mrs. Clinton regarding the Travel Office. This meeting may, however, be referred to in the GAO report. GAO relates a meeting on May 12 among Cornelius, Thomason, Watkins, and Martens. The GAO report then states: "Following this meeting, Mr. Thomason repeated his concerns to the First Lady, and later told Mr. Watkins that he had done so." A copy of the relevant page of the GAO report is attached.

W.N.E.

cc: John D. Podesta

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July 8, 1994

MEMORANDUM FOR JOHN D. PODESTA
STAFF SECRETARY

FROM: W. NEIL EGGLESTON
ASSOCIATE COUNSEL TO THE PRESIDENT

RE: REPORTING ON FOSTER DOCUMENTS

Attached please find the major reporting on the handling of Foster's files after his death.

I have also included the White House statement of December 20, 1993, the relevant portions of Mrs. Clinton's press conference in April, and talking points that we have drafted on the issue.

None of the materials that I have reviewed addresses when or how the files went from the White House to Williams & Connelly.

W.N.E.

cc: Lloyd Cutler

NON-RESPONSIVE MATERIAL REDACTED

CGE 042876

Z00U164

file Foster

The White House

Office of the Press Secretary

For Immediate Release: December 20, 1993

Statement by the Director of Communications Mark Gearan

Following the death of Vincent Foster and following the examination of the files in his office on July 22, 1993 by White House Counsel in the presence of representatives of various law enforcement agencies, Mr. Foster's files were distributed as follows: (1) those files pertaining to his White House duties remained in the counsel's office; (2) those files that were personal to Mr. Foster and his family were sent to his family's personal attorney; and (3) those files that pertained to the personal legal affairs of the President and Mrs. Clinton (including documents relating to their personal tax returns, the filing of Whitewater Development Corp. tax returns, and the disposition of their interest in Whitewater)-- all of which were preserved--were sent to the Clinton's personal attorney.

CGE 042877

REDACTED

7000076

The First Lady's Responses to Questions of The Boston Globe's Readers

Q: Who ordered the search of Vince Foster's office and how long after his death was that order given?

A: I was in Arkansas at the time of Vince Foster's death. I cannot speak to that in any detail, but I know that the special counsel is looking into the circumstances surrounding Vince's death. And I assume he will issue a report about that, which I hope will put all these matters to rest once and for all.

CGE 042878

Z000077

REDACTED

Q: How much money did you invest in the Whitewater land deal? I have heard various amounts. Why were the Whitewater records removed from Vince Foster's office?

A: Altogether, the President and I invested around $46,000 in Whitewater. I understand that the documents that were in Vince Foster's office when he died were distributed by White House Counsel Bernie Nussbaum in the following way: the files relating to ongoing work in the White House Counsel's office were passed on to other lawyers in that office; personal files of Vince's were given to his family; and personal files of mine and the President were given to our outside lawyer.

The file in Vince's office relating to Whitewater has been turned over to the Special Counsel Robert Fiske for his investigation.

Q: What were in the documents in Vince Foster's office that you sent your people in to retrieve after his suicide?

A: Again, I was in Arkansas at the time of Vince Foster's death and I didn't send anyone into his office to retrieve anything. I understand White House Counsel Bernie Nussbaum reviewed the documents in the presence of officials from the Park Police and maybe some other agencies. I understand Mr. Nussbaum distributed the files according to whom he thought should have them. There were files relating to ongoing work in the White House Counsel's office that needed to be passed on to other lawyers in that office. There were personal files of Vince's that needed to go to his family. And there were personal files of mine and the President that went to our outside lawyer.

CGE 042879

2000080

REDACTED

Did the White House "cover up" in the wake of Vince Foster's suicide last year? In particular, were files related to Whitewater improperly removed from Mr. Foster's office after his death?

No files were removed from Vince Foster's office without first being identified to law enforcement officials. Soon after Foster's suicide, White House Counsel Bernard Nussbaum sorted the contents of Foster's office, in the presence of law enforcement officers. He identified our personal files to the investigators. They were then sent to our personal lawyer. There never were any "missing" files, and no law enforcement official requested those files from Mr. Nussbaum or anyone else. In December, we voluntarily agreed to turn over the files relating to Whitewater to the Justice Department.

Foster's suicide had nothing to do with Whitewater. The matter is nowhere mentioned in the note Foster wrote prior to his death. It is ghoulish for political partisans to use the tragedy of Foster's death to hype interest in these matters.

CGE 042880

173RD STORY of Level 1 printed in FULL format.

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The Washington Times

January 28, 1994, Friday, Final Edition

SECTION: Part A; Pg. A1

LENGTH: 2383 words

HEADLINE: Questions cloud ruling of suicide in Foster's death ; Autopsy report still not released

BYLINE: Michael Hedges; THE WASHINGTON TIMES

CGE 042884

The note was apparently overlooked by investigators who originally searched Mr. Foster's office, and was later found in a briefcase, torn into 27 pieces. A 28th piece was missing.

CGE 042885

July 26 - Nussbaum, going through Foster's belongings, finds scraps of a handwritten note. The note is not turned over to Park Police and the Justice Department until July 28, so Clinton and Foster's family can examine it.

CGE 042886

97TH STORY of Level 1 printed in FULL format.

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March 5, 1994, Saturday, Final Edition

SECTION: FIRST SECTION; PAGE A7

LENGTH: 1081 words

HEADLINE: Nussbaum's Defiance Proved Ill-Suited for Politics

SERIES: Occasional

BYLINE: Ruth Marcus, Washington Post Staff Writer

CGE 042887

At the time, the White House said Foster's personal papers were given to his personal lawyer and his official files parceled out among the office. Months later, it was revealed that a third category of documents -- personal files of the Clintons', including files on Whitewater -- were given to the Clintons' private lawyer.

CGE 042888

FD-71 (Rev. 4-30-85)

FEDERAL BUREAU OF INVESTIGATION

REPORTING OFFICE	OFFICE OF ORIGIN	DATE	INVESTIGATIVE PERIOD
WMFO	WMFO	8/9/93	7/29/93-8/9/93

TITLE OF CASE	REPORT MADE BY	TYPED BY
UNSUB; VINCENT FOSTER, JR.; DEPUTY WHITE HOUSE COUNSEL TO THE PRESIDENT-VICTIM; 7/20/93;	SA SCOTT M. SALTER	plj
	CHARACTER OF CASE PPSAKA-STAFF MEMBER; OOJ;	

Reference: WMFO teletypes to FBIHQ, dated 7/28/93 and 7/23/93; also reference WMFO teletype to Little Rock dated 8/2/93 and Little Rock teletype to WMFO dated 7/31/93.

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(.NITED STATES DEPARTMENT OF JU.. .CE
Federal Bureau of Investigation

00845

Copy to: Office of the Deputy Attorney General, U.S. Department of Justice

Report of: SA SCOTT M. SALTER Office: WMFO
Date: August 9, 1993

Field Office File #: 175B-WF-187743 Bureau File #:

Title: UNSUB;
VINCENT W. FOSTER, JR.;
DEPUTY WHITE HOUSE COUNSEL TO THE PRESIDENT-VICTIM;
7/20/93;

Character: PPSAKA-STAFF MEMBER;
OOJ

Synopsis: Investigation was predicated upon request from the USDOJ to enter captioned investgation, being conducting by UNITED STATES PARK POLICE (USPP), and to focus FBI efforts on the turning over of a note found in the office of Vincent W. Foster. Foster was Deputy White House Counsel to the President, who body was found on the evening of 7/20/93 at Fort Marcy, Virginia, which is U.S. park land. The USPP investigation to date indicates death was by suicide. On 7/22/93, Foster's office was searched by Bernard Nussbaum, Chief White House Counsel to the President. Personnel for the Department of Justice (DOJ), Federal Bureau of Investigation, United States Secret Service (USSS) and USPP were present at but did not participate in the search; an arrangement determined by Bernard Nussbaum and agreed to DOJ officials. On 7/26/93, during an inventory of Foster's office, a briefcase, previously searched on 7/22/93, was found to contain 27 torn pieces of yellow paper. The papers were found by Steven Neuwirth, an assistant to Nussbaum who was acting on Nussbaum's orders to inventory the office, segregate Foster's personal affects and pack them up for his family. The 27 pieces of paper, were found at approximately 4:00 p.m., 7/26/93, were pieced together and determined to be a listing, in Foster's handwriting, of problems he had recently encountered in his job. The note was turned over to law enforcement

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officials at approximately 9:15 p.m. on 7/27/93, approximat 30 hours after being fou . All of those interviewed who had knowledge of this 30-hour delay were consistent with regard to the reason for the delay. Each stated that note was not immediately turned over due to a need to advise the family prior to its release and the need for it to be shown to the President, ensuring his right to Executive Privilege was protected as it related to the contents of the note. The family could not be contacted until 3:00 p.m., 7/27/93, and the President was not available until 6:00 p.m., 7/27/93. There was not, according to all interviewed, any attempt or discussion regarding not providing the note to law enforcement investigators. Interviews were conducted of each individual present during the original 7/22/93 search of Foster's office. Each advised they had not seen the 27 pieces of torn paper despite the briefcase having been searched by Nussbaum. All individuals known to have access to Foster's office prior to its being sealed at 10:00 a.m., 7/21/93, were interviewed and admitted being in the office, but stated they had not seen the 27 pieces of paper and they had not removed anything from the office. FBI Laboratory examination of the note was essentially negative. U.S. Capitol Police (USCP) laboratory examination of the note, as requested by USPP, confirmed the note had been written by Foster. Additional interviews of individuals alleged to have made comments or heard comments about the existence of a Foster suicide note were interviewed with negative results.

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DETAILS: On 7/20/93, Vincent Foster, Jr., former Deputy Chief Counsel to President William Clinton, was found dead at Fort Marcy, which is on U.S. park land located on the George Washington Parkway in Virginia. Investigation of Foster's death by the USPP preliminary indicates Foster committed suicide. On 7/22/93, an official search of Foster's White House office was conducted under the direction and control of Chief Counsel to the President Bernard Nussbaum. During that search no pertinent documents relating to Foster's death were found.

On 7/26/93, Steven Neuwirth, as assistant to Nussbaum, was instructed by Nussbaum to conduct a final inventory of Foster's office and pack and turn over to Foster's family all personal items found in his White House office. At approximately 4:00 p.m., 7/26/93, Neuwirth found 27 pieces of torn paper located in a briefcase in Foster's office. The briefcase had been searched by Nussbaum on 7/22/93 and allegedly all items had been removed and nothing pertinent to the death investigation was found. The torn papers found by Neuwirth were turned over to Nussbaum and were pieced together by Neuwirth and Nussbaum. When put together, the papers revealed a list of information relating to Foster's recent job-related problems. The writing on the note was recognized by Neuwirth as being Foster's. It wasn't until 9:15 p.m., 7/27/93 (approximately 30 hours after it was found), that the torn note was turned over to USPP investigators.

Based on the above facts, DAG Heymann requested the FBI conduct an independent investigation to determine the facts relating specifically to the delay in turning over the above described torn note to USPP Investigators.

On 7/29/93, the investigation commenced with the interview of Stephen Neuwirth.

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/3/93

STEPHEN R. NEUWIRTH, Assistant Counsel, the White House, Washington, D.C., was advised of the identities of the interviewing agents and informed of the nature of the interview. NEUWIRTH provided the following information:

NEUWIRTH advised that he was present on July 22, 1993, when the items in VINCENT FOSTER's office were inventoried by BERNARD NUSSBAUM. NEUWIRTH was aware that the items which were immediately identifiable as personal items were provided to the attorney representing the FOSTER family. After July 22, 1993, NEUWIRTH did not again go to VINCENT FOSTER's office until Monday, July 26, 1993.

NEUWIRTH advised that while he was in Arkansas attending VINCENT FOSTER's funeral he was asked by BERNARD NUSSBAUM to conduct a review of the items which were identified as work files in VINCENT FOSTER's office. On Monday, July 26, 1993, at approximately 10:00 a.m., NEUWIRTH began the review of the items in FOSTER's office. NEUWIRTH was also instructed to take any remaining personal items and place them in a box to be provided to the FOSTER family. As NEUWIRTH placed VINCENT FOSTER's briefcase in the box of personal items, he turned the briefcase on its side or upside down and observed several small pieces or scraps of yellow paper fall out of the briefcase. NEUWIRTH then reached inside the briefcase and pulled out more scraps of yellow paper. He speculated that the pieces of paper may have been stuck down in a corner of the briefcase and therefore not seen during the July 22, 1993 inventory of FOSTER's office. He recognized these to be in the handwriting of VINCENT FOSTER and he took the scraps of paper to the conference table located in BERNARD NUSSBAUM's office. He observed that the scraps of paper could be assembled and that they were pieces of a single sheet of yellow paper which had been torn into pieces. As he assembled the note, BERNARD NUSSBAUM returned to the office and was shown the note. The note was unsigned and contained no date. NEUWIRTH confirmed that the briefcase from which the scraps were recovered was the same briefcase which BERNARD

Investigation on 7/30/93 at Washington, D.C. File # WMFO 175B-WF-187743

SA CHARLES K. DORSEY
by SA SCOTT M. SALTER:plj Date dictated 8/2/93

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NUSSBAUM reviewed during the inventory of VINCENT FOSTER's office on July 22, 1993.

NEUWIRTH advised that after reading the note, NUSSBAUM left the office to see if he could find White House Chief of Staff MACK McLARTY. NUSSBAUM shortly thereafter returned with Assistant White House Chief of State BILL BURTON who advised that McLARTY was in Chicago with the President. NUSSBAUM, BURTON and NEUWIRTH decided to try to reach McLARTY in Chicago and they did in fact speak with him (NUSSBAUM, BURTON and NEUWIRTH participated in the conversation via speaker phone). During that conversation, McLARTY stated that it was important to notify VINCENT FOSTER's family and President CLINTON before anything was done with the note. There was also a discussion about whether this note was in fact a suicide note. During their conversation they also discussed the fact that the note should be turned over to the law enforcement personnel handling FOSTER's death investigation. BURTON questioned whether this unsigned, undated note constituted a suicide note. NEUWIRTH made the observation that even if this note did not meet the strict qualifications of being a suicide note, it was without question relevant to the investigation and was well within the guidelines of what the investigators sought. In addition, NEUWIRTH stated that concern that the U.S. PARK POLICE would leak the note's contents to the press was never an issue. NEUWIRTH advised the interviewing agents that at no time during the conversation was it stated that the note should not be turned over to the appropriate authorities.

NEUWIRTH advised that on the evening of Monday, July 26, 1993, the note was secured in the desk or safe within BERNARD NUSSBAUM's office. It was decided that the handling of the note would be discussed on Tuesday morning, July 27, 1993 in a meeting with McLARTY, DAVID GERGEN, BILL BURTON and NUSSBAUM. NEUWIRTH was requested by NUSSBAUM to conduct appropriate legal research to determine if there were any legal problems associated with turning the note over to law enforcement individuals.

NEUWIRTH advised that he was aware that LISA FOSTER, VINCENT FOSTER's widow, met with BERNARD NUSSBAUM in his (NUSSBAUM's) office sometime during the afternoon of Tuesday, July 27, 1993. NEUWIRTH stated that he was not present at that meeting.

NEUWIRTH advised that on the evening of July 27, 1993, a meeting was held between Deputy Attorney General PHILIP HEYMANN, Attorney General JANET RENO and White House officials regarding the note (NEUWIRTH was not present at that meeting). During that meeting, the UNITED STATES PARK POLICE arrived and took custody of the note.

NEUWIRTH advised that after locating the scraps of paper which constituted the note in the briefcase he observed that the only other items in the briefcase were a pen, a single rubberband and a single blank "post-it" note.

FD-302 (Rev. 3-10-82)

00852

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/3/93

BERNARD NUSSBAUM, Counsel to the President, the White House, Washington, D.C., was advised of the identities of the interviewing agents and informed of the nature of the interview. NUSSBAUM provided the following information:

NUSSBAUM advised that on Thursday, July 22, 1993, he conducted an inventory of the contents of VINCENT FOSTER's office in the presence of members of the Office of the White House Counsel, the UNITED STATES PARK POLICE, DEPARTMENT OF JUSTICE (DOJ), FEDERAL BUREAU OF INVESTIGATION (FBI) and the UNITED STATES SECRET SERVICE (USSS). During the inventory, NUSSBAUM removed the files and papers from VINCENT FOSTER's briefcase and reviewed those items. After the contents of the briefcase were removed he picked up the briefcase and placed it against the wall behind FOSTER's desk.

NUSSBAUM advised that on Friday, July 23, 1993, he departed Washington, D.C. in the morning and travelled to Hope, Arkansas, where the funeral for VINCENT FOSTER was held. While in Hope, Arkansas, NUSSBAUM spoke with STEPHEN NEUWIRTH, Assistant White House Counsel and he assigned NEUWIRTH to review the work files identified in the previous days inventory, Monday, July 26, 1993. NUSSBAUM instructed the staff at the Office of the White House Counsel to take the weekend off and return to work on Monday, July 26, 1993. NUSSBAUM returned to Washington, D.C. on the evening of July 23, 1993. On Saturday, July 24, 1993, NUSSBAUM travelled to Desert Island, Maine and returned to Washington, D.C. on the evening of Sunday, July 25, 1993.

NUSSBAUM advised that from the time the inventory of VINCENT FOSTER's office was completed on July 22, 1993 until Monday morning, July 26, 1993, the office remained locked with the only two keys in the possession of NUSSBAUM and VINCENT FOSTER's secretary, DEBRA GORHAM. On Monday, July 26, 1993, the review of work documents in VINCENT FOSTER's office was began by STEPHEN NEUWIRTH with periodic assistance from DEBRA GORHAM. At approximately 4:00 p.m., NUSSBAUM entered his (NUSSBAUM's) office

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Investigation on 7/30/93 at Washington, D.C. File # WMFO 175B-WF-187743

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by SA SCOTT M. SALTER:plj Date dictated 8/2/93

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FD-302a (Rev. 11-15-83)

00853

WMFO 72-WF-187908

Continuation of FD-302 of BERNARD NUSSBAUM, On 7/30/93, Page 2

and found STEPHEN NEUWIRTH at the conference table assembling what appeared to be scraps of yellow paper. At that time, NEUWIRTH turned to NUSSBAUM and said "Look what I found". NEUWIRTH went on to explain to NUSSBAUM that as he was packing items of FOSTER's personal property in a box, he discovered the scraps of paper in the bottom of FOSTER's briefcase. NEUWIRTH had been in process of placing the briefcase in a box when he tipped the briefcase over onto its side and several of the scraps of paper fell out. NEUWIRTH then discovered the rest of the scraps of paper located at the bottom of the briefcase. Based on their experience with working with FOSTER, both NEUWIRTH and NUSSBAUM believed the note to be in VINCENT FOSTER's handwriting.

NUSSBAUM advised that after assembling the note and reading its contents he (NUSSBAUM) left his office to go find White House Chief of Staff MACK McLARTY. NUSSBAUM was told that McLARTY was in Chicago with the President and NUSSBAUM then arranged to speak with McLARTY via telephone. During their discussion, NUSSBAUM and McLARTY discussed whether the contents of the note held any legal privilege or executive privilege. It was determined that several tasks needed to be accomplished including a research of the legal issues involved in disclosing the contents of the note, notification of LISA FOSTER, VINCENT FOSTER's widow, and notification to President CLINTON. It was learned that LISA FOSTER was to travel from Arkansas to Washington, D.C. on July 27, 1993 and that President CLINTON would be available to be briefed on the matter at approximately 6:00 p.m. on Tuesday, July 27, 1993.

NUSSBAUM advised that by Tuesday, July 27, 1993, it had been decided that the note would be turned over after it was shown to LISA FOSTER and after the matter was presented to President CLINTON. LISA FOSTER arrived at the White House and was shown the contents of the note at approximately 5:00 p.m. on July 27, 1993 and President CLINTON was briefed at approximately 6:00 p.m. on July 27, 1993. President CLINTON directed that the note be turned over to the appropriate authorities.

NUSSBAUM advised that later on July 27, 1993, Attorney General JANET RENO and Deputy Attorney General PHILLIP HEYMANN arrived at the White House and were shown the note. RENO told NUSSBAUM that the note should be turned over to the UNITED STATES

WMFO 72-WF-187908

00854

Continuation of FD-302 of BERNARD NUSSBAUM, On 7/30/93, Page 3

PARK POLICE (USPP). The USPP received the note at approximately 9:00 p.m. on July 27, 1993.

NUSSBAUM advised that he was rather surprised that the note was located in the bottom of a briefcase which he had believed was empty. He was also puzzled as to why FOSTER would have placed the note there. NUSSBAUM advised that he had no reason to question the explanation regarding the note's discovery given by STEPHEN NEUWIRTH. NUSSBAUM also stated that the note was kept in a secure place in NUSSBAUM's office on the night of Monday, July 26, 1993.

NUSSBAUM stated that he is aware of no other notes or messages left by VINCENT FOSTER which would be relevant to the investigation of his death.

At the conclusion of the interview NUSSBAUM provided to the interviewing agents the briefcase from FOSTER'S office and one yellow pad of paper, also taken from FOSTER'S office.

00855

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/3/93

CHARLES WILLIAM BURTON, also known as BILL BURTON, Deputy Assistant to the President and Policy and Staff Director for the Chief of Staff, the White House, Washington, D.C., was advised of the identities of the interviewing agents and informed of the nature of the interview. BURTON provided the following information:

BURTON advised that he was present on Thursday, July 22, 1993, for the inventory of items in the Office of VINCENT FOSTER. BURTON recalled that FOSTER's briefcase was emptied by BERNARD NUSSBAUM and the contents, which consisted of files and papers, were reviewed by NUSSBAUM. BURTON stated that after NUSSBAUM removed the papers and files, he observed the briefcase to be empty with the exception of several paperclips and a single "post-it" paper located in the bottom of the briefcase.

BURTON advised that during the afternoon of Monday, July 26, 1993, he was working at his desk when BERNARD NUSSBAUM requested that BURTON come to NUSSBAUM's office to see something. BURTON went to NUSSBAUM's office with NUSSBAUM and also met STEPHEN NEUWIRTH. BURTON was shown a note which had been put together after having been torn into many pieces. BURTON stated he immediately recognized the handwriting as that of VINCENT FOSTER. It was explained to BURTON that the items were located by NEUWIRTH in the bottom of VINCENT FOSTER's briefcase.

BURTON advised that after reading the note he, NUSSBAUM and NEUWIRTH discussed what steps should be taken next. It was determined that MACK McLARTY, White House Chief of Staff, should be notified immediately. BURTON and NUSSBAUM spoke with McLARTY via telephone and informed McLARTY of the note's existence and explained to him the note's contents. At that time, it was believed that although the note did not constitute a suicide note it was clearly relevant to the investigation regarding FOSTER's death. However, the note's contents also raised legal matters and questions of executive privilege. It was determined that the legal matters should be researched on the evening of Monday, July

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26, 1993, and that on the following day the note would be turned over to the appropriate law enforcement agency after President CLINTON and VINCENT FOSTER's family were notified of the note's existence. BURTON advised the interviewing agents that there was not an outstanding subpoena which ordered immediate surrender of the note before the legal research could be conducted. In addition, while the note was relevant in that it was an indication of FOSTER's state of mind, it was not a suicide note. Therefore there was "not an issue of time pressure" with respect to the need to turn the note over immediately.

BURTON advised that he is not aware of any other notes left by FOSTER which would be pertinent to the investigation of FOSTER's death.

BURTON advised that it was decided the note would be turned over to the DEPARTMENT OF JUSTICE after President CLINTON and VINCENT FOSTER's family were notified of the note's existence. On the evening of July 27, 1993, Attorney General JANET RENO advised individuals at the White House that the note should not be turned over to the DEPARTMENT OF JUSTICE, rather it should be turned over to the UNITED STATES PARK POLICE.

BURTON advised that although he observed BERNARD NUSSBAUM remove the contents FOSTER's briefcase of July 22, 1993, he saw nothing inconsistent with STEPHEN NEUWIRTH's story regarding how the pieces which made up the note were found.

FEDERAL BUREAU OF INVESTIGATION

00857

Date of transcription 8/2/93

THOMAS F. (MACK) McLARTY, III, Chief of Staff, the White House, Washington, D.C., was advised of the identities of the interviewing agents and informed of the nature of the interview. McLARTY provided the following information:

McLARTY advised that on Monday, July 26, 1993, at approximately 3:30 to 4:00 p.m. (Central Daylight Savings Time) he was in Chicago with President CLINTON when he was contacted by BERNARD NUSSBAUM and informed that a note had been located which appeared to have been written by VINCENT FOSTER and was relevant to FOSTER's death. The contents of the note were explained to McLARTY by NUSSBAUM and it was explained to McLARTY that there were potential legal and executive privilege issues which must be resolved before the note was disclosed. McLARTY discussed the matter with DAVID GERGEN, who was also in Chicago and they agreed that the note must be disclosed to the UNITED STATES PARK POLICE and they also agreed that LISA FOSTER, VINCENT FOSTER's widow, should also be promptly notified. After discussing this matter with DAVID GERGEN, McLARTY called NUSSBAUM back at the White House and a meeting was scheduled for Tuesday morning (July 27, 1993) to further discuss this matter.

McLARTY advised that on Tuesday, July 27, 1993, a meeting was held in his (McLARTY's) office involving BILL BURTON, DAVID GERGEN, BERNARD NUSSBAUM and McLARTY. At the meeting it was decided that President CLINTON would be advised of the note's existence at the earliest possible time and that the matter would be discussed with LISA FOSTER also. At approximately 6:00 p.m. on July 27, 1993, McLARTY advised President CLINTON of the note's existence. At approximately 7:00 p.m. on July 27, 1993, Attorney General JANET RENO and Deputy Attorney General PHILIP HYMAN arrived at the White House and were told of the note's existence. At that time, RENO advised that the note should be turned over promptly to UNITED STATES PARK POLICE. McLARTY stated that the note was in fact turned over to the U.S. PARK POLICE at approximately 8:30 p.m. to 9:00 p.m.

Investigation on 7/30/93 at Washington, D.C. File # WMFO 175B-WF-187743

SA CHARLES K. DORSEY
by SA SCOTT M. SALTER:pll Date dictated 8/2/93

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FEDERAL BUREAU OF INVESTIGATION

00858

Date of transcription 8/2/93

DAVID GERGEN, Assistant to the President, the White House, Washington, D.C., was advised of the identities of the interviewing agents and informed of the nature of the interview. GERGEN provided the following information:

GERGEN advised that on Monday, July 26, 1993, he was in Chicago, Illinois with President CLINTON and White House Chief of Staff MACK McLARTY. During the afternoon of July 26, 1993, GERGEN was advised by McLARTY that a note had been located at the White House by White House Counsel BERNARD NUSSBAUM. GERGEN was told that the note was written by VINCENT FOSTER and was relevant to FOSTER's suicide. GERGEN and McLARTY discussed this issue at which time GERGEN made clear to McLARTY that the note must be turned over to the law enforcement agency investigating FOSTER's death. McLARTY and GERGEN discussed executive privilege and legal issues involved in releasing the note to the proper authorities. Because McLARTY and GERGEN were only able to be told of the contents of the note and did not view the note in person, a meeting was set for Tuesday, July 27, 1993 at approximately 10:30 a.m. at the White House which would include McLARTY, NUSSBAUM and GERGEN, at which time the note could be viewed and the appropriate decision made regarding the note's disposition.

GERGEN advised that on Tuesday, July 27, 1993, sometime around 10:30 a.m. to 11:00 a.m., a meeting was held at the White House between BERNARD NUSSBAUM, BILL BURTON, MACK McLARTY and GERGEN. It was the unanimous opinion of the individuals present for the meeting that the note must be turned over to the DEPARTMENT OF JUSTICE as soon as possible. At that time, GERGEN and the others believed the DEPARTMENT OF JUSTICE was the agency responsible for the investigation of FOSTER's death. While being aware that the note must be turned over, GERGEN and the others also wanted to advise LISA FOSTER, VINCENT FOSTER's widow, that the note had been found and they wanted to show her the note. Arrangements were made to have a meeting with LISA FOSTER at the earliest possible time on July 27, 1993. It was learned that

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Investigation on 7/30/93 at Washington, D.C. File # WMFO 175B-WF-187908

SA CHARLES K. DORSEY
by SA SCOTT M. SALTER:plj Date dictated 8/2/93

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LISA FOSTER was in the process of traveling from Arkansas to Washington, D.C. on July 27, 1993 and the meeting was scheduled through LISA FOSTER's attorney, JAMES HAMILTON, to take place at approximately 3:00 p.m.

GERGEN advised that the meeting with LISA FOSTER did in fact take place during the afternoon of July 27, 1993. Also on July 27, 1993 at approximately 6:00 p.m. the existence of the note was disclosed to President CLINTON by MACK McLARTY. McLARTY was told by the President that the note should be turned over to the appropriate law enforcement agency.

GERGEN advised that at approximately 7:00 p.m. on July 27, 1993, a meeting was held at the White House between Attorney General JANET RENO, Deputy Attorney General PHIL HEYMANN, BERNARD NUSSBAUM, MACK McLARTY, BILL BURTON and GERGEN. At that time, the existence of the note was discussed with the Attorney General who stated that the note should be turned over to the UNITED STATES PARK POLICE immediately. RENO questioned the group as to why the note had not been turned over sooner and she was advised that the only reason that the note was not turned over sooner was that it had been decided to notify President CLINTON prior to turning over the note and that the first opportunity to meet with President CLINTON occurred at approximately 6:00 p.m. on July 27, 1993. It was explained that the contents of the note had potential implications regarding executive privilege. In addition it was explained to the Attorney General that it had been decided to meet with LISA FOSTER prior to the note being disclosed.

GERGEN advised that at approximately 9:00 p.m. on July 27, 1993, a detective from the UNITED STATES PARK POLICE arrived at the White House and the note was turned over to him at that time.

FD-302 (Rev. 3-10-83)

 00865

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/6/93

The undersigned Special Agents (SAs) were present at the West Wing of the White House when an inventory was conducted of the contents of VINCENT FOSTER's office. The following individuals were present during the inventory:

BERNARD NUSSBAUM	The White House
STEVEN NEUWIRTH	The White House
CLIFFORD SLOAN	The White House
CHARLES WILLIAM BURTON	The White House
DONALD FLYNN	U.S. Secret Service
PAUL IMBORDINO	U.S. Secret Service
DAVID MARGOLIS	Department of Justice
ROGER ADAMS	Department of Justice
Captain CHARLES HUME	U.S. Park Police
Detective PETER MARKLAND	U.S. Park Police
SA DENNIS M. CONDON	FBI
SA SCOTT M. SALTER	FBI

The inventory was conducted by BERNARD NUSSBAUM. Only individuals employed by the White House were permitted to look at the items and documents within the office. During the inventory, BERNARD NUSSBAUM removed the contents of a leather, satchel type briefcase which had been on the floor adjacent to the desk. The briefcase was identified as belonging to VINCENT FOSTER. The items which were in the briefcase (papers and files) were removed and reviewed by NUSSBAUM. After those items were reviewed they

Investigation on 7/22/93 at Washington, D.C. File # WMFO 175B-WF-187743

SA DENNIS M. CONDON
by SA SCOTT M. SALTER:pll Date dictated 8/5/93

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were not placed back in the briefcase but they remained on top of the desk. NUSSBAUM then pick up the briefcase and placed the briefcase against the back wall of the office. At the time, NUSSBAUM placed the briefcase against the back wall it appeared as though the briefcase was empty. At no time did the undersigned agents observed the inside of the briefcase.

Items which were found during the inventory to be strictly personal in nature and not related to VINCENT FOSTER's work at the White House were removed from the office and turned over to an attorney who represented the FOSTER family. No items were found during the inventory which were determined to be relevant to the investigation of FOSTER's death.

FEDERAL BUREAU OF INVESTIGATION

00867

Date of transcription 8/3/93

CLIFFORD M. SLOAN, Assistant Counsel, the White House, Washington, D.C., was advised of the identity of the interviewing agents and informed of the nature of interview. SLOAN provided the following information:

SLOAN advised that he first learned of VINCENT FOSTER's death on Tuesday, July 20, 1993 at approximately 11:30 p.m. SLOAN was aware that FOSTER's office was secured at approximately 10:00 a.m. on Wednesday, July 21, 1993. SLOAN was present for the inventory of the contents of VINCENT FOSTER's office which occurred on Thursday, July 22, 1993. SLOAN advised the interviewing agents that he recalled when BERNARD NUSSBAUM examined the contents of VINCENT FOSTER's briefcase but could not recall any specific items which were located in the briefcase. SLOAN believed that all the items were taken out of the briefcase however he did not examine the empty briefcase at that time. SLOAN was asked by the interviewing agents to review the notes he took during the inventory of July 22, 1993. SLOAN examined his notes and advised that there was nothing in his notes which is of any use in providing more details regarding the inventory.

SLOAN advised that he was not aware that a note had been located until the evening of Tuesday, July 27, 1993. At the time SLOAN was notified that a note had been located, the note had already been turned over to the UNITED STATES PARK POLICE.

SLOAN advised that he was told that the note was located by STEPHEN NEUWIRTH having been found when NEUWIRTH turned VINCENT FOSTER's briefcase upside down in order to place it in a box. As the briefcase was turned upside down several scraps of paper fell out of the briefcase and NEUWIRTH subsequently located more scraps of paper inside the briefcase. The scraps of paper were assembled and the message on the note could be read.

Investigation on 7/30/93 at Washington, D.C. File # WMFO 175B-WF-187743

SA CHARLES K. DORSEY
by SA SCOTT M. SALTER:plj Date dictated 8/2/93

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FD-302a (Rev. 11-15-83)

00868

WMFO 175B-WF-187743

Continuation of FD-302 of CLIFFORD M. SLOAN, On 7/30/93, Page 2

SLOAN advised that he was not surprised that the note was located in the bottom of the briefcase even though the briefcase had been previously emptied and its contents inventoried. SLOAN recalled that after the briefcase was emptied by NUSSBAUM and the contents reviewed, the empty briefcase was placed on the floor at the spot where he (SLOAN) was standing. However, SLOAN did not notice if there were any items remaining in the briefcase because he "did not look after every detail." SLOAN was not aware of any other notes left by VINCENT FOSTER which would be relevant to the investigation of FOSTER's death. SLOAN was also unaware of any circumstances regarding the location of the note in question other than the version given by STEPHEN NEUWIRTH.

FEDERAL BUREAU OF INVESTIGATION

00871

Date of transcription 8/5/93

DAVID MARGOLIS, Deputy Assistant Attorney General, DEPARTMENT OF JUSTICE (DOJ), Washington, D.C., was advised of the identities of the interviewing agents and informed of the nature of the interview. MARGOLIS provided the following information:

MARGOLIS advised that he was present for the inventory of the contents of VINCENT FOSTER's office which was conducted by BERNARD NUSSBAUM on July 22, 1993. MARGOLIS stated that all of the items in the office were reviewed only by BERNARD NUSSBAUM and members of the Office of the White House Counsel. MARGOLIS recalled that at one point during the inventory, items were removed from a briefcase in FOSTER's office and that the items removed were reviewed by BERNARD NUSSBAUM. MARGOLIS believed those items to be papers and files. After reviewing these items, NUSSBAUM picked up the briefcase which was apparently empty at that time and placed it against the back wall of FOSTER's office. MARGOLIS was not able to observe if there were any other items remaining in the bottom of the briefcase.

MARGOLIS advised that on July 21, 1993 he understood that the inventory of FOSTER'S office was to be conducted by both White House personnel and law enforcement personnel. On July 22, 1993, when MARGOLIS arrived at the White House to participate in the inventory, BERNARD NUSSBAUM told him that only White House personnel would review the items in FOSTER'S office. MARGOLIS stated that this change in the inventory process was a decision made by NUSSBAUM.

Investigation on 8/3/90 at Washington, D.C. File # WMFO 175B-WF-187743

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00872

Date of transcription 8/3/93

ROGER ADAMS, Deputy Assistant Attorney General, DEPARTMENT OF JUSTICE (DOJ), Washington, D.C., was advised of the identities of the interviewing agents and informed of the nature of the interview. ADAMS provided the following information:

ADAMS advised that he was present during the inventory of items located within VINCENT FOSTER's office on July 22, 1993. ADAMS stated that the review of the items was conducted by BERNARD NUSSBAUM. ADAMS recalled that at one point during the inventory NUSSBAUM located a briefcase somewhere behind VINCENT FOSTER's desk. ADAMS recalled that there was some conversation concerning whether or not FOSTER carried that briefcase with him to and from work on a daily basis. NUSSBAUM removed items from the briefcase, those items consisting primarily of papers and files and reviewed those items. ADAMS stated that from his vantage point he was not able to observe whether there were any items remaining in the bottom of the briefcase after the papers and files have been removed by NUSSBAUM.

Investigation on 8/3/93 at Washington, D.C. File # WMFO 175B-WF-187743

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ZB

 00888

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Date of transcription 8/5/93

MARGARET A. WILLIAMS, Chief of State for the First Lady, the White House, Washington, D.C., was advised of the identities of the interviewing agents and informed of the nature of the interview. WILLIAMS provided the following information:

WILLIAMS advised that on the evening of July 20, 1993, she was at home when at approximately 9:30 p.m., she received a telephone call from First Lady HILLARY CLINTON who told her that VINCENT FOSTER was dead of an apparent suicide. After being notified, WILLIAMS left her home and travelled to her office in the West Wing of the White House. WILLIAMS' primary purpose for travelling to the White House was that she did not have the First Lady's schedule for July 21, 1993 and she did not know if any of the scheduled events would need to be canceled. WILLIAMS arrived at the White House at approximately 11:00 p.m. at which time she went to the Press Office and spoke to several individuals there. She then went to the second floor where she observed that several of the cleaning people were standing in a hall. WILLIAMS then went to VINCENT FOSTER's office where she observed that PATSY THOMASSON was in the office and was sitting at FOSTER's desk. THOMASSON conducted a cursory search of the items on FOSTER's desk which included picking up and looking through some papers which were located on the desk. THOMASSON stated that she had hoped to find a note or something which would give comfort to LISA FOSTER, VINCENT FOSTER's widow. WILLIAMS remained in FOSTER's office for approximately ten minutes and then WILLIAMS departed FOSTER's office. During the time that WILLIAMS was there she did not see THOMASSON find a note on FOSTER's desk. THOMASSON remained in FOSTER's office after WILLIAMS left.

WILLIAMS advised that she is aware that a note had been found which was relevant to VINCENT FOSTER's suicide. WILLIAMS emphasized that she learned of the notes existence only through reading the newspapers and she has no other knowledge of the note that was found.

Investigation on 8/3/93 at Washington, D.C. File # WMFO 175B-WF-187743

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FEDERAL BUREAU OF INVESTIGATION

00884

Date of transcription 8/5/93

PATSY L. THOMASSON, Special Assistant to the President, the White House, Washington, D.C., was advised of the identities of the interviewing agents and informed of the nature of the interview. THOMASSON provided the following information:

THOMASSON advised that on July 20, 1993, she was at a restaurant in the Georgetown section of Washington, D.C., when she was contacted by her supervisor, DAVID WATKINS, and informed that VINCENT FOSTER had been found dead of an apparent suicide. WATKINS told THOMASSON that he (WATKINS) was presently at the FOSTER home with LISA FOSTER, VINCENT FOSTER's widow. WATKINS directed THOMASSON to go to the White House and to look in VINCENT FOSTER's office and attempt to find a suicide note. THOMASSON did return to the White House, arriving at approximately 10:30 p.m. She went to VINCENT FOSTER's office to look for a suicide note and in doing so she examined the items on the top of FOSTER's desk and she looked in FOSTER's center desk drawer. THOMASSON stated that she looked in FOSTER's center desk drawer because if she (THOMASSON) were to leave a suicide note, she would probably leave it in her center desk drawer. THOMASSON did not find a suicide note or any other note which she believed to be relevant to the suicide. THOMASSON told the interviewing agents that she did not remove any items from FOSTER's office. THOMASSON added that no one else removed any items from FOSTER's office either.

THOMASSON advised that during the time she was at West Wing on the evening of July 20, 1993, she was aware that BERNARD NUSSBAUM was in VINCENT FOSTER's office at times and that for a period of time MARGARET WILLIAMS was in FOSTER's office. THOMASSON stated that she had heard nothing about the finding of any note relative to FOSTER's suicide.

THOMASSON stated that on the evening that she went to look for the suicide note in FOSTER's office, she was confident that such a note would not be found. THOMASSON described VINCENT FOSTER as "stoic" individual who she believed would not have left

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Investigation on 8/3/93 at Washington, D.C. File # WMFO 175B-WF-187743

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a suicide note. THOMASSON stated that FOSTER "might have killed himself, but he would not have written a note".

FEDERAL BUREAU OF INVESTIGATION

00891

Date of transcription 8/5/93

DAVID WATKINS, Assistant to the President, the White House, Washington, D.C., was advised of the identity of the interviewing agents and informed of the nature of the interview. Also present for the interview was WATKINS' personal attorney, TY COBB. WATKINS provided the following information:

WATKINS advised that on the evening of July 20, 1993, after having learned that VINCENT FOSTER had been found dead, WATKINS and others went to the FOSTER home to be with the members of the FOSTER family. WATKINS was in the company of some UNITED STATES PARK POLICE investigators and he learned from them that there was not a suicide note recovered at the scene when FOSTER's body was found. WATKINS stated that during discussions with individuals at the FOSTER home, it was brought up that there could possibly be a suicide note located within FOSTER's office at the West Wing of the White House. In order to determine if in fact there was such a note at FOSTER's office, WATKINS called PATSY THOMASSON (a White House employee) and requested that she return to the White House and determine if there was a note found in FOSTER's office. WATKINS believed that he made this call to THOMASSON at approximately 10:00 p.m.

WATKINS advised that THOMASSON called him back sometime after 11:00 p.m. and stated that no note was found at FOSTER's office.

Investigation on 8/5/93 at Washington, D.C. File # WMFO 175B-WF-187743

SA BRADLEY J. GARRETT
by SA SCOTT M. SALTER:pll Date dictated 8/5/93

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FD-302 (Rev. 3-10-83)

00892

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/6/93

The following message was found to be written on a note found in VINCENT FOSTER'S briefcase on July 26, 1993:

I made mistakes from ignorance, inexperience and overwork
I did not knowingly violate any law or standard of conduct
No one in the White House, to my knowledge, violated any law or standard of conduct, including any action in the travel office. There was no intent to benefit any individual or specific group
The FBI lied in their report to the AG
The press is covering up the illegal benefits they received from the travel staff
The GOP has lied and misrepresented its knowledge and role and covered up a prior investigation
The Ushers Office plotted to have excessive costs incurred, taking advantage of Xaki and NRC
The public will never believe the innocence of the Clintons and their loyal staff
The WSJ editors lie without consequence
I was not meant for the job or the spotlight of public life in Washington. Here ruining people is considered sport.

Investigation on 8/6/93 at Washington, DC File # 175B-WF-187743

by SA SCOTT M. SALTER Date dictated 8/6/93

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4B

WHITE HOUSE COUNSEL DOCUMENTS
"TASK LIST," SCRIPTS FOR CONGRESS AND DEBRIEFINGS

1 December 13, 1994 "Task List" by Jane Sherburne describing 39 scandals in the Clinton Administration and how White House attorneys should work on them (DF 780643-780654)

2 June 30, 1995 Memorandum to the File from Jane Sherburne re Debriefing of Roy Neel's Whitewater deposition (DF 781690-691)

3 July 7, 1995 Memorandum for the File from Miriam Nemetz re Debriefing of George Stephanopoulos' Whitewater deposition (DF 781726-728).

4 July 8, 1995 Memorandum to the File from David B. Fein re Debriefing of Cliff Sloan's Whitewater deposition, (DF 781708-715).

5 July 15, 1995 Memorandum for the File from Miriam Nemetz re Debriefing of Patsy Thomasson's Whitewater deposition, (DF 781731-734).

6 July 15, 1995 Memorandum to the File from Jane Sherburne re Debriefing of David Watkins' Whitewater deposition, (DF 781735-738).

7 July 18, 1995 Memorandum to the File from David B. Fein re Debriefing of Susan Thomases' Whitewater deposition, (DF 781729-730).

8 August 1, 1995 Memorandum to Jane Sherburne and Natalie Williams from David E. Kendall (personal attorney for the Clintons) re: Representative Clinger Document Request (DF 781932-933).

9 Undated "Questions for Podesta" prepared for Committee hearings by White House (DF 781539542).

10 Undated, Scripted Questions for Committee hearings prepared by the White House Counsel's office (DF 781785-817).

11 Undated handwritten notes on Counsel's office strategy on Travel Office investigation (DF 780920, 781893-900).

JCS
Privileged

Task List
December 13, 1994

1. Issues

a. Foster document handling (Nemetz)
b. Travel Office (Cerf)
c. White House/Treasury contacts (revisited; report) (JCS)
d. obstruction of justice (DOJ handling of criminal referrals; Jay Stephens; RTC whistleblower reprisals) (**)
e. use of White House resources for response efforts (Nolan)
f. Foster suicide (Nemetz)
g. Espy (ethics; expanded Smaltz inquiry re Tyson's, Hatch Act) (Mills/Nolan/**)
h. Cisneros (**)
i. Brown (**)
j. Hubbell (**)
k. Ickes/union representation (**)
l. Stephanopoulos/NationsBank (**)
m. State Department -- passport files (**)
n. Archives -- abuse of personnel system (**)
o. Legal Defense Fund (Mills)
p. Health Care Task Force (Neuwirth)
q. White House operations (drugs, passes, helicopters) (Mills/Nolan)
r. residence renovations (Neuwirth)
s. presidential immunity (Sloan)
t. White House Arkansans (Thomasson, Nash, Rasco) (**)
u. PIC surplus (**)
v. improper electioneering (SBA) (**)
w. GSA (Roger Johnson) (**)
x. Value Partners (Neuwirth)
y. presidential campaign (FEC audit) (**)
z. commodities (Kendall/**)
aa. gubernatorial campaigns (Lindsey, Wright) - record keeping (Kendall/**)
ab. gubernatorial campaigns - MGSL (Kendall/**)
ac. Whitewater/MGSL (Kendall/**)
ad. other MGSL/McDougal (Kendall/**)
ae. Rose Law Firm (HRC work for MGSL; Frost Case, FSLIC representation) (Kendall/**)
af. David Hale/Susan McDougal/SBA (Kendall/**)
ag. Tucker (**)

DF 780643

ah. Lasater (bond deals; cocaine; Roger Clinton) (**)
ai. use of loans to achieve legislative initiatives (**)
aj. ADFA (political favors; Larry Nichols) (**)
ak. Mena Airport (**)
al. troopers (**)
am. women (Kendall/Bennett/**)

2. Preliminaries

a. identify key republican objectives and routes for achieving them -- e.g.

   i. sustain shadow on WJC character
   ii. hype HRC threat to white men, traditional women

b. identify guiding principles for response -- e.g.

   i. nothing to hide
   ii. stick to the facts
   iii. get it right the first time
   iv. keep it simple
   v. resist harassment
   vi. govern America

c. executive privilege research

   i. OLC state of the play
   ii. comments by republicans re assertion
   iii. protocol
   iv. strategy/principles for asserting

d. research re entitlement of Congress to HRC/WJC transcripts of depositions given to Fiske

e. research re congressional subpoena power

   i. reach (HRC/WJC)
   ii. precedents
   iii. committee rules
   iv. procedures

f. research re limitations on legislative power to investigate

   i. legislative purpose
   ii. overreaching precedents*%&

DF 780644

g. learn new Hill committee jurisdiction, membership

h. courtesy visits to Hill -- member and staff level (eg. Frank, Sarbanes, leadership; Harris, Meek, etc.)

i. consultations

*j. offensive structure

i. FEC legal research
ii. W&C
iii. DNC/DCCC/DSCC
iv. surrogates

k. representation of Administration officials by private counsel

i. compensation

l. research re proper role of OWHC with respect to pre-inaugural issues with an aim toward articulating principles for determining who should be principal spokesperson on a particular issue and the extent to which each (private counsel/OWHC) should participate.

Foster Document Handling

a. independent counsel inquiry

i. set meeting with Starr

(1) identify options with respect to issuance of report

(a) precedents

(2) inquire about status and timing
(3) HRC/WJC depositions

ii. status check with counsel for individuals

b. congressional hearings

i. identify likely committees (Senate Banking; House Banking, Gov Ops, Judiciary)

(1) identify friends -- key Members and staff

DF 780645

(2) identify leadership
(3) identify key republicans

ii. congressional visits

(1) Daschle
(2) Sarbanes & other Banking
(3) house

iii. prepare background materials

(1) assemble public record
(2) talking points and fact memoranda

iv. determine how to handle representation of individual White House staff

(1) outside counsel
(2) attorney fees
(3) assertion of privileges

c. press strategy

d. surrogate role

i. Hamilton
ii. identify others

e. offensive research

f. issue specific tasks

i. security/Livingstone issues

(1) debrief Joel
(2) review Livingstone file
(3) consult with Randy Turk
(4) interview Livingstone
(5) fact memo

ii. inconclusiveness re Williams removal of documents

(1) confer with Ed Dennis
(2) debrief Joel re security officer
(3) assemble public reports of document removal on 7/20 and statements attributed to White House officials

DF 780646

iii. chain of custody re transfer of Clinton personal files

(1) complete interviews

(a) Carolyn Huber
(b) Linda Tripp
(c) Deborah Gorham
(d) Bob Barnett
(e) Syvia Mathews

(2) fact memo
(3) assemble public record
(4) determine strategy re release of WDC file

iv. search of Foster office

(1) assemble public record

(a) including any relevant testimony at Senate hearing on Foster suicide in July 1994

(2) fact memo
(3) legal research

(a) obligation to seal the office immediately

(b) obligation to cooperate with law enforcement authorities vs. protection of privileged material

(c) basis for protecting disclosure to Congress of privileged material in VF office

(i) basis for resisting identification/production of all documents in VF office and Bernie's safe

v. delay in surfacing suicide note

(1) complete interviews

(a) Gergen
(b) Burton

DF 780647

(2) assemble material in public record

(3) fact memo

(4) legal research

(a) obligations to disclose a note to law enforcement authorities

(i) if not obviously a suicide note

(ii) timeliness requirements

4. Foster suicide

a. Chris Ruddy/Center for Western Journalism
b. causes for suicide
c. monitor Senate report; coordinate with Hamilton
d. develop press response

5. Obstruction of Justice

a. delay in addressing criminal referrals; DOJ role (D.C. and Paula Casey)

i. determine usual process
ii. develop chronology/fact memo with key documents

(1) Charles Banks
(2) Paula Casey
(3) (track Lewis correspondence released by Leach)

iii. identify Committee interest (D'Amato; House)
iv. assemble public record

b. RTC/Kansas City investigation (suspension of Jean Lewis, Richard Iorio etc.; April Breslaw; pre-1993 activity)

i. develop chronology of known facts and key documents
ii. interview Breslaw
iii. identify Committee interest (Leach; Senate)
iv. examine last day of House hearings for offensive help

c. Jay Stephens retention=≈δ

DF 780648

i. track public record
ii. identify efforts to give IC civil jurisdiction
iii. identify Committee interest (D'Amato; House)

6. White House/Treasury contacts

a. Senate Report

i. review/comment on Report
ii. keep in touch with Minority Report developments
iii. prepare press strategy
iv. identify surrogates

b. White House investigation of White House/Treasury contacts (receipt of information about RTC investigation; work product; redactions)

i. prepare file memorandum describing use of unredacted transcripts
ii. determine continuing Bond interest

c. Truthfulness of White House and other Administration witnesses (referral of testimony to Starr -- Ickes, Stephanopoulos)

i. consult with lawyers
ii. identify areas of vulnerability
iii. research re perjury
iv. press response

d. Heads-up policy

i. surrogates
ii. uniform application
iii. Treasury status
iv. press strategy for release of Committee report
v. work up background paper on precedents

e. Recusal policies/OGE/Executive Orders

i. press strategy for release of Committee report
ii. background paper
iii. consult with OGE
iv. consider Executive Order or other response to Committee

DF 780649

f. Contacts policy (Executive Order)

i. press strategy for release of Committee report
ii. background paper
iii. consult with OGE
iv. consider Executive Order or other response to Committee

g. Rikki Tigert

i. determine her first likely congressional appearance in the new congress
ii. assemble public record
iii. interview Gergen, Tigert and Klein re communications on the subject of recusal

(1) determine response to allegations of "pressure"
(2) determine response to allegation that Klein misled the committee

iv. determine press strategy/talking points

7. Smaltz Investigation

a. Espy -- ethics (Mills)
b. beyond Espy ethics (Hatch Act, Tyson's)

i. determine charter, scope of inquiry
ii. determine press strategy
iii. identify congressional interest
iv. assemble public record
v. fact gathering

8. White House Whitewater response effort

a. legal research

i. the appropriate role of White House staff with respect to issues arising pre-inauguration (see above)

Morgan

Counsel to AG Comm.

b. fact development (scope of effort, etc.)

c. determine press strategy/develop talking points

d. assemble public record

i. Lindsey involvement pre-1994

DF 780650

ii. Ickes' Ward Room undertaking (1/94)
iii. Podesta damage control effort

9. Cisneros

a. gather facts
b. establish contact with counsel
c. determine press strategy/develop talking points
d. identify source of congressional interest
e. assemble binder with summary and key documents

10. Brown

a. establish contact with counsel
b. determine press strategy/develop talking points
c. identify source of congressional interest
d. assemble binder with summary and key documents

11. Hubbell

a. monitor cooperation
b. determine press strategy/develop talking points

12. Ickes (union representation)

a. monitor
b. assemble binder with summary and key documents

13. Stephanopoulos (Nationsbank)

a. monitor
b. assemble binder with summary and key documents

14. State Department (passport files)

a. identify issue
b. determine congressional interest
c. assemble binder with summary and key documents

15. Archives (abuse of personnel system)

a. identify issue
b. determine congressional interest
c. assemble binder with summary and key documents

16. SBA (improper electioneering)

DF 780651

a. identify issue
b. determine congressional interest
c. assemble binder with summary and key documents

17. GSA (Roger Johnson)

    a. identify issue
    b. determine congressional interest
    c. assemble binder with summary and key documents

18. FEC Audit

    a. determine congressional interest
    b. assemble binder with summary and key documents

19. PIC surplus

    a. identify issue
    b. determine congressional interest
    c. assemble binder with summary and key documents

20. MGSL-related

    a. Whitewater Investment

        i. assemble public record
        ii. review documents, including work of accountants and tax returns; Lyons reports
        iii. develop fact memo and chronology
        iv. press strategy

    b. MGSL

        i. assemble public record
        ii. review W&C documents
        iii. develop fact memo and chronology
        iv. fact memo

            (1) why MGSL failed; relationship of campaign contributions to failure
            (2) Rose Law Firm work (HRC 1985)

                (a) conflicts
                (b) enabled MGSL to stay open longer than it should have

        v. surrogate strategy

    c. Rose Law Firm

        i. fact memo

            (1) status of conflicts inquiry
            (2) Frost case

(3) Rose services to FSLIC related to Lasater brokerage firm (HRC 2 hours in 1987, signed pleadings for VF)
(4) billing practices

ii. assemble public record
iii. determine press strategy

d. David Hale

21. Other Pre-Inaugural

a. Gubernatorial Campaigns

i. identify issues

(1) whether expenditures and loans were properly reported under state law

(a) Lindsey role
(b) Betsey Wright

(2) role of the Bank of Cherry Valley

(3) Starr looking at 1984, 1986, 1990

ii. interview Kendall; review Kendall documents
iii. interview Snyder/Lindsey
iv. fact memo
v. press strategy

b. Negative Associations

i. Jim Guy Tucker
ii. David Hale (SBA)
iii. Jim McDougal
iv. Dan Lasater (bond deals, cocaine, Roger Clinton)

c. Mena Airport

i. identify issue
ii. determine congressional interest
iii. assemble binder with summary and key documents

DF 780653

d. ADFA

i. identify issue (political favors)
ii. determine congressional interest

iii. assemble binder with summary and key documents

e. Use by Governor Clinton of loans to further legislative initiatives

i. identify issue
ii. determine congressional interest
iii. assemble binder with summary and key documents

f. Commodities

i. determine congressional interest
ii. assemble binder with summary and key documents

g. Paula Jones

i. assemble binder with summary and key documents

h. Troopers

i. identify issue (job for silence, other)
ii. determine congressional interest
iii. assemble binder with summary and key documents[a≈δ]

DF 780654

Privileged and Confidential

June 30, 1995

MEMORANDUM TO THE FILE

FROM: Sherburne

RE: Roy Neel's Deposition

Roy Neel was deposed on June 29, 1995 in the presence of his attorneys, Justin Simon and Elaine Mitlin (sp?), by Chertoff, with Ben Veniste, Cole and Mitchell. The questioning was aggressive but not hostile. Simon thought Chertoff was extremely articulate in asking questions but surprisingly poor on follow-up.

Collier Conversation

Chertoff explored a conversation between Tom Collier (Babbitt's Chief of Staff) and Neel. Apparently Collier testified that he had called over to the White House and spoke to both McLarty (or Burton) and Neel, who blew off his complaints about Nussbaum -- that he was interfering with the Park Police investigation by shutting them out.

Collier remembered a conversation with Collier but only that it was related to articles in the newspaper about how upset the White House was over leaks by the Park Police about the investigation. He recalls that Collier told him that the Park Police were conducting their investigation by the books but Neel does not recall that Collier asked him to do anything.

Neel does not remember if Collier initiated the call or whether he called Collier. Neel had been in frequent contact with Collier about the North West Forest Management plan and other matters so it is possible the conversation about the press leaks happened in the course of a call that originated for some other purpose. Neel was sure he would have remembered if Collier had complained about Nussbaum.[1]

Trash

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[1] Committee staff indicated that Collier has notes of his conversation with Neel that are in the possession of the Committee.

DF 781690

Neel said that the trash was in an opaque bag on his desk when he arrived in his office shortly before 8 a.m. on July 21, 1993. He recalls that someone popped in and told him that it was trash from Foster's office that had been retrieved the night before and stored in his office for safekeeping. He moved the bag from his desk to his credenza and went to the morning staff meeting.

The staff meeting was short and he returned to his office about 15 minutes later. Shortly thereafter, someone came and picked up the trash.

Chertoff did not seem particularly preoccupied with the trash.

Other

Neel was asked whether he had conversations with Maggie Williams about Foster's office. He said he had one discussion with Williams after the note had been given to investigators and its existence was about to be released to the press. He advised Williams to speak to the ushers about the note before they read about it in the newspaper. Chertoff showed no interest in this conversation.

Chertoff asked about meetings to discuss press strategy. Neel had no recollection. Chertoff asked about a 6:05 p.m. message from Roy to Mack to call him at home. Neel had no recollection of why he would have been trying to reach Mack. Chertoff also asked whether Neel attended meetings in the Roosevelt Room on either July 22 or August 2. Neel did not recall.

Chertoff asked with whom Neel had spoken about his deposition, specifically excluding conversations with Sherburne. He showed no interest in "water cooler" talk. The deposition lasted 45-50 minutes. Chertoff told Neel it was extremely unlikely he would be called to testify at the hearing.

DF 781691

PRIVILEGED AND CONFIDENTIAL
ATTORNEY WORK PRODUCT

July 7, 1995

MEMORANDUM FOR THE FILE

FROM: Miriam Nemetz

RE: Stephanopoulos Deposition

On July 5, 1995, I received a debriefing from Stan Brand regarding George Stephanopoulos's deposition that morning. The deposition lasted 40 minutes. Giuffra did the questioning for the majority. Brand reported that Giuffra's questioning was perfunctory with little follow-up. The minority staff did not ask any questions.

Background

Giuffra first asked a series of preliminary questions regarding GBS's position in the campaign and his positions within the White House. He then asked about GBS's relationship with Foster. GBS said he had very irregular contact with Foster, primarily in connection with the Travel Office and Health Care Task Force matters. Giuffra did not ask many questions about the Travel Office. GBS said he may have attended a meeting regarding the Travel Office the day the FBI press guidance came out. Giuffra asked whether GBS recalled going to Foster's office and he said not really. GBS never spoke with Foster during the campaign.

Giuffra asked whether GBS had any knowledge that Foster was handling personal legal matters for the President and First Lady and GBS said no. He asked whether GBS had any knowledge that Foster prepared the Clintons' tax returns and he said no. Giuffra asked who prepared the Clintons' tax returns during the campaign and GBS said he did not know.

Giuffra asked if GBS was aware of a published story about Whitewater during the campaign and he said yes. Giuffra asked if GBS assisted in the response to the story. GBS said he worked on the response along with Paul Begala and Dee Dee Myers and then turned the matter over to Jim Lyons. Giuffra asked whether Lyons had a relationship with Foster and GBS said he was not aware of one. Giuffra asked whether Nussbaum got involved with the response to the New York Times article and GBS said yes, I think so.

Giuffra asked about Nussbaum's frequency of contact with the President and the First Lady. GBS said he assumed Nussbaum had access to both of them.

DF 781726

GBS became impatient and said he thought he was there to answer questions about the night of July 20th, 1993, after which Giuffra got to the point.

Events of July 20

GBS said that on July 20, 1993, he helped the President prepare for the Larry King show and stayed to watch it. At the beginning of the show, Burton came in to say there was an unconfirmed report that someone died. A few minutes later, he came back and said it was Foster. Myers, Seidman, Gearan, and others were there.

GBS said he called Hubbell from a hallway in the Residence. He reached Hubbell through the operator. He had to repeat the news several times because Hubbell was unable to absorb it. McLarty called the First Lady. GBS was present when he called her. GBS called Dreier and asked him to draft a condolence statement. He went upstairs in the Residence briefly. He then went to Gearan's office to work on the draft statement.

GBS left at about 11:00. He did not see Nussbaum that night. He did not speak to Burton, Sylvia Matthews, or Maggie Williams. He did not speak to McLarty about sealing the office, and had no knowledge about that issue. He did not make or receive any calls at home.

Morning of July 21

GBS arrived the next day at 6:30 a.m. He does not recall whether he saw McLarty. He may have seen Nussbaum at the senior staff meeting but had no personal contact with him. He attended the meeting with the Park Police in Watkins' office for a few minutes and then left.

Giuffra said, it has been reported that you said at the Park Police meeting that Foster's death should be investigated in the normal way. GBS said he did not recall but that it sounded like something he would say.

Other Questions

Giuffra asked whether GBS recalled any discussion of documents in Foster's office, and he said not at the time. Giuffra asked whether he had any knowledge that the President reviewed documents from Foster's office and he said no.

Giuffra asked whether GBS knew when the note was found. He said McLarty and Gergen called him from Chicago and he and Gergen discussed the release of the note. GBS said he heard the note fell out of a briefcase and was in pieces.

DF 781727

Giuffra asked whether GBS had conversations regarding the disposition of Foster's papers with Nussbaum, Thomasson, the First Lady, the President, or Williams, and he said no to all. Giuffra asked whether GBS had any role in responding to the press regarding the handling of papers and he said no. GBS was asked whether he assisted in preparing the First Lady for her April 1994 press conference and he said no.

Improper Questions

Giuffra asked GBS whether he had been interviewed by the grand jury, and Brand refused to let him answer. Brand made a speech about interference with his client's constitutional rights, and said he would not contribute to it by allowing his client to answer the question.

At the end of the deposition, Giuffra admonished GBS not to talk about the deposition with anyone else.

DF 781728

PRIVILEGED AND CONFIDENTIAL
Draft -- 7/7/95

MEMORANDUM TO THE FILE

FROM: David B. Fein

DATE: July 8, 1995

RE: Cliff Sloan Deposition

I spoke to Pete Romantowski, who told me the following about Cliff Sloan's deposition before the Senate Select Committee.

Guiffra conducted the examination as if he never questioned anyone before. He jumped around, asked irrelevant questions, cut the witness off before answering, and asked no follow-up questions. The deposition started at 9:30 am, and he did not ask about Sloan's notes of the Foster document review until 5:23 p.m. Cliff's whole story came out in detail but not in a coherent way.

He started by asking about Cliff's background, his resume, and then his responsibilities in the WHCO in 1993. He asked about others' responsibilities in the WHCO, and Cliff described Beth Nolan as ethics, Bill Kennedy as securities, and background checks, Steve Neuwirth as varied, legal policy, cases in litigation. Guiffra asked Cliff to be more specific, and Pete interrupted and said he was told they would not get into substance other than Foster documents. As with other areas in which Pete interrupted, Guiffra got annoyed and then moved on.

Guiffra then limited his question about Steve's other work to things that involved Foster, and Sloan mentioned that Steve reported to Foster on the Armstrong case and maybe the health care task force litigation. Guiffra asked about Steve having worked at Wachtell with Bernie, and tried to show a special relationship but Sloan resisted, saying that all counsels worked with Bernie equally on their matters.

Cliff was asked where his office was, the extent of Bernie's contact w/POTUS in July 1993 (POTUS in Tokyo, Bernie on vacation), the extent of their contact during the entire period (oral/written communication on as-needed basis), daily contact (?). Cliff was asked if he would characterize Bernie as a close aide to POTUS (don't know, senior staff). Cliff was asked about frequent visitors to the counsel suite.

He was asked a lot of questions about Maggie, her position, her contact with the WHCO from June 1993 until Bernie left (Pete objected again re: scope), did Maggie ever visit the WHCO suite (yes, a few times), the extent of FLOTUS' contact w/WHCO from

June 93 to March 94 and the frequency of her contact, was she ever present in WHCO suite (yes, a few times), in June and July 1993, the relationship between the WHCO and the FLOTUS' Office (at this point, Kravitz, who was helpful throughout, teed off on Giuffra and said: If you're going to ask irrelevant questions, do it once).

Sloan was asked about his relationship with Foster, Foster's areas of responsibilities (health care, official/personal matters, such as matters about the residence, the selection of Supreme Court nominees), he was asked if financial disclosure was one of Foster's areas (don't know), tax returns (yes), personal legal matters for Clintons (don't know what you mean by that, he did what I refer to as personal/official matters), did Bernie work on personal legal matters for Clintons (don't know what you mean by personal), and Kravitz asked why do we care what Bernie worked on. Did other associates work on official/personal (Beth did on disclsoure). Did Foster work on Whitewater (don't remember any discussion of Whitewater prior to his death, a vague recollection as a campaign issue, first heard of it in late September 1993), what happened in September 1993, and Kravits said there was a full prior deposition last summer on this subject and it did not need to be repeated here.

Sloan was asked if Foster kept a neat or sloppy office, did he work at his desk or coffee table, did he maintain papers or just magazines on his coffee table (all of which were don't recalls). Sloan was asked about the WHCO's central files, the location of safes, and burn bag procedures. He was asked how he learned about Foster's death, if he heard that any law enforcement officers asked the White House to seal Foster's office (press accounts only), if he heard that Bernie entered Foster's office (yes, learned from Bernie that Bernie went in, Maggie and Patsy were present then or shortly, Maggie on couch crying, they briefly looked for suicide note on desk, 10 minutes or so). He was asked if Maggie had a close relationship with Foster (worked together on various issues), did Patsy have a close relationship with Foster (not that he knows of, were acquainted from Arkansas), what was Patsy's job, has he ever spoken to Maggie about her activities that night (yes, Maggie said the same thing), even spoken to Patsy about that night (yes, went in, looked for note, no documents removed), any recollection of FLOTUS calling Maggie that night, Evelyn Lieberman in the West Wing that night, Bill Burton (in December 1993, Burton buttonholed Cliff and Neal in a hallway and asked if they were sure there were no documents taken out of Foster's office that night, they said not that they know of, and asked him if he knew, and he said not that he knew of).

Cliff discussed his and Joel's informal factfinding, in which they spoke to Patsy, Maggie and Burton. Did they speak to Howard Paster (no), Sylvia Matthews (earlier in August with Gearan, re: burn bag, during which Bernie walked in), Dee Dee Myers (not about what she did), was she present that night, who

did Patsy report to (Watkins), ever spoke to Watkins about July 20 (no), Park Police request to Watkins to seal office (no knowledge), did Bernie open drawers when he looked for note that night (don't know), did anyone remove documents (not that Cliff knows), know of Secret Service agent observing Maggie removing documents from WHCO (no knowledge), anyone observe Maggie, Patsy or Bernie remove documents that night (never heard anything that would suggest documents were removed on night of 7/20).

The questioning turned to July 21. Cliff said everyone at the 9 am meeting was in shock and grief. He was asked about Betsy Pond straightening out Foster's office and was Bernie critical of her for doing that (told Cliff that it would have been better if she hadn't done it).

They took a lunch break at 12:24 p.m.

Cliff was asked about the Craig Livingstone story, how did he hear about it (a call from Craig after his OIC interview and Cliff explained the whole story. Cliff was asked about the Park Police meeting on Wednesday morning (not present), the later meeting at 4 p.m. with DOJ, PP, FBI (before 4 Cliff learned about the trash bag, learned from Steve or Bernie about a time sensitive trust document in Foster's office that had to be signed by the Clintons). Cliff was asked whether he was aware of any dissatisfaction by the Park Police (no). Cliff did not see Patsy or Maggie on July 21.

Cliff told his entire account about the 4 p.m. meeting. I asked Pete if what questions in particular he was asked about the meeting: any agreement re: procedure for review of documents, any discussion of DOJ review of documents (no, discussions were preliminary and were overtaken events next day), dissatisfaction by Park Police (no), dissatisfaction regarding delay in interviewing secretaries (no), did Bernie tell law enforcement that he, Maggie and Patsy had been in the office the night before (don't remember, but he did explain what was going on in White House by way of background but don't remember that detail). Cliff described how he put the trash bag in the office, and was asked questions about that in painstaking detail.

Cliff was asked if Bernie, on July 21, called Heymann, Reno, Margoles, FLOTUS, Maggie Williams. Cliff was asked who Carolyn Huber is and whether she tried to call Bernie at about 6:30, did FLOTUS speak to Bernie re: documents in Foster's office, did anyone from FLOTUS office speak to anyone in WHCO on 7/21 re: documents in Foster's office (other than trust document, nothing else comes to mind), any other conversations re: Foster documents on July 21 (remember Steve and Cliff prepared secretaries for interviews, why?, to facilitiate inquiry, described preparation), Cliff said the lock went on the door around 7 p.m., Secret Service had key, no one else. Cliff was asked why a lock and not a guard outside the door, and he said that would have been a misallocation of resources.

Cliff said on July 22, there was no regular 9 a.m. meeting, there was the Betsy Pond interview. Cliff was asked why he was present, did Bernie direct that, was there dissatisfaction about WHCO sitting in (no), did he advise Betsy Pond how to answer (no), did Bernie burst in (no, just came in because he wasn't there when it started and simply asked if you have everything you need, is everything okay). Guiffra appeared to dismiss this issue as silly. Cliff was asked if he reported to Bernie what Betsy said (no).

Cliff was asked about the procedures for the review of documents Foster's office. Bernie said to Cliff or Cliff and David Margoles that Bernie would would review documents in the presence of others in Foster's office, then there was a conversation with Heyman and either Margoles or Heyman expressed concern to Sloan about the procedures, Cliff thinks he said to Heyman that he had to talk to Bernie about it, Cliff thinks Magoles had told Heyman about the procedures, was Heyman angry (don't recall any anger, just an issue to discuss), was there an understanding that DOJ lawyers were supposed to review the documents (no didn't hear that, from DOJ or anyone. Cliff was asked if Bernie has said since then that it was a mistake (no), as far as Cliff knew, the issue was resolved by Bernie and Phil and we were to proceed as Bernie outlined, Cliff thought to everyone's satisfaction, was Park Police a party to the discussion (no, Cliff thought it was Margoles' responsibilities to speak on behalf of all investigators).

They took a break at 2:45 p.m.

Cliff was asked to draw a diagram of the office and where everyone was, did Bernie state the ground rules (doesn't remember), any questions from law enforcement about how to proceed (no). Cliff picked up the documents, described them, and sorted them into (1) Foster personal, (2) anything that anyone expressd interest in seeing, and (3) all other documents. Cliff said there was not a separate pile for Clintons personal. Cliff's rough estimate that it took one hour, he doesn't remember what was reviewed first, Bernie did the documents on the desk first, Cliff doesn't remember if there were documents on the coffee table, he does not think a key was needed to open drawers, some things sat where they were and were not in piles. Cliff said the 3d pile was biggest -- all other, the 2d pile single was the size of a redweld folder, the first pile, Cliff doesn't remember. Cliff was asked if, as Bernie reviewed documents, was he seeking advice (no, he sought their response, whether they were interested in them or not), Bernie held up some documents and displayed them in some fashion, did anyone else read documents (no), could law enforcement see the documents (not sure), was Spafford closer to the desk (maybe, but standing to side), how carefully did Bernie review documents, did he mention the Whitewater file (does not recall), tax returns (does not recall but look at my notes), what was your process for taking notes (it was harder as we moved around the room, fewer notes as

Cliff questioned what he was trying to do, doesn't remember any complaints from law enforcement). What did DOJ people say (people in general expressed their interest in seeing particular things), like what (phone message slips, calendar set aside). Cliff told the story about his barking at Agent Salter, how it became the subject of kidding as Bernie disassocated himself from what Cliff said, Cliff apologized. Was there any discussion re: attorney/client privilege w/DOJ (doesn't remember).

Cliff was asked about a briefcase (doesn't remember where it was, or how it was handled, thinks Bernie took documents out of it, Cliff's notes from a week later when interviewed by the FBI on the subject of the after Steve found it, notes of interview are better than present recollection of events re: briefcase). Cliff was asked where he was standing when Bernie reviewed the briefcase, what Bernie said, what color was it, did it have handles (no, a zipper, and it opened from top and was soft). Cliff doesn't remember saying that Bernie said it was empty, his notes show he had the impression that it was empty, he doesn't remember looking in briefcase), did he ever say anything to Bernie about the contents of the briefcase (no), did he notice anything, scraps (not that i recall), did he review the trash (a reference to it in his notes but no independent recollection), did he leave meeting to get trash (no), was there a discussion with everyone present about what would become of the documents (no except for Foster personal, which would be given to Foster's family attorneys and law enforcement would deal with those attorneys, Spafford took one box with him, the pile segregated for separate review -- premise was those would be dealt with later, the purpose of the whole thing was to look for a suicide note or extortion note. Guiffra pounced on Cliff's reference to an extortion note, and Cliff said that possibility was mentioned and discussed.

Cliff was asked who left when, who remained, what happened to the documents (he took them and put them in his office and they were reviewed by the Park Police on July 30). He was asked about Clinton personal docsuments (his notes refer to get Maggie and something to do with Clintons' stuff but he doesn't remmeber and he was not involved subsequently, knows that in August 1993, he learned they went to Williams and Connolly and he learned more in December 1993. Cliff doesn't know how Clintons' personal documents were identified; Bernie has since said that Bernie sorted them out, Bernie remained remained and continued to review documents after meeting, Cliff not there, Maggie picked them on July 22, Maggie said she and a legal intern take some documents over to the residence. Cliff was asked why (I don't know, for safe keeping), any discussion of the Clintons' need to review the documents (no), did Bernie speak to FLOTUS (doesn't know), did Cliff ever speak to Tom Castleton about this (no), how did the documents get from residence to W&C (messenger on 7/27), did DOJ ask for documents to remain intact (no, not that Cliff knew of). Cliff said at the conclusion Bernie said the office would now be

open. Did Bernie say it was impossible to keep office closed (don't know).

Cliff learned of the suicide note on Tuesday night, Steve and Bernie told him in Steve's office, it had already been turned over to authorities, Cliff saw a xerox of the pieces later in the year, never saw the original. Cliff was asked about his reaction to the note (surprised as to its discovery and its content for the pain and torment it reflected), was there any discussion re: why note was not found on 7/22 (not that i recall but Bernie drafted a proposed statement re: the circumstances.

At 4:11 p.m., they took a break.

Cliff asked why there was a delay in his being informed about the discovery of the note, and he said he did not regard it as a delay, there was no need to tell him before then. Cliff was asked if FLOTUS received the note, if she was invited to Bernie's office to review the note.

Cliff was asked if the FBI 302 was accurate. He said his notes on the interview are the most accurate. He was asked where the 302 is inaccurate, and Pete said no, they would have to go over statement by statement. Guiffra could not locate Cliff's notes.

Guiffra identified the following documents: Z000332 (Cliff's conversation with Maggie in December 1993, a line by line review, it was harmless), Z000334 (touched on briefly), 335, 336-337 (can you tell us nature of what's redacted? ask the White House), 337 (did Michael Berman have a role here), 338-39 (reference to Jim Lyons, are you aware of whether Foster was in contact with Lyons, was Lyons a frequent caller to WHCO), 356-63, 364-80, 340-55 (Guiffra did not understand the typed script of Cliff's notes which he gave to Joel, why prepared? for your convenience, people like you and others who couldn't read Cliff's handwriting, cursory use of it, Guiffra seemed unacquainted), 353 (burn bag reference), 354 (reference to get Maggie, go through office, get Clintons' stuff, doesn't remember, recognizes it as instruction from Bernie but had nothing futher to do with it).

Cliff was asked again when did Bernie sort out Clintons' personal stuff (don't know but Bernie remained in Foster's office when law enforcement left and Bernie was still examining documents). Any conversation with Bernie then (yes, Bernie asked do we have any obligation to maintain or preserve these documents, Cliff said he thought they ought to be maintained, Steve wondered whether the Presidential Records Act might require them to be retained, Cliff said he didn't know but would be prudent to keep them, Cliff left and Steve and Bernie remained (Cliff was not asked about how Bernie took a call that Cliff thought was from Susan Thomases and Bernie described to caller his review of documents and how he throught it struck the proper balance).

Guiffra asked if Cliff's notes had any references to Clintons' personal finances, and Cliff pointed out 340 documents first, family trust, 352 first family, 350 first family investment. Did Cliff discuss with Bernie that Bernie was aware that Foster worked on Whitewater (no), and Kravitz complained for the 5th or 6th time because Cliff had to leave by 6 p.m. Cliff was asked about 312 and 313, which he thinks he prepared in January 1994, in response to misinformation in the press. Cliff was asked about Bernie's subsequent review, why was it done out of the presence of law enforcement personnel, Cliff hesitated, didn't know, it may not have been subsequent review, Bernie may have different recollection of the piles, 2d review might be Cliff's own assumption. Cliff was asked about 331, 314-15 (did Bernie review it, what use was made of it).

At 5:53 p.m.. Guiffra said he had no further questions and apologized for taking so long.

Kravits questioned Cliff for 20 minutes about the following:

1. Contacts between WHCO and Maggie Williams (not aware of any close or special relationship); Maggie is well respected and liked in the White House, including the WHCO), was she the only assistant to visit the suite (no, lots do).

2. Late on July 20, when Bernie called Cliff to tell him about Foster, did Bernie say where he was (no he didn't remember him saying but he assumed he was there). What was Bernie's emotional state (sad, upset, devastated that night and succeeding days).

3. Craig Livingstone's call to Cliff had nothing to do with nothing.

4. The trust related document had to be signed imminently. Was it taken to residence and locked in closet (doesn't know).

*** 5. The review of documents in Foster's office, it was made clear that law enforcement personnel were free to specify documents for further review. Who did? David Margoles. Others? No clear recollection. Every document they specified was segregated and later made available to them, by July 30, law enforcement had opportunity to review every document from Foster's office that they had specified, and were given copies of everything they asked for.

6. Cliff was kidded after he barked at Agent Salter.

** 7. Cliff's notes from review -- Kravitz hammered home things that Bernie said, not whispered to Cliff, not what Cliff read, but what Bernie said, loud enough for all to hear.

8. In the typed script of Cliff's notes, Kravits wanted to establish under burn bag, the six bullets, that these items were in burn bag, but Cliff couldn't say it for sure.

At 6:17 pm, Kravitz was done.

Guiffra made a point of saying that Kravitz had no more questions but also said he had no more questions.

It was confirmed that Cliff would be a hearing witness.

DF 781715

PRIVILEGED AND CONFIDENTIAL
ATTORNEY WORK PRODUCT

July 15, 1995

MEMORANDUM FOR THE FILE

FROM: Miriam Nemetz

RE: Thomasson Deposition

On July 12, 1995, I received a debriefing regarding Patsy Thomasson's deposition from David Williams. Thomasson's deposition lasted from 2:30 to 4:15 p.m. Chertoff and Ben-Veniste were the questioners.

Background. Thomasson was asked whether she had provided all documents requested and she said yes. She was asked whether she had any relevant diaries or personal notes and she said no. Thomasson was asked whether she had spoken to the White House Counsel's Office and she said she had spoken with me. She said I asked her whether she had gone down the stairs or elevator after leaving Foster's office.

Thomasson was asked a number of questions about her job with Lasater. Chertoff established that Lasater was convicted of a felony. He asked about a loan that Lasater, Inc. took out from Madison Guaranty. Thomasson said the loan was taken out in 1984-85 and was due in 1991. She was asked if she was ever CEO of Lasater, Inc. and she said yes. During this line of questioning, Ben-Veniste objected, and after some jousting Chertoff dropped it.

Thomasson was asked about her job history, how long she had known the President and Watkins, whether she worked on the campaign (no), whether she worked in Arkansas government (she was appointed to the highway commission by Pryor), how long she had known Foster (a long time), whether the Rose Law Firm ever represented Lasater (no).

Travel Office. Thomasson was asked about her work with Foster on the Travel Office. Thomasson said the Travel Office handled cash and needed to be audited. The White House had no in-house auditors, so they decided to hire an outside auditing firm. Thomasson, Watkins, and Foster all discussed the matter. They hired Peat Marwick, and the auditors found $15,000-$18,000 in cash missing. Thomasson said Kennedy called the FBI, and Thomasson said that in Arkansas, you would tell prosecutors about a potential offense. She said they knew people from the FBI so it was natural for them to talk to them.

Thomasson was asked about World Wide Travel. Thomasson said World Wide Travel was hired about a week after the firing of Travel Office employees. Chertoff asked why World Wide Travel was hired, and Thomasson said she did not know, maybe because they worked for the campaign. Chertoff asked whether Catherine Cornelius was involved in the change, and Thomasson said no. Chertoff was asked whether there was a lot of discussion about Travelgate, and Thomasson said no, we talk about operations, and don't waste our time with that kind of thing.

Night of July 20th

Chertoff next began to ask about the night of July 20th. Thomasson said she was eating dinner at Sequoia when she received a page from David Watkins. Watkins told her Foster was dead and said, "We want you to go look for a suicide note." Chertoff asked who is "we," and Thomasson said she did not know. [She later learned that McLarty was at the house and that he and Watkins discussed the note.]

Thomasson said she first went to her office in the West Wing and unlocked the door. She then went to the first floor, where she recalled seeing Bruce Lindsey, Dee Dee Myers, and Bernie Nussbaum. She said everyone was upset and wondering what they could have done. Thomasson told Nussbaum of Watkins' request, and they went up the stairs together to the Counsel's Office. Chertoff asked why the Counsel's Office suite was not locked and alarmed, and she said no. Thomasson said there was no discussion about sealing the office with Watkins or with the first floor group. Thomasson was asked whether she saw a cleaning lady (yes), whether the lights were on (yes), an whether she saw a guard (no).

Thomasson said she went into the office with Nussbaum. Nussbaum walked around with his head down; he was shaking his head, grieving. In less than ten minutes, Nussbaum left. Then Williams came in, talking about Foster, grieving, holding a kleenex. Then Williams left and Nussbaum came back in. Thomasson walked out ahead of Nussbaum. She does not recall whether he locked up. She did not go to Nussbaum's office.

While she was in the office, Thomasson sat in Foster's chair. She looked on the desktop, in desk drawers, and in the briefcase. Thomasson thought that Foster would have left a note someplace where it would be discovered not before his death but with minimal searching afterward. Therefore, she thought she might find an envelope or folded piece of paper on the surface of one of the places she looked.

Chertoff asked whether Thomasson was in the WHCO suite for 45 minutes and she said no, less. He asked whether she was

there for 30 minutes and she said she did not think so, it seemed like a short time, but it was possible.

She then said, "Let me recreate this," and walked through her story again referring to the pager records. Thomasson said she and her friends had already gone outside to catch a cab when she was paged by Watkins at 10:34. She placed a call from a pay phone and held for Watkins for at least five minutes. She spoke to him, then waited for a cab with her friends. This took some time because there were eight people and they needed at station wagon cab. She traveled from Sequoia to the White House and entered through the Northwest gate. She first went to her office, then visited with grieving people on the first floor, then went with Nussbaum to Foster's office. After she left Foster's office, she saw John Emerson and Dana Lawrence and visited with them. Finally she went back to her office in time to page Watkins at 11:36.

Thomasson was asked whether she called Evelyn Lieberman, and she said she did not recall. She was asked if she went to the First Lady's office and she said no. She was asked if the light was on in the First Lady's office and she said she did not recall.

Other Questions

Thomasson was shown some cell phone records, and said she was not issued a cell phone until after Watkins left in the summer of 1994. She was asked if she received a page from Mike Lufrano and did not recall.

Thomasson said she did not recall receiving a call about securing Foster's office on the 21st. She was asked whether she knew the Park Police were there and she said yes, she went to the morning briefing.

Thomasson did not go to the funeral. She recalled no conversations about securing the office or moving documents.

Thomasson was asked when she learned about the note. She said she thought it was found the weekend when she was in Arkansas in August because she saw it on television. She was asked if she was curious about the note and she said no, because it said nothing about suicide. In her view, the note was about what Foster thought was wrong with politics in Washington. Thomasson was asked if she discussed the content of the note with anyone and she said no. When asked why, she said she was trying to put it behind her.

Ben-Veniste Questions

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Ben-Veniste asked whether the first page asked Thomasson to provide her location and she said yes. He asked whether she called from a pay phone and she said yes. He asked whether Watkins told her Foster's body was found in Fort Marcy Park and she said no. He asked if he told her there was no note with the body and she said no. He asked how long it took her to get to the White House and she said 15-20 minutes. He asked the mood at the White House and she said everyone was upset and people were crying. He asked if she assumed Nussbaum would be able to let her into Foster's office and she said yes. He asked her to describe how she looked into the briefcase. She said she opened the flap, closed it again, and left it under the desk. It was a very quick search.

DF 781734

July 15, 1995

MEMORANDUM TO THE FILE

FROM: Sherburne

Subject: Senate Deposition of David Watkins

Ty Cobb gave the following report of Watkin's deposition on July 11, 1995. Watkins was deposed by Giuffra. Ben-Veniste, Ivey and Swan were present for the Minority.

Background

Interminable questioning about Watkins' background, including questions about the location of Watkins' office and his phone number, his responsibilities and title. Giuffra asked whether Watkins had responsibility for security matters. Watkins said not really, that the secret service reported to him on isolated things, spot events.

Thomasson

Who does Patsy Thomasson report to (me). What is her job (director of OA, involves accounting, personnel, payroll, computers, etc.) Whether Thomasson had a security clearance on 7/20 (don't know if she was cleared at that time -- heard she may not have been although know that she was cleared at a later date). Who had the ability to gain access to Counsel's Office (not sure). You? (not sure) Would Thomasson's failure to have obtained a security clearance prevented her from getting access (not sure). Did she ultimately receive a clearance (believe so).

Are you aware she previously worked for Lasater, who was convicted for drug offenses (Ben Veniste objected, calling the question a cheap shot and wholly irrelevant).

Relationship Questions

What is your relationship with Nussbaum (routine, cordial). With Maggie Williams (worked with her and interacted more frequently that with Nussbaum). With Foster (friend since they were 8 or 9 years old; not closest friend; sporadic contact

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during time at White House; more during the Travel Office matter).

What was your role in the campaign (no official role). When did you first learn about the Whitewater investment (don't remember). Who is Jim Lyons (a Denver lawyer). What was the relationship between Lyons and Foster (don't know).

Travel Office

Did you have meetings in May with Foster on the Travel Office matter? (yes) What was Travel Office matter (following a Peat Marwick audit, which documented serious deficiencies in the Travel Office operations, Travel Office employees were dismissed). Did you make the decision to dismiss the employees (yes, with the concurrence of the Chief of Staff). Did Maggie Williams have any involvement in the Travel Office matter (no, none). Did you have discussions with Foster after the Travel Office dismissals became controversial (had discussions with all sorts of people, including Foster). Was Foster particularly upset (everyone was).

Foster Role as Deputy Counsel

What were Foster's responsibilities (don't know). What was he working on (don't know). Were you aware he was working on Clintons' financial disclosure (no). Were you aware he was preparing the Clintons' taxes (maybe knew that). Did you know he was working on personal legal matters for the Clintons (assumed he was but that is only an assumption). Did you know he was while he was at the White House (don't recall). Do you know what files he maintained regarding the President's personal finances (no).

July 20

How were you notified of Foster's death (Secret Service paged me in a movie theater and reported that Foster had been found in Fort Marcy Park and that it appeared he had shot himself; they provided a Park Police number to call; I went back into theater and told wife, then phoned the Park Police; then called Burton who informed McLarty). Did you talk directly to Mack (don't remember that I did). Did you call Craig Livingstone (don't remember -- may have). Who does Livingstone report to? Isn't he the person to whom the White House had attributed responsibility for the backlog in security clearances at the time?

Describe what happened when you went to the Foster home with the Park Police (one of the kids answered the door and called for Lisa Foster who was then informed of Foster's death). Did anyone at the Foster home talk about a suicide note (not sure). Who did

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you call from the Foster home (Thomasson, Bowman, Grasier, Gearan). Why Thomasson (my deputy). When did you call her (don't remember). Around 10-11 (maybe). What did you say to her (asked her to look for a note and she said she would). Who did Hubbell call (don't know). How did Hubbell react to Park Police (don't know). Did you escort Park Police to patrol car (don't recall). Did you give them a business card (don't recall).

Did the Park Police ask you to seal the office (no). Did you speak to Burton, Gearan, Gergen, Mack or anyone else about sealing the office (no). When did you next talk to Thomasson (she called back an hour or so later and was at the White House and told me there was no note; she did not describe where or how she had looked for a note). Did she tell you whether anyone else had looked with her (she mentioned that Nussbaum and Williams also had been in Foster's office). What did she say about them (they were devastated, crying and on the sofa commiserating). Did she say whether anyone else was in the office (no). Did she say that anyone had removed papers from the office (no).

Did you speak to the President that night (yes). To HRC (no). Were you closer to the President than to HRC (yes). Did you speak to Williams that night (don't recall), Livingstone (may have, about going back to the house on 7/21). What is Livingstone's relationship to the Counsel's Office (don't know). Do you attend Counsel Office staff meetings (no).

<u>July 21</u>

Where was the Park Police briefing (in my office because it was convenient). Who was present (not sure -- at least Nussbaum, Stephanopoulos, Kennedy). Were Hubbell, Burton or Hamilton present (don't recall). Describe the briefing (basically the Park Police telling Nussbaum how they were going to proceed; really a Nussbaum meeting with Nussbaum responding on behalf of the White House). Did Mack designate Nussbaum to be in charge (don't know). Was there discussion about securing the office (don't recall, perhaps some mention of posting a guard).

Any further contact with anyone about the investigation after this meeting (no, it was off my radar screen). Did Thomasson have a continuing role (don't recall). Were you involved in any discussion about Foster documents (no). Did you know that Foster documents were being transported to the Residence (no). Do you know whether the President or HRC reviewed the documents that were sent to the Residence (no).

<u>Note</u>

Were you involved in discussions about the note (yes, everybody talked about it). Discussions about why Foster killed himself (same).

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Thomasses

Who is Susan Thomasses (attorney from New York, campaign advisor working on scheduling and advance and advising on other matters on an ad hoc basis; not aware she was working on any personal legal matters for the Clintons). Is she a friend of HRC (yes), of the President (don't know).

Miscellaneous

Who handled Whitewater press during the campaign (Lyons or Betsey Wright)

Ben-Veniste briefly questioned Watkins. Was Senator Pryor at the Foster residence (yes). Did the Park Police mention when they were at the Foster home that they had not found a note at the Park (yes). Did Lisa Foster participate in that discussion (yes). Did you see Livingstone hovering around the Foster house on evening of 7/20 (thought so, although wouldn't describe him as "hovering").

DF 781738

PRIVILEGED AND CONFIDENTIAL
Draft -- 7/18/95

MEMORANDUM TO THE FILE

FROM: David B. Fein

DATE: July 18, 1995

RE: Susan Thomases Deposition

I spoke to Benito Romano, who told me the following about Susan Thomases's deposition before the Senate Select Committee.

[Benito will call me back when he gets his notes back; their being typed. He provided the following from his recollection.]

Republicans attempted in the beginning to ask ST to go back to describe her work on the campaign on Whitewater, which was contrary to BR's understanding w/Chertoff on Thursday. They bickered over this for about 40 minutes, settling on ST making a short declarative statement about her work on the campaign and an understanding that they could come back and ask more on this at some later time.

ST was asked about the suicide, how she learned of it. She described her con w/HRC on 7/20, HRC in Ark., ST thought that HRC was with her father who was dying (already dead, with her mother).

She was shown tel. records and asked if she attempted to make contact w/people, including Maggie Williams, in WH, on 7/20 -- no recoll.

On 7/21, she went to her NY office, then to the White House, had con's with a lot of people, including MW, grieving over loss of VF. Back to her DC office in middle of afternoon, then returned to the White House, saw POTUS later, had personal conversation, friend to friend, grieving, sharing loss.

Con w/MW on 7/21, MW said she and PT had been in VF office and no note had been found.

On 7/22, recalled con. w/BN. BN described how he was going to organize review of docs in VF office. ST was asked pointedly whether she expressed concern about access to VF office and if she had talked to FLOTUS about it. No such con. w/FLOTUS. Nor had she expressed concern. Just listened to BN's proposed procedure, which she thought was fine and she supported it.

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BN said that personal papers of Clintons were going to be sent to lawyer, and she mentioned, in her deposition, Kendall. Ben-V tried to clarify which Williams lawyer, and she thinks Kendall was in July/August, but it might have been Barnett or just Williams generally.

Kip read from the deposition of SN and asked if it refreshed her recoll. She said it did not. He then read from BN's lengthy answer to this and asked if it refreshed her recoll. It did not.

Then a series of improper questions, which BR and Ben-V put a stop to, e.g., is BN lying, is SN lying.

Did she have subsequent cons w/MW about removal of docs -- no.

Did she have subsequent cons w/FLOTUS about BN's procedures -- maybe, but only after it became public and BN was being criticized for it.

Any con. w/anyone at time of suicide re: process used by BN or concern about access to VF office -- no.

Contrast between her version and BN's version -- BN alluded to reference he thinks Susan made to hearing other people expressing concern about access, that ST said she had been talking to people and they had been expressing concern or even disagreement about access to office. ST has no recollection of any debate, disagreement or any conversation about that. BN says no mention of FLOTUS.

ST was not asked ask about: VF asked to see her outside the office the week before -- VF specifically complained about the work he had to do, asked ST to talk to BN about how much work there was to do both by him and the others in the office, that he was getting files prepared to send to W&C, e.g., blind trust. ST had cons w/others to get these files to outside persons. VF wanted to make sure the files were in shape, e.g., with labels, before he sent them to W&C. VF asked if there was a Travelgate investig., how would he cover it, not enough lawyers in office.

personal ?

BR is travelling on Sat. for two weeks and pressed for a date on which he will have to come back to DC for her appearance. They told me it was unlikely this week or next week, final week is most likely but that's all they could say until a few days of the hearings were done.

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ATTORNEY WORK PRODUCT

August 1, 1995

MEMORANDUM

TO: Jane Sherburne
Natalie Williams

FROM: David E. Kendall DEK

RE: Representative Clinger Document Request

Nicole and I have now reviewed the twenty-four file folders of documents which this firm received from the White House on July 27, 1993, with a view towards determining what documents might be responsive to Representative Clinger's July 13, 1995 letter to me (copy attached at Tab 1).

Attached at Tab 2 hereto are copies of two non-privileged documents which we believe are responsive. Attached at Tab 3 are five privileged documents (numbers 16, 17, 18, 19, and 59 on the Privilege Log) which we believe conceivably could be relevant, although we are not certain and need more information. We have indicated on the Privilege Log submitted to the Senate Special Committee on Whitewater that four of these five documents are subject to a possible claim of executive privilege.

I told Barbara Comstock last night that I believed the White House was negotiating with the House Committee on Government Reform and Oversight to establish confidentiality procedures for documents produced, and I indicated that I would

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ATTORNEY WORK PRODUCT

agree to be bound by such procedures. At Tab 4, I attach a draft of a letter to Comstock transmitting whatever documents we decide should be produced.

DF 781933

Questions for Podesta

A. HRC

1. What was the First Lady's involvement in this?

2. Well, how did she hear about problems in the Travel Office?

   * Did Thomason tell her about problems in the Travel Office?

   * Wasn't Thomason in the room when she spoke with Foster about the Travel Office? What did he say about the matter? Seems odd he is running around the White House telling everyone who would listen about problems in the office, but not his close friend?

   * Why doesn't your report mention Thomason being in the room?

   * Why doesn't your report mention Thomason talking with the First Lady about the Travel Office? Your interview notes with the First Lady suggest she spoke with him about the matter.

3. What about the comments made by Steve Davison about her involvement and that of others? What did you do to check out these allegations? Did you talk with Thomason about this? Why did you decide not to credit them?

4. Why did you not mention Fan Dozier's statement that Thomason told her the First Lady would be mad if she knew the WWT people were not working in the Travel Office yet?

5. Doesn't this show how Thomason was moving this thing around? Doesn't it explain how Thomason was able to spur White House officials to action?

6. Also Lorraine Voles talks about Hillary and Susan being involved in this thing, and that Susan called Mack on Hillary's behalf to get the employees fired.

6. Have you read the description of her involvement in the OPR and GAO reports? Those reports suggest that she played a far more active role than you describe?

** Those reports say she spoke with Thomason on May 12 about the situation.

** OPR says she told Thomason that they needed to stay on top of the situation, because it would make a good story if there was corruption, correct?

** Both reports say she urged that the employees be dismissed on May 14 and mentioned they had been criticized for slow appointments.

-- Why doesn't your report mention these facts? Watkins gave you notes from his conversation with her which state this. Did you ask him about this? Why not?

-- Well, isn't it odd that Watkins doesn't mention the First Lady in his interview with you, but then turns around and provides you with notes of a conversation with her?

8. Now Watkins doesn't appear to be the only person suggesting the First Lady was in the camp that pushed for action?

-- Mack McLarty wrote, on a chronology prepared just a little over a week after the events in question: **May 16, HRC pressure**

-- You were given this chronology during your review, correct? Your report doesn't mention she pressured McLarty; it does not even mention a discussion between her and McLarty on May 16 -- the day before the decision to fire the employees.

-- Why did you do to follow up on this? Why did you discredit this? Did anyone at the WH urge you not to include this ~~[illegible]~~ passage

B. Involvement of Others

1. Why doesn't the report mention other people who were involved? Stephanopoulos also wanted the people out -- according to Jeff Eller. Steve Davison says the same thing.

2. Carville also was involved, wasn't he? And what about Susan Thomases -- Lorraine Voles says she called Mack on behalf of Hillary.

DF 781540

C. Predetermined Firings

1. Wasn't the decision made to fire these people before Peat Marwick's audit? Well your notes from the interview with Ricki Seidman sure suggest the decision already had been made. She says the auditors were coming in to find out about the operations. **(Eller says no decision had been made).**

2. What about these May 13 talking points saying employees will be dismissed today? Don't they suggest the decision already had been made?

3. Didn't Watkins meet with WWT representatives to discuss the Travel Office during the transition? Didn't he ask Cornelius to prepare memos on restructuring the Travel Office? Didn't he also ask Matt Moore for such a memo?

Isn't the 2/15/93 a blueprint for the firings

4. Why didn't your report address Watkins' lie to McLarty that the Peat Marwick review was part of the NPR? **(Show Podesta O'Connor material re plans)**

5. Why doesn't your report mention that Patsy Thomasson and David Watkins wanted Catherine Cornelius and Clarissa Cerda to lie about whether Watkins had read their master plan for taking over the Travel Office? **(Cerda interview notes from second day actually very good on this point)**

   -- Don't these comments suggest an attempt to cover-up what really was going on?

   -- Did you at least discuss this issue with McLarty? Shouldn't someone else have had the opportunity to assess the credibility of these people? If made, the comments surely would have wanted disciplinary action.

6. Why doesn't your report mention that Watkins and Thomason asked Brian Foucart and Clarissa Cerda to strongarm Cornelius into resigning? Didn't this evidence corroborate the claims of Cerda and Cornelius about Watkins's and Thomason's statements?

DF 781541

D. ICAP

1. Why doesn't your report mention this effort on the part of Thomason and Martens to gain more WH travel-related business for their company?

1a) Why didn't you look into question of SCE?
(b) would that question be more pressing w/ the existence of [illegible] HT?

2. Their solicitation efforts were contemporaneous with the Travel Office events. Moreover, ICAP was the reason Martens "was in Washington at the time" on May 12, when this thing got rolling.

3. Doesn't ICAP show how deeply Thomason and his personal interests had infiltrated the White House? Is the reason this was not included to avoid mentioning the involvement of the President in promoting the financial interests of his friends?

E. Kickback Allegation

Why didn't you mention that the rumors of kickbacks were unfounded? Ross Fisher told you he had never said Dale asked him for a kickback? Why not remove the spectre of corruption which the White House had improperly cast over these poor people?

F. Peat Marwick audit

1. Why didn't you mention that Larry Herman was angry at the White House's claim that the firings were based on Peat Marwick's report, when in fact the report had not been issued?

2. Your report implies Peat Marwick was asked to do an audit, but could not because the records were so disorganized. But the Peat Marwick report says the auditors were asked to assess the accounting systems. Were you trying to make the situation worse than it was?

G. President

Why didn't you mention that Lindsey had told President about the planned firings two days before they occurred?

You mentioned that Thomason had told President about the problems in the Travel Office in March? Why not this?

What was the President's real role in all of this?

H. Inteference with the FBI

Shouldn't Foster as well as Kennedy have been reprimanded for intefering with the FBI's investigation into the Travel Office?

I. Reprimands
Do ymt

DF 781542

Scripts for Hearings

Questions

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Questions

Tab	Descriptions
1.	ICAP Project
2.	Questions on White House Cooperation with Travel Office Investigations
3.	Role of HRC
4.	Self-Critical and thorough management review
5.	SGE Status of Harry Thomason and Darnell Martens
6.	Reprimands

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ICAP PROJECT

1. Now, Mr. Podesta, can you explain this so-called ICAP project?

   a. So basically Darnell Martens wanted to do a consulting project for the White House, correct?

   b. He wanted to study non-military aircraft owned by the federal government, right?

   c. He enlisted the aid of his business partner Harry Thomason in proposing this idea to the White House, right?

   d. And Harry Thomason spoke with the President and Bruce Lindsey about the Martens' proposal?

   e. Martens also spoke with someone at OMB and GSA about his idea, correct?

   f. But at the end of the day, no action was taken on the project, correct?

2. Now, this ICAP project had nothing to do with the Travel Office or its functions and operations, correct?

3. But your Management Review <u>was</u> about the Travel Office?

4. Your task was to examine the Travel Office affair, <u>not</u> the federal aircraft fleet, correct?

5. Nor was your task to examine Mr. Thomason's and Mr. Martens' activities generally, correct?

6. Your task was to examine the Travel Office matter; and you discussed their activities to the extent they related to that matter.

STATEMENT: **The Management Review did not discuss the Mr. Martens' proposal for the simple reason that it had nothing to do with the Travel Office matter.**

DF 781787

QUESTIONS ON WHITE HOUSE COOPERATION
WITH TRAVEL OFFICE INVESTIGATIONS

Background

The Republicans may seek to justify undertaking this gratuitous Committee investigation of the other Travel Office investigations by attempting to discredit White House cooperation with the other investigations.

Such a tactic can be rebutted by questioning the panel witnesses about the nature of their particular inquiries and what was sought from the White House in assisting these inquiries.

It is expected that all witnesses with the exception of Michael Shaheen (OPR) will indicate that the White House cooperated to the full extent sought by the various investigators.

FBI Witness

1. Isn't it true that the FBI Travel Office inquiry was a purely internal one? (Yes.)

2. Did the FBI even seek access to White House documents or witnesses in its review of the Travel Office matter? (No.)

3. Can it be said that the White House interfered with or failed to cooperate with the FBI's investigation? (No.)

IRS Witness

1. Isn't it true that the IRS Travel Office inqiuiry was a purely internal one? (Yes.)

2. Did the IRS even seek access to White House documents or witnesses in its review of the Travel Office matter? (No.)

3. Can it be said that the White House interfered with or failed to cooperate with the IRS investigation? (No.)

GAO Witness (Nancy Kingsbury)

1. In the GAO review that culminated in its May 1994 Report on the Travel Office, did the White House provide the GAO with access to thousands of pages of documents and scores of White House witnesses? (Yes.)

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2. Did the May 1994 GAO report complain of lack of White House cooperation? (No.)

3. Did the White House honor the agreements reached about the nature of the documents sought? (Yes.)

4. Vincent Foster's file on the Travel Office was turned over to this Committee in August 1995. Have you had a chance to review this file? (Yes.)

5. Was this something you would have been interested in reviewing before completing the May 1994 report? (Yes.)

6. Vince Foster's file contains primarily his notes on the matter, made after the events themselves, in preparation for litigation or hearings on the Travel Office. Would such documents fall within the scope of the GAO's request to the White House, as narrowed by later negotiations? (No, because the GAO agreed not to seek attorney work product created after the Travel Office events.)

7. In fact, didn't GAO ultimately agree that the only attorney notes it would review were William Kennedy's notes of meetings with the FBI? (Yes.)

8. Now that you have had the opportunity to review the file, have you identified any information in the file that would have materially changed the conclusions reached in the GAO's May 1994 report on the Travel Office? (No.)

   a. Would the file have changed your conclusion that the White House had legal authority to terminate the Travel Office employees without cause in May 1993? (No.)

   b. Would the file have changed your conclusion that both Harry Thomasson and Darnell Martens were <u>not</u> "Special Government Employees" subject to conflict-of-interest laws? (No.)

   c. Would the file have changed your conclusion that FBI and IRS officials' actions during the Travel Office events were reasonable and consistent with the agencies' normal procedures? (No.)

<u>OPR Witness (Michael Shaheen)</u>

[It is expected that Mr. Shaheen will be a hostile witness, asserting that White House cooperation was a problem throughout the OPR investigation, and that Foster's Travel Office file should have been turned over to OPR investigators.]

1. Did the White House refuse to provide any witnesses that OPR sought to interview? (No.)

2. Other than requesting the White House to provide the notes from the Management Review's interview of Vincent Foster, did OPR request any other of Foster's documents from the White House? (No.)

3. Other than the Foster interview notes, did OPR request any documents of <u>any</u> White House official? (No.)

4. Does the OPR report assert that the White House refused to provide any material over OPR's objection? (No.)

5. If Foster's Travel Office file had been turned over to OPR, would the contents of the file have materially altered the conclusions expressed in the OPR report? (No.)

   a. Specifically, would anything in Foster's file have materially altered the conclusion that "[T]he FBI acted properly throughout its dealings with the White House regarding the Travel Office matter"? (93) (No.)

   b. Specifically, would anything in Foster's file have materially altered OPR's conclusion that "[T]he FBI did not lie in its report to Janet Reno?" (93) (No.)

      i. Doesn't the one page of Foster's file that appears to be a response to the FBI report comport with statements of witnesses made available to OPR that that Foster believed the FBI mischaracterized certain facts in their report? (OPR report at 83.) (Yes.)

6. Other than the complaint that the White House objected to White House officials being asked to sign sworn witness statements, did the OPR complain of any other action of the White House in respect to its cooperation with the OPR investigation? (No.)

7. Did OPR investigators ever complain to the White House Counsel's office about White House "noncooperation"? (No.)

8. Did OPR investigators ever lodge complaints with Associate Deputy Attorney General David Margolis, who would have handled such matters? (No.)

9. Didn't OPR terminate its investigation before completing its interview of White House employees? (Yes. OPR ended its investigation before completion after Fiske was appointed. <u>See</u> OPR report at 7 & n.6.)

   a. So OPR never really finished gathering information from the White House, correct?

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STATEMENT: If OPR knew when it ended its investigation that it had not gathered all potentially relevant information, then it is disingenuous to blame the White House when some relevant information OPR failed to gather later emerged.

DF 781791

ROLE OF HRC

BACKGROUND: THE REPUBLICANS MAY TRY TO SUGGEST THAT THE MANAGEMENT REVIEW WAS LESS THAN FORTHCOMING IN ITS DESCRIPTION OF THE FIRST LADY'S INVOLVEMENT IN THE TRAVEL OFFICE MATTER. THEY MAY POINT TO COMMENTS FROM WATKINS IN THE GAO REPORT ABOUT HIS MAY 14 CONVERSATION WITH HER AND A CONVERSATION HE SUPPOSEDLY HAD WITH THOMASON. WATKINS DID NOT MENTION THESE DETAILS TO THE MANAGEMENT REVIEW TEAM.

IN ANY EVENT, THE ADDITIONAL DETAILS FROM WATKINS RECOUNTED IN THE GAO AND OPR REPORTS DO NOT MAKE THE REPORTS INCONSISTENT WITH THE MANAGEMENT REVIEW. NOR DO THEY SUGGEST ANYTHING INAPPROPRIATE ABOUT HER EXPRESSIONS OF CONCERN.

THE FOLLOWING QUESTIONS SHOULD BE USED ONLY IF THE ROLE OF THE FIRST LADY IS RAISED BY THE REPUBLICANS.

DF 781792

I. First Lady's Involvement in Travel Office Matter

Podesta

A. What was the First Lady's involvement in the Travel Office matter?

1. So the First Lady's involvement in the matter was rather limited, correct?

2. She heard there might be problems in the Travel Office and asked the Deputy White House Counsel and the Chief of Staff what steps were being taken to examine the situation, right?

   a. It is not surprising that Mrs. Clinton would have asked Mr. Foster and Mr. McLarty about the matter?

   b. The Chief of Staff and the Counsel's Office would have been responsible for looking into allegations of wrongdoing in a White House office, correct?

3. Now, she was told Peat Marwick would be doing a review, right?

4. And after the first day of Peat Marwick's review, she received an update from Mr. Watkins on the findings from the first day of Peat Marwick's review, correct?

5. Beyond that, she had no further involvement in the matter, correct?

6. She was not involved in the decision to terminate the Travel Office employees, was she?

7. That decision was made by Mr. Watkins, with Mr. McLarty's approval?

8. She was merely copied on Mr. Watkins memorandum to Mr. McLarty informing McLarty of his decision to fire the Travel Office employees?

9. She did not even see the memorandum until weeks after the employees were fired, right?

10. Now, during all the Travel Office goings on, the First Lady was busy working on healthcare reform, correct? She was working full-time on this issue, right?

11. Is it fair to say that healthcare reform -- not the Travel Office -- occupied her attention in mid-May 1993?

DF 781793

B. Management Review Disclosed First Lady's Involvement

1. Now, the Management Review discloses her inquiries about the Travel Office?

2. It says she asked Mr. McLarty and Mr. Foster about the situation, and received an update on the Peat Marwick review from Mr. Watkins, right?

3. It also mentions that she was copied on Mr. Watkins' memorandum to Mr. McLarty stating his decision to terminate the employees?

DF 781794

C. OPR and GAO Consistent with Management Review's Description of Her Involvement

Podesta

1. Now, Mr. Podesta, you are familiar with the GAO and OPR reports about the Travel Office matter, correct?

2. You have read both reports, correct?

3. In your view, are the reports consistent with the Management Review's description of the First Lady's involvement in the matter?

4. Both reports mention Mr. Watkins' May 14 update of the First Lady about the progress of the Peat Marwick report, correct?

5. Neither report suggests that the First Lady had any further involvement in the matter after that conversation, correct?

DF 781795

ONLY USE IF ISSUE IS RAISED

D. Watkins Provides Additional Details to OPR and GAO

Thomason Conversation

1. Now the GAO and OPR reports add a few details not mentioned in the Management Review, correct?

2. Both report a conversation between Mr. Watkins and Mr. Thomason, in which Mr. Thomason said he had informed the First Lady of his concerns about the Travel Office, correct?

3. This conversation does not appear in the Management Review, does it?

4. Now, you interviewed Mr. Watkins, correct? And you interviewed him more than once, am I right?

5. Did Mr. Watkins mention this conversation?

6. Your interview notes with Mr. Watkins do not refer to such a conversation, correct?

7. And you specifically asked Mr. Watkins about his conversations on the matter, correct?

   * You particularly probed the conversations on May 12 -- when the momentum began to build, correct?

8. You also interviewed Mr. Thomason, correct? And Mr. Thomason's interview notes do not refer to a conversation?

9. Now, does this conversation alter your view of the First Lady's involvement in the matter? Why not?

DF 781796

Additional Details About May 14 conversation

1. The Management Review mentions that Mr. Watkins updated the First Lady about the findings of the Peat Marwick review on May 14, correct?

2. The GAO and OPR reports also refer to this conversation, correct?

3. Those reports provide a more detailed account of the conversation, correct?

4. Those details apparently were provided by Mr. Watkins, correct?

5. Now did Mr. Watkins recount those details to you during your interviews with him?

6. Your notes from interviews with Mr. Watkins do not refer to those details, do they?

7. Now, according to both reports, Mr. Watkins tells the First Lady of the serious financial management found by Peat Marwick on the first day of its review, correct?

   (a) GAO writes that Watkins told her Peat Marwick had found "sloppy management" in the Travel Office.

   (b) OPR writes that Watkins told her

   about sloppy and near non-existent record keeping procedures in the Travel Office. He also told her that the auditors had found petty cash unaccounted for. In short, he informed her that things in the Travel Office were worse than they had originally thought.

   (c) Now, given the financial disarray he described, it would not be surprising if the First Lady said something should be done about the matter?

   (d) And in fact the financial mismanagement uncovered by Peat Marwick required that action be taken?

   (e) GAO agreed that the Travel Office had serious financial management problems which had to be addressed, correct?

   (F) And the Management Review concluded that the financial problems were so severe as to warrant termination of the two employees who exercised financial control over the office?

DF 781797

ONLY USE IF ISSUE IS RAISED.

Rumors Exaggerating Her Involvement Unfounded

1. Mr. Podesta, why doesn't the Management Review mention the rumors heard by Steve Davison of World Wide Travel regarding the First Lady's interest the matter?

2. Mr. Davison had no conversation with the First Lady, correct?

3. Likewise, Ms. Dozier, who heard rumors that the First Lady was angry about the Travel Office, did not speak with the First Lady, did she?

4. And Ms. Cornelius had no conversations with the First Lady, did she?

5. None of these people had any interaction with the First Lady regarding this matter, correct?

6. And none of the people who actually spoke with the First Lady about the matter portrayed her as being "furious" or angry over the situation, correct?

7. Mr. Foster did not describe her that way?

8. Nor did Mr. McLarty or Mr. Watkins?

DF 781798

** **[TO BE USED ONLY IF OPR AND GAO SAY MANAGEMENT REVIEW IS INCONSISTENT WITH THEIR DESCRIPTION OF THE FIRST LADY'S INVOLVEMENT]**

Nancy Kingsbury

1. Now, Ms. Kingsbury, isn't it true that the Management Review mentions discussions with the First Lady that the GAO report does not even include?

   a. The GAO report does not mention Mrs. Clinton's conversations with Mr. Foster on May 13?

   b. Nor does it mention Mrs. Clinton's conversation with Mr. McLarty on May 13, correct?

2. Indeed, isn't it true that the GAO report only mentions one direct conversation with the First Lady, correct?

   a. Mr. Watkins told you that Mr. Thomason said he had spoken with the First Lady, correct?

   b. You never interviewed Mr. Thomason, did you? So Mr. Thomason did not tell you he spoke with the First Lady, correct?

   c. And the First Lady did not recall a specific conversation with Mr. Thomason, did she? So the First Lady never said she spoke with Mr. Thomason on May 12, correct?

   d. Your report only reflects Mr. Watkins recollection of what Mr. Thomason told him, does it not?

3. Now, Ms. Kingsbury, isn't it true that the one direct conversation with the First Lady -- the May 14 discussion between her and Mr. Watkins -- is also mentioned in the Management Review?

OPR

1. Mr. Shaheen, your report also only refers to one direct conversation with the First Lady, correct?

2. The other references to the First Lady are Mr. Watkins' recollections of what others told him about their discussions with her, correct?

   [a. In fact, the OPR report seems to suggest that Thomason invoked the First Lady's name to prompt Mr. Watkins to move on the situation, does it not?

DF 781799

b. Thomason tells Watkins that the First Lady said they needed to stay on top of the situation, correct? And at that point, Watkins convenes the meeting with Foster on May 12, correct?

c. So it appears from the OPR report that Watkins was spurred into action by Thomason's statements about the First Lady, correct?]

3. And the one conversation with the First Lady in which Mr. Watkins participated was mentioned in the Management Review, was it not?

DF 781800

SELF-CRITICAL AND THOROUGH MANAGEMENT REVIEW

Podesta

A. Thoroughness of the Review

1. Then-Chief of Staff Mack McLarty commissioned an internal review of the Travel Office affair in late May 1993, correct?

2. He asked you and your deputy Todd Stern to conduct the review, correct? You two are both lawyers, correct? And neither of you was involved in the Travel Office matter, right?

3. What was the objective of this review? What did McLarty ask you and Stern to do?

   a. Were you told how to structure the review?

   b. Were any limits or constraints placed on your review?

   c. Were any limits or constraints placed on your ability to seek information relevant to your review?

      (1) Did you have the authority to interview those you deemed necessary?

      (2) Did you have the authority to request information as you saw fit?

      (3) Were White House employees told to cooperate with your review?

   d. Would you say you were given free reign in conducting the review?

4. Over the course of your review, you interviewed scores of people, both inside and outside the White House, correct?

   a. You interviewed officials from the White House, the Justice Department, the FBI and other agencies, correct?

   b. You interviewed several private citizens who had knowledge of the matters, correct?

   c. You even interviewed officials from former administrations about past practices?

DF 781801

d. You did not, however, interview the former Travel Office employees, correct? And why was that?

5. Now, your review was not conducted only through interviews, correct?

a. You also requested and reviewed documents pertinent to the matter?

b. In addition, you researched policies and procedures of the FBI and past White Houses?

6. You completed your review in early July 1993, correct? So over the course of approximately five weeks, you and your team interviewed over 40 people, reviewed documents provided by them, and researched agency policies and practices?

7. Are you satisfied with the work you did?

a. Are there any areas you believe you should have explored but did not? **Were there any close calls? What were they?**

b. Are there any individuals you believe you should have interviewed but did not?

DF 781802

Foster Travel Office File

8. Are there any documents you believe you should have examined but did not?

   a. What about Mr. Foster's Travel Office file?

      (1) Would you have expected Mr. Foster to have provided these documents to you in response to your document request? Why not?

      (2) Mr. Foster's notes were not contemporaneous with the events in the Travel Office, correct?

      (3) In fact, the first page of the notebook is dated May 30, 1993 -- more than a week after the Travel Office employees were dismissed.

      (4) And some of the entries actually post-date the issuance of the Management Review?

      (5) So the notes were simply Mr. Foster's ex post facto recollections of the events?

      [(6) And you explored Mr. Foster's recollections of the events in your interviews with him, correct?]

      (7) Now the heading on the first page of the notebook makes it clear Mr. Foster created this document in anticipation of possible litigation, correct?

      (8) This is classic attorney work product, is it not?

         -- Being a lawyer yourself, you know that lawyers do not interpret document requests as calling for their work product, correct?

   b. You have reviewed Mr. Foster's Travel Office file, correct?

      (1) Is is consistent with what Mr. Foster told you about the events?

      (2) Is it consistent with the findings of the Management Review?

      (3) Is there anything in the file that would have altered the conclusions reached in your report?

DF 781803

B. Critical, Hard-Hitting Review

1. Mr. Podesta, your report criticized the White House's handling of the matter, correct? What were your findings regarding White House conduct in this affair?

   ** FBI. Initial call to FBI by Associate Counsel Bill Kennedy not improper. Subsequent actions by Kennedy and others conveyed the appearance of White House pressure on the FBI. Specifically, the Management Review criticized (1) Kennedy's comments conveying urgency and high level WH interest, (2) Kennedy's comment that he would seek guidance from another agency, such as the IRS, if the FBI did not respond quickly; (3) public disclosure of the FBI investigation; and (4) summoning an FBI press official to a White House communications meeting.

   ** Treatment of Travel Office Employees. WH's abrupt dismissal of Travel Office employees was insensitive and unnecessary. Moreover, disclosure of FBI investigation tarnished their reputations.

   ** Personal Interests. WH failed to insulate management decisions from appearance of influence by those with personal interests in the outcomes. In this regard, report specifically criticized the involvement of Harry Thomason, Catherine Cornelius and Jeff Eller.

   ** WH Management Shortcomings. (1) Lax WH management permitted Thomason's involvement in the matter; (2) Watkins should not have placed Cornelius in Travel Office to make recommendations as to how it should be restructured given her stated interest in running the office; (3) Watkins should not have asked Cornelius to be alert to possible wrongdoing in the office, since she lacked experience for the assignment and was not given any guidance; and (4) transition plans were inadequate.

2. The Management Review not only catalogues a host of White House missteps in the affair, it also names names, does it not?

   a. And it does not simply lay the blame on the little guys, does it?

   b. The Management Review openly criticizes senior White House officials, including:

DF 781804

David Watkins, then-Assistant to the President for Management & Administration

William Kennedy, then-Associate Counsel to the President

Jeff Eller, former Director of Media Affairs

c. These officials received a televised reprimand as a result of the Management Review's findings, did they not?

d. The Management Review was also extremely critical of Harry Thomason's conduct in the matter, was it not?

3. The Management Review was widely praised for its candor and refreshing self-criticism, was it not?

DF 781805

D. GAO Report Echoed Criticisms Made by Management Review

Ms. Kingsbury

1. GAO's report echoed many of the Management Review's criticisms of White House conduct, did it not?

2. With respect to the treatment of the Travel Office employees, the GAO report noted the following:

   "The Management Review [had] criticized the employees' removal, concluding that the abrupt manner of the dismissals was unnecessary and insensitive." (47)

   "The Management Review stated that "[a]ll of the employees should have had an opportunity to hear the reasons for their termination, and should have been afforded an opportunity to respond." (48)

   "The Management Review also recognized that the public acknowledgement of the criminal investigation had the effect of tarnishing the employees' reputations". (49)

3. On the issue of favoritism, the GAO report echoed the the Management Review's conclusion that the White House failed to insulate its management decisions from the appearance that personal interests played a role in the outcome. (56)

4. Regarding WH contacts with the FBI, the GAO report agreed with the Management Review's conclusions that

   -- that Mr. Kennedy's comments to the FBI about urgency, high level WH interest and involving other agencies were inappropriate (64)

   -- that public disclosure of the FBI investigation was improper (61) and

   -- that involving an FBI press official in a White House communications meeting was insensitive to the appearance of WH influence (64)

5. So Ms. Kingsbury, isn't it true that the Management Review criticized the same conduct that GAO found problematic?

DF 781806

E. OPR Criticized Management Review for Being Too Harsh

Michael Shaheen

1. And Mr. Shaheen, isn't it true OPR's report on the Travel Office concluded that the Management Review had been too harsh in its criticism of Mr. Kennedy?

2. The OPR report concluded that the Management Review -- like the FBI internal review before it -- should have mentioned the fact that none of the FBI agents Kennedy dealt with felt pressured by his comments?

3. OPR offered the following reason for the White House's failure to mention this fact:

> **We can only surmise that the White House, in an attempt to put the Travel Office matter behind it for good, adopted the version of events most unfavorable to itself and then took action to reprimand those involved.**

4. OPR thus concluded that the Management Review had been too hard-hitting in this regard, correct?

DF 781807

F. Travel Office Was a Financial Mess

Podesta

1. Although the Management Review was extremely critical of White House conduct in this matter, it also found that the Travel Office was plagued by severe financial mismanagement, correct?

   Peat Marwick's review of the Office found

   (1) $18,000 in unaccounted funds over the 17-month period examined

   (2) inadequate financial controls

   (3) billing by estimates

   (4) virtually non-existent cash management system, lacking even a general ledger or a cash receipts/disbursements journal

   (5) inadequate documentation for bills submitted to the press

   (6) lack of contract with near-exclusive domestic charter company used

2. The Travel Office affair -- however unfortunate -- at least brought these financial deficiencies to light, did it not?

3. And although the matter was not handled properly, wasn't some action required to remedy the financial problems found?

4. Didn't the Management Review conclude the financial disarray warranted termination of the two employees who exercised financial control?

Kingsbury

1. Ms. Kingsbury, the GAO's review confirmed Peat Marwick's finding of serious financial management weaknesses in the press travel operations, correct?

2. GAO's findings mirrored those of Peat Marwick in many respects, did they not? For example, GAO's review of 42 trip files revealed

   ** none that included a complete set of bills for the press (26)

DF 781808

** it was impossible to reconcile log of checks received by the press with the amounts actually owed by the press (28)

** no support for $8,000 in checks written to cash (28)

3. GAO also reviewed Peat Marwick's workpapers and conclusions and found them accurate, correct? Peat Marwick's examination of the Travel Office used many of the same criteria employed by GAO, correct?

4. The financial affairs of the Travel Office were far from adequate, correct? They were substandard, were they not?

5. It would have irresponsible to continue to let the office be operated in this manner, correct?

6. So you agree that the financial management weaknesses found in the office warranted corrective action, correct?

DF 781809

G. Management Review Recommended Corrective Action on Variety of Issues

Podesta

1. Now, Mr. Podesta your Management Review did not simply criticize White House conduct, did it?

2. You and your team developed a series of corrective measures to deal with the problems the review uncovered, correct?

3. Can you describes some of the corrective measures undertaken by the White House as a result of your internal review?

   ** Competitive bidding procedures were instituted

   ** Commercial Travel was outsourced

   ** Revised guidelines for WH-FBI contacts developed

   ** New access procedures instituted

DF 781810

SGE STATUS OF HARRY THOMASON AND DARNELL MARTENS

* My questions are for my colleagues on the other side of this aisle.

* Why are we wasting valuable resources to investigate whether, two years ago, a Hollywood producer and his sidekick were special government employees (SGE) subject to conflict of interest laws?

* If you hadn't noticed, while the Committee's investigative staff has been obsessed with Harry Thomason, the rest of the country has been embroiled in an intense debate over issues which affect people's lives. Issues such as Medicare, Medicaid, welfare reform, immigration and education.

* That this Committee -- at such a critical moment in the national dialogue -- would find an investigation into Harry Thomason's SGE status a proper use of taxpayer money is truly shameful.

  ** The GAO has already examined this burning issue and concluded neither Thomason nor Martens was a special government employee.

  ** Perhaps more important, the Public Integrity Section of the Justice Department -- which has authority to prosecute any violations -- tackled the question two years ago and has not taken any action.

* Our third trip around this well-worn track will not yield a different answer.

* Since my colleagues feel that Thomason's SGE status -- and not Medicare, Medicaid, and welfare reform -- is the burning issue of the day, I would like to ask the following:

DF 781811

A. GAO Concluded Thomason was not an SGE

Nancy Kingsbury

1. Your report concluded that Mr. Thomason and Mr. Martens were not special government employees, correct?

2. In making this determination, you considered several factors, correct?

   a. You considered Mr. Thomason's consulting project for the White House?

      * You reviewed the memorandum he prepared which described the project and his findings, correct?

      * You interviewed a White House official about Mr. Thomason's project, did you not?

      * You knew that Mr. Thomason had met with several White House officials as part of his research for this project?

      * You reviewed a memorandum provided to him in preparation for such meetings, did you not?

      * So from this memorandum, you knew that he had met with 19 White House officials, correct?

      * A person can do consulting work for an agency and not be a special government employee, correct?

   b. You considered the fact that Mr. Thomason had an access badge, correct?

      -- You reviewed his pass applications, correct?

   c. You also considered his temporary use of an East Wing office, did you not?

   d. You also considered Mr. Thomason's participation in meetings regarding the Travel Office situation, correct?

   e. You spoke with White House officials about other activities of Mr. Thomason in the White House?

      -- You knew that Mr. Thomason had served on the Presidential Inaugural Committee, correct?

DF 781812

-- You also knew that Mr. Thomason was working in the White House tying up loose ends from the Inauguration, right?

3. So you had all these facts about Mr. Thomason's activities and still concluded he was not an SGE?

4. Do you still stand by your conclusion?

DF 781813

B. Thomason's Recommendations re Use of Excess PIC Funds do not Affect his Status

Ms. Kingsbury

1. Ms. Kingsbury, you stated earlier that a person can be a consultant to a government agency and not be a special government employee, correct?

2. Now, does such a person become a special government employee simply because he or she makes recommendations regarding an agency's operations? In fact, the purpose of the consultant's work is often to come up with such recommendations, is it not?

3. Does a consultant become a special government employee just because the agency decides to pursue or adopt that person's recommendations?

4. So, the mere fact that Mr. Thomason made recommendations in connection with his White House Project work should not affect his status, correct?

5. That is true even if his recommendations involved suggestions about supporting White House operations, correct?

DF 781814

B. Darnell Martens not an SGE

1. Now, Ms. Kingsbury, you also concluded Mr. Martens was not an SGE, correct?

2. You were aware he had a volunteer pass, correct?

3. You reviewed his pass application, correct?

4. You asked White House officials what he was doing at the White House, correct?

5. You knew he had attended a meeting on May 12 regarding the Travel Office, correct?

6. And you still concluded he was not an SGE, right?

DF 781815

C. ICAP Solicitation Would Not Make Thomason or Martens Special Government Employees

Podesta

Now, Mr. Podesta, can you explain this so-called ICAP project?

1. So basically Darnell Martens wanted to do a consulting project for the White House, correct?

2. He wanted to study non-military federal aircraft, correct?

3. He enlisted the aid of his business partner Harry Thomason in proposing this idea to the White House, right?

4. And Harry Thomason spoke with the President and Bruce Lindsey about the Martens' proposal?

5. Martens also spoke with someone at OMB and GSA about his idea, correct?

6. But at the end of the day, no action was taken on the project, correct?

Kingsbury

1. Now, Ms. Kingsbury, you have just heard Mr. Podesta's description of this ICAP project?

2. And you are aware that private parties routinely attempt to solicit consulting projects from government agencies, correct?

3. Now, the mere solicitation of such a project does not make those private parties special government employees, does it?

4. So, in your view, would Mr. Martens' efforts to solicit this ICAP project have made him a special government employee?

5. This ICAP project does not alter your conclusion that Martens was NOT a special government employee?

6. What about Mr. Thomason? Does it change your conclusion that Thomason was NOT a special government employee?

REPRIMANDS

The point of this so-called "issue" about reprimands escapes me.

PODESTA

1. Mr. Podesta, didn't Mack McLarty and Leon Panetta reprimand David Watkins, Catherine Cornelius, William Kennedy and Jeff Eller on nationwide television?

2. Were those reprimands somehow less real because they were publicized on television?

3. In your view, is a televised upbraiding somehow less severe than a note filed away in a confidential personnel file?

KINGSBURY

1. Now, you interviewed Mr. McLarty and the four individuals who were reprimanded, correct?

2. And is it fair to say the individuals who were reprimanded were not pleased by the fact they had been reprimanded, correct?

   -- None of the individuals denied that they had spoken with Mr. McLarty or Mr. Panetta about the Management Review and its criticism of their conduct, correct?

   -- And these conversations took place prior to the public announcement of the reprimands, correct?

3. You also spoke with Mr. McLarty and Mr. Panetta, correct?

   a. What did they say about the reprimands?

   b. And you found their version credible, correct?

4. Ms. Kingsbury, do you consider a televised reprimand a mere slap on the wrist?

5. Is there any doubt in your mind that these individuals were reprimanded?

DF 781817

Travel Office

1. Foster file
2. Roles of HT + DM / Cronyism
3. Reason to Q or Excuse / Cronyism (Watkins) / Cadre
4. WH pressure on FBI
5. Cooperation with other investigators
6. HRC Role
7. Adequacy / Thoroughness of Mgmt Review
8. Treatment of TO Staff
9. ICAP

Offensive

1. Phil Larson
2. State Investigation
3. Dale fundraiser
4. Bush Stonewall of Karpovski Injury
5. Privatization / What Should we Really Be Looking at Here
6. Legitimate Purpose of Hearing.

One pages

- Purpose/timing of each report.
- Foster file
- ICAP
- Recommended.
- State
- Our cooperation

Chart
Foster file
HT/DM Roles
Cronyism
WH Pressure on FBI
Cooperation
HRC
Treatment of TO Staff.

- Purpose of hearing
  - Current GAO rept.
  - Privatization
  - State
- Bush stonewall of Karpovsky
- BD Fundraiser
- Phil Larson
- 1988 complaint abt kickbacks in TO.

DF 780920

4/18/95

Jodie Torkelson

- Delays in payment of vendors stemming from delays in payment by news organizations - revolving fund.
- Federal employees playing w/non-appropriated funds.
  - GAO report addresses this + makes notice of it.
- Govt employees travel on Pres's plane

Pres interest: corral press at event

Internal controls
- Who is obligating funds on pres's behalf
- more competitive process to create draft
  - informal / limited
- ~~[illegible]~~

4 people on WH Travel office payroll
AmEx has GSA contract ~~for pres~~ - hotel rooms
- arrangements are handed off to AmEx to details.

Sue Hazzard (Director)
Faye Granger (career military) — Director
Chris Enskoff
Ann Harell
Jen Jordan
> Trip coordinators

- On WH management staff but really works in Travel office. Accountant.

Plus Am Ex.

DF 781893

Other suggestion - Have pres sign a contract
White House Correspondents Assoc - only print media/not including photographers.

(2) GAO – we have universe — waive priv. re deliberations re. compliance w/ document requests

(3) OPR – Go through more than boxes — BN's correspondence file Neals — you need F – talk

(4) Talk to Jodie re contacts w/ AmEx. → to date

(5) Peat Marwick – we probably have all this — Tirnauer — Nelson has → to date

(6) Any IRS matter re tax office
– correspondence
– Cliff deal w/ IRS.

(7) Treasury IG's report. —
– Ask. Chris
Cliff

(8) What do you want.

(9) Give everything we gave to Senate

(10) Productions to public integ

(11) Thomasson's campaign work

(12) Calendar + phone records —
– has to be limited to Travel office

(13) Mike Berner document

DF 781894

Travel Office

Witnesses: Podesta
Shaheen
Kingsbury
Weldon Kennedy
[illegible]
[IRS]

- Shaheen —
  - personal knowledge?
  - investigating FBI, not the Off.
  - Marcolis Qs.
  - OPR memo

• When decision was made
• Missing documents

Background re structural problem.
GAO report.

DF 781895

10/16/95

Jerry Good -

Wares center will do project use computer tapes. All requested is date + time of departure + time of arrival. Do we also want info re who cleared to see, what room, etc?

10/17/95

Nelson Cunningham

Met with GAO this morning re Travel office audit
GAO was asked to
(1) look at GAO's 29 ~~auto~~ financial management criteria to determine whether they were met
(2) look at Tichenor audit + insure that it was properly conducted.
- Yes, but in future should have a GAO/AS audit. Acknowledged that it was not what was agreed to do ~~that~~ last year.
- internal controls report + compliance with applicable laws + regulations.
- Call it an "observation."

Could Committee conclude that as WH limited audit to a narrow one?

DF 781896

29 criteria
In substantial compliance with 26.
3 with issues -
(1) can't get bills out w/in two weeks. our goal
~~Set 2 weeks~~ To get all of bills collected + turn it around + spit out accurate bills is a chore. They found we do it in about 30 days.
- our goal is 2 weeks.

[BD didn't wait for all the bills to come in. He would just estimate]

(2) Don't pay our rents on time
70-75 days from receipt of invoice - have to wait for the money to come in before you can pay out.
[In commercial world, standard is 30 days]

(3) Performance of periodic bank reconciliation.
Supposed to be done every month, did it before audit + found huge errors. Had ~~[illegible]~~ $70,000 more than we thought we had.
- They missed 2 big deposits back in Feb.
- Other errors the other way.
As soon as we discovered this, we wrote checks to renters.
- ~~[illegible]~~

Additional Observations
- (1) Breaden financial audit
- (2) They think we should have ~~[illegible]~~ different accounting syste
  - 1993 funds - couldn't be audited
  - 1994 forward funds. - 1/1/94 -
  - We have 2 funds + our accounting system has trouble handling it.

(3) Cost accounting.
- Should have a system that permits only one entry of data,

for ease of use more than anything else

DF 781897

(4) Working capital.
- We refuse to do back of the envelope estimating here to go dollar 0 dollar.
- No working capital fund.

[BD, in the process of estimating. Seems to have built up some balance. Prior fund had $237,000 in fund, which folks used to pay off pre May 1993 bills.]

Solutions
- Go back to estimated billings.
- Use appropriated fund to create a working capital fund.
- Add a 2% surcharge → to build up a cushion of $100,000 or more. → to pay deadbeat amounts, small retails } unsure of legal authority to do this

- May mention problem of people incurring costs on behalf of the press.

Dave Clerc - headed up financial + accounting side of audit.

DF 781898

01/17/93 Guth e-mail report.

29 individuals

7/23/94 - 8/5/94 - 2 weeks reconstructed (easier)
2/1/94 - 2/24/94 - 4 weeks reconstructed
9/20/93 - 10/20/93 - 5 weeks reconstructed.
8/9 - 8/11/93 - ~~1 week~~ 1 week
5/3 - 5/7/93 - 1 week

[31 individuals
11 weeks] 2 weeks in Modern ed.

Phil Larson - Head of financial mgmt office under Reagan. Investigator for Cinger. He has become the pt. person on the Travel office.

Barbara Comstock - worked for Frank Wolf for many years.

Phil has asked for the opportunity to review the GAO workpapers. GAO has used that office for lots of things.
- These are the documents that were made available to them.
- We agreed that GAO could use the documents but that they would not go off the premises - to prevent them from being handed over to Congress.

John Zabo - GC for Cinger had asked for an opportunity to review the documents before Nov. We said no. Meetings w/ Hinchman (GAO) Neil recommended that we not make the material available.

GAO - Nancy Kingsbury, not John Baldwin.
~~[illegible]~~ Nancy - head of this unit of GAO.
John - reports to her.

DF 781933

- Management review - late May (ie May 26) Rept - July 2
- Public Inputs/FBI - Goldsky - late May i contact is [illegible]
- OPR came in because of VF's note. + AG asked them to investigate. - Heymann press conference
  Ended after X-Mas.
  Stops in January after Fiske.
  - Late December stories re OPR.
- Public Inputs - DM + HT.
- GAO starts in the summer. | -
  - Letters
- Hyde + others put out resolution of inquiry. ~~Referred to committee~~
  committee reported adversely + sent it to GAO.
  - Document requests in connection with interview inquiry were pretty narrow.
  - Interviews started in last Sept.
  - Did not provide ~~[illegible]~~ doc requested ~~[illegible]~~ after a particular date

- Goldsky got management review doc re Mosbacher + McCain.

- Memo that Beth did re management report has not been turned over.

[redacted]
DF 781000

MISCELLANEOUS TRAVEL OFFICE DOCUMENTS INDEX

1 May 13, 1993 Talking points on firing the Travel Office employees (CGE 7933)

2 May 13, 1993 FBI e-mail from Richard Wade to Tom Kubic regarding the White House Travel Office (AZ000603)

3 Undated memorandum "For Peter" describing how "Peter" could follow the Travel Office employees on a trip (CGE 8268).

4 May 19, 1993 Urgent Memo to Janet Reno and Webster Hubbell from John C. Keeney regarding the Travel Office firings.

5 May 19, 1993 Talking Points for Discussion with Travel Staff with handwritten comments by Jennifer O'Connor (CGE 7988)

6 May 21, 1993 Memorandum for John Podesta from Lee Johnson regarding Travel Office files and concerns that documents were being thrown away (CGE 7763)

7 June 30, 1993 Memorandum for John Podesta from Mary Beck regarding efforts by Chief of Staff's office to obtain the personnel files of the seven Travel Office employees (CGE29652)

8 July 15, 1993 Memorandum to Irene McGowan from Mary Beck regarding tracking down the personnel files of the seven Travel OFfice employees. (CGE 22205)

9 October 12, 1993 Memorandum for the Record Regarding Mort Halperin nomination and conversation with Bill Kennedy, White House Counsel's office produced pursuant to a subpoena to the CIA.

10 December 8, 1993 letter to Nancy Kingsbury from Todd Campbell, Counsel to the Vice President regarding NPR's involvement in the Travel Office (CGE 2554)

11 September 26, 1994 FBI e-mail from Gregory Meacham to Tom Kubic regarding indicting Billy Dale prior to the elections in November 1994. (FBI 242)

May 13, 1993

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NOT FOR DISTRIBUTION

Talking Points on Changes in White House Travel Office

* In response to requests concerning the cost of press travel, the White House has undertaken a review of the White House Travel Office. As a result of that review, the current employees of the White House Travel Office have been dismissed effective today.

* Concurrent with that, the FBI has begun an audit of the press fund that is maintained by the White House Travel Office.

* Future charter and press travel services will be provided on an outsource basis with coordination by White House staff. The White House believes this will reduce costs.

* Accounting and billing procedures will be upgraded, allowing for improved accountability and more accurate tracking of press expenses.

* Current employees of the White House Travel Office are:

Billy Dale
John Drellinger
John McSweeney
Barney Brasseux
Gary Wright
Robert Van Eimeren
Ralph Maughan

CGE 007933

From: Wade, Richard B. (RWADE)
To: TKUBIC
Date: Thursday, May 13, 1993 7:22 pm
Subject: White House Travel Office

On 5/12/93 Vincent W. Foster, Deputy Counsel to the President, advised that Catherine Cornelius, a White House employee, had provided him information which indicated possible financial irregularities in the White House Travel and Telegraph Office (herein after referred to as the Travel Office). The Travel Office is responsible for arranging travel and hotel accommodations for the press corp that travels with the President. The Travel Office pays for the expenses incurred relative to the travel and then bills the press corp which reimburses the Travel Office. The funds are deposited and withdrawn form a bank account at the Riggs National Bank in Washington D.C. It is uncertain at this time whether or not the funds are government funds.

In addition, Ms. Cornelius advised Mr. Foster that she recently became suspicious of the arrangement between the Travel Office and Ultrair, a company that performs all of the travel for the Travel Office. Ms. Cornelius contacted the owner of a charter airline company. The owner of the charter company advised her that he had contacted Billy Dale, the Director of the Travel Office in an effort to obtain business from the Travel Office. Mr. Dale allegedly told the owner that he would have to pay a 5% kickback in order to obtain business from the Travel Office.

After consultation with the FBI, Mr. Foster advised that on 5/13/93 the Director of Management Administration for the White House was going to initiate a performance review of the Travel Office by a team of independent auditors under contract with the White House. In addition, since the Travel Office handles money the audit will include a review of financial records and transactions. Mr. Foster advised that if any irregularities are uncovered he will immediately notify the FBI. Mr. Foster was advised in the event that irregularities are discovered agents of the FBI will be available to investigate this matter.

For Peter:

Arrive at Andrews Air Force Base between 5:00 am and 5:30 am (Enter at Morningside Gate (the main gate) and ask the officer at the gate how to get to BASE OPERATIONS. As you approach BASE OPERATIONS, go towards the right, to the upper end of BASE OPERATIONS. This is where you will find the PRESS CENTER.)

At PRESS CENTER, find Billy Dale and John Drellinger (both from WH Travel Office). Dale will be running the Press Center and Drellinger will be on the plane.

ASK BILLY TO GIVE YOU A STAFF PIN, OR GET YOU TO THE PERSON WHO WILL GIVE YOU A STAFF PIN. WHEN YOU SHOW YOUR HARD CARD, YOU GET A PIN.

Drellinger should have you seated next to him on the plane. Your duties are :

1. Log, hour by hour, what Drellinger does. Also note what Billy did at the airport before you left.

2. Note any cash Drellinger disburses, the amount (if possible to do unobtrusively) and the purpose.

3. Describe the plane and bus rides, including type of plane & bus, layout of plane or bus, food eaten, if it was good, whether it was on China, etc.

You'll be gone for two days. Bob Van Eimeren (WH travel office) will have a room in your name at the hotel. You should also meet him and log what he does -- as best as you can, as there will be two (Drellinger & Van Eimeren) to watch once you get to Dan Diego.

Take good notes with the purpose being that you will be able to describe everything that these guys do on a trip.

CGE 008268

AZ000704

MAY 19 1993

014

MEMORANDUM

SUBJECT: DEPARTMENT OF JUSTICE URGENT REPORT

TO: Janet Reno
Attorney General

Webster Hubbell
Acting Associate Attorney General

FROM: JCK John C. Keeney
Acting Assistant Attorney General
Criminal Division

DESIGNATION: Criminal

SECURITY CLASSIFICATION: Unclassified - Sensitive

ORIGINATING UNIT: Public Integrity Section
Criminal Division
Joseph E. Gangloff, Acting Chief
Tel. 514-1450

CLARIFICATION AND FOLLOW-UP: John C. Keeney
Acting Assistant Attorney General
Criminal Division
Tel. 514-2621

ISSUE: White House Travel Office Improprieties

SYNOPSIS:

The Federal Bureau of Investigation ("FBI") has advised us that it has received several allegations from the White House Counsel's Office regarding possible improprieties by one or more employees in the White House Travel Office ("Travel Office"). This morning all employees in the Travel Office were fired. The combination to the Travel Office's safe was changed on Saturday.

The Travel Office makes travel arrangements for members of the media, who cover the President during his trips around the country. Typically, it charters an airplane and sets up hotel accommodations, using funds it maintains in an account at Riggs Bank. The press organizations then reimburse the Travel Office for these expenditures, and the account is replenished.

Last Friday, the White House Counsel's Office advised the FBI that a newly-appointed Travel Office employee had raised concerns about the unit. This employee reported that an airplane charter company executive had told her that the Travel Office had demanded a five percent kickback. The employee also reported that she uncovered several checks drawn on the Riggs Account made out to

AZ000703

cash. She could find no receipts reflecting that these checks were for legitimate expenses.

Based on these allegations, the White House Counsel's Office retained the accounting firm of Peat Marwick to conduct an audit of the Travel Office. As part of this audit, which apparently was performed on May 15-17, 1993, records were reviewed and Travel Office employees interviewed. The FBI has not yet seen the audit report, but the White House Counsel's Office has advised that the auditors found the Travel Office's records in disarray and determined that during the period January 1, 1992, through the present, 17 checks to cash were written. At least seven of these checks are not properly accounted for in the Travel Office records, and employees interviewed had no adequate explanations for them. For instance, when questioned about a $5,000 check to cash, the head of the office claimed no memory of it. The next day, he produced out of his desk an envelope containing $4,800 in cash, which he said related to this check. The FBI does not know at this time the total amount of money that may be involved.

The White House Counsel's Office has advised the FBI that a draft of the audit report is available. The FBI is in the process of attempting to obtain a copy of this report and the matter has been assigned to the Washington Field Office for investigation. The Public Integrity Section will be supervising this investigation.

5/19/93

Talking Points for Discussion with Travel Staff

1. As you know, we conducted a performance review and audit of this office over the past few days. The results of the review point to a need to streamline this office, as well as the other administrative offices of the White House. We will soon be appointing, as Chris Vein is leaving, a new head of the White House Administration Office. We will at the same time consolidate that office, putting the personnel office, telephone office, photo office and travel office under it, as sections rather than independent departments.

2. Part of the streamlining includes a tremendous change in this office. As you know Billy Dale is retiring and we will accept his retirement. That there be no misunderstanding, the review found that this office is poorly managed. Necessary records have not been kept. This office has done a sloppy job at keeping other people's money.

3. Unfortunately, because I am now aware of this problem, which reflects poorly on the White House, I now must take serious action to remedy the situation. As we bring in the necessary financial controls to begin to be accountable to our customers, we will reorganize the office. As of tomorrow, your services will no longer be needed. You will receive pay until June 5 and will receive 30 days of leave without pay.

4. Once a decision to reorganize like this is made, there is no reason to prolong the change-over. So I would appreciate it if you would clear out your personal belongings by the ~~end of this week~~ within the next hour.

5. I'm sorry it had to come to this, but I think it is for the good of the White House that we immediately act on the recommendations of our review and begin to maintain the degree of accountability and sound accounting practices that befits this institution.

* David — Comments? — Jen

CGE 007988

EF

019810
WH004

May 21, 1993

MEMORANDUM FOR JOHN PODESTA

FROM: LEE JOHNSON

SUBJECT: TRAVEL OFFICE FILES

COPY from ORM

Thursday morning May 20th, Catherine Cornelius requested boxes from this office. They were sent to her the same morning. We have heard nothing from her since. We are, of course, concerned about the disposition of Travel Office files. I've left phone messages with Steve Neuwirth three times, beginning Thursday evening, and have received no reply. These calls were made because for obvious reasons we believe that there must be rigid procedures established regarding the storage and handling of these records. Terry and I agree that these files are definitely Presidential records.

What else can we/should we do?

CGE 007763

COPY OF MEMO BROUGHT TO STAFF SEC'S OFFICE WITHIN EVENING. MAY 21 1993. LEE

053252
P2006

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF ADMINISTRATION
Washington, D.C. 20503

C. F.

June 30, 1993

C O P Y
from ORM

MEMORANDUM FOR JOHN D. PODESTA
ASSISTANT TO THE PRESIDENT AND
STAFF SECRETARY

FROM: MARY COUTTS BECK
ACTING DIRECTOR
PERSONNEL MANAGEMENT DIVISION

SUBJECT: Official Personnel Folders

Andre Oliver, of the Chief of Staff's Office, requested that I forward the Official Personnel Folders of seven White House travel office personnel for your review. They are attached.

The contents of these records are covered by the Privacy Act of 1974, have restricted use and should be protected carefully. Please keep these folders in a locked place when not in use. Their contents should not be disclosed to anyone unless they demonstrate an official need.

When you have completed your review, please call me on 395-1147, so that I may have them picked up.

C.F.

CGE 029652

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

15-Jul-1993 08:25am

TO: Irene H. McGowan

FROM: Mary C. Beck
Office of Administration, PMD

SUBJECT: A Favor

Irene,

On 30 June, Andre Oliver in the Chief ofd Staff's Office signed out the OPFs on the 7 travel office employees. Since they have had them for at least two weeks I began tracking them down.

Andre said he had turned them over to Cliff Sloan in the White House Counsel's Office.

Cliff said he turned them over to Jodie Torkelson.

This should not be happening. Please call Jodie and ask her to return the OPFs ASAP.

Thanks,

Mary

CGE 022205

Kennedy - 8

ER 93-5576

12 October 1993

Draft

MEMORANDUM FOR THE RECORD

SUBJECT: Halperin Nomination - Conversation with Bill Kennedy, White House Counsel's Office

1. As agreed in earlier discussions with the General Counsel, Page Moffett, and Janet Andres, I called Bill Kennedy this afternoon to review where matters stood.

2. I reported on the General Counsel's earlier conversation with DOD/GC Jamie Gorelick, noting our understanding that the Administration, based on her discussions with Senator Nunn's staff, had concluded that Senator Thurmond's letter to the DCI was not an official Armed Services Committee request and should not be treated as such. On the other hand, I informed Kennedy that Gorelick had indicated an interest in whether the "cable from Athens station" mentioned in paragraph 2 of Thurmond's letter actually existed and what it said. I alerted Kennedy to our concern about initiating any document searches in this matter except in response to a specific (preferably written) request from the White House. I also noted that tomorrow was October 13, the "deadline" Thurmond had set in his letter for a CIA response: we had already received staff inquiries on what we were doing and would have to explain by tomorrow at the latest why we had taken no action.

3. Kennedy expressed appreciation for our actions to date. He had not spoken to Gorelick about her discussions with Nunn's staff and wished to do so before deciding whether to ask us to search for the Athens cable. (I told Kennedy that we were reasonably confident that the cable, if it existed, could be located quickly if we received an authoritative tasking.) In the interim, Kennedy asked that we abstain from doing any file searches: "don't hit a lick," to use his precise words.

4. With respect to what we might tell Senator Thurmond or his staff, Kennedy agreed with my suggestion that CIA say simply that we had consulted the White House, had been informed that the letter was not considered an official committee request, and had been instructed not to provide any documents to the Senator at

consultations w/ the Armed Services Comm. indicate that this is not an official Comm. request, hence it does not come w/in the Privacy Act jurisdiction. Period. J.

DCI EXEC REG

L-231-T

this time. Kennedy added that, if the Senator or his staff wanted a name in the White House, we could offer up his.

John R. Byerly

cc: Elizabeth Rindskopf
Janet Andres
Page Moffett
David Pearline
Ann Baughman

OFFICE OF THE VICE PRESIDENT

WASHINGTON

December 8, 1993

Ms. Nancy R. Kingsbury
Director
Federal Human Resource Management Issues
General Government Division
General Accounting Office
Washington, D.C. 20548

Re: The National Performance Review

Dear Ms. Kingsbury:

At the request of W. Neil Eggleston, Associate Counsel to the President, I am writing this letter to set forth our understanding regarding the Vice President's National Performance Review ("NPR") and the audit conducted of the White House Travel Office beginning on May 14, 1993.

As you know, the NPR conducted a wide-ranging survey of the operation of the federal government and recommended numerous changes to make government work better and cost less. As part of that survey, the NPR included a review of certain activities of the White House, under the general guidance of the Assistant to the President for Management and Administration, Mr. David Watkins. However, the NPR review did not include any audit of the White House Travel Office.

At the time the NPR review was undertaken, the Vice President also suggested that each agency of the government conduct its own independent review of its internal operations. Many agencies responded positively and conducted reviews of the offices under their authority. I am generally aware that the White House Office and the Executive Office of the President conducted independent reviews of this sort. Again, however, these reviews were not conducted under the authority of the NPR.

I have enclosed a copy of the NPR report. As you will see, the report mentions the White House, but does not address the Travel Office.

Sincerely,

Todd Campbell

Todd J. Campbell
Counsel to the Vice President

CGE 002554

TJC:aw

From: MEACHAM, GREGORY D. (GMEACHAM)
To: TKUBIC
Date: Monday, September 26, 1994 10:42 am
Subject: WHTO

Regarding your inquiry this morning. I contacted Jane who advised that she was advised by SA Pam Bombardi, that DOJ Trial Attorney Stuart Goldberg had stated that he wanted to "do the indictment before the elections, probably on October 4, 1994."

You will remember that the government was basically ready to indict in August when the subject changed attorneys. The new team of attorneys have represented that Dale wants to make a presentation and explain what happened. This offer was made by prior counsel. Although DOJ is very anxious to hear what Dale has to say they have been waiting since August and their patience grows thin. Also to sweeten the pot the new defense team has offered to allow the interview of Dale's children by the government. This is another source of inquiry DOJ would like to pursue. However, the fact remains that DOJ was ready to indict in August and nothing has happened to change their position. The defense, seemingly, is controlling the time of the indictment in the short term because DOJ who like to hear what Dale and his children have to say. It may be that DOJ intended to fix the time of the indictment for early October recognizing that 60 days was adequate for the new attorneys to review the case and make a determination as to how Dale intended to proceed.

CC: JERICKSO

MINORITY VIEWS ON THE TRAVEL OFFICE REPORT

We recognize that the manner in which the White House handled the firing of the Travel Office employees unfairly tarnished the careers and reputations of employees, particularly those with no financial responsibility for the Travel Office operations. It is not our intention to excuse the conduct of the White House staff, and indeed, the White House Management Review was itself critical of the firings, and resulted in reprimands for four individuals. If the Majority had focused on issues related to the inappropriate treatment of these employees, we may very well have supported its report.

Throughout this investigation, we in the Minority have attempted to address the concerns identified as leading up to the problems in the Travel Office. For example, Representative Carolyn Maloney introduced H.R. 2888, the Executive Office Travel Management Improvement Act of 1996, to privatize the Travel Office operations so that taxpayers would not have to subsidize a travel office for the White House press corps. The Majority refused to hold any hearings on that legislation.

Instead, the Majority has resorted to making baseless allegations transparently designed for partisan political gain in the midst of a Presidential election, and we must therefore strongly dissent. In sum, the Majority should be embarrassed by this report.

In a report whose credibility was publicly shredded even before it was distributed to Committee members-- including a retraction by the *Wall Street Journal* of allegations that President Clinton met with Harry Thomason on July 8, 1993, because the President was in Tokyo at the time-- the Majority concocts a tale of conspiracy and intrigue that even Tom Clancy could not invent. The Majority's report is filled with politically charged allegations based on the flimsiest of circumstantial evidence if not outright errors.

Without a single shred of evidence, the Majority accuses the President of misusing his office, abusing executive privilege, and obstructing the various investigations into the Travel Office firings. To the contrary, as we will thoroughly document in these views, the White House provided to this Committee every single document it demanded-- nearly 80,000 pages -- despite the Majority's overbroad subpoenas and numerous new requests. In fact, every time the White House attempted to accommodate the Majority, the Majority would come back with new demands and accuse the White House of stonewalling. We can only conclude that this was an orchestrated attempt by the Majority to create the impression of a cover-up by the White House for purely partisan purposes.

Without even calling in a single Justice Department witness, the Majority accuses its career prosecutors of allowing the White House to manipulate the criminal investigation of Billy Dale. In fact, there is no evidence of any political interference in the investigation and

prosecution of Mr. Dale, and the Majority has refused to release the Department's prosecution memorandum which details its case against him. If the Majority really wanted to determine whether the prosecutors had acted improperly, why didn't they depose them? We can only conclude that the truth was not part of their political agenda.

The Majority goes to great length to refute allegations of corruption in the Travel Office, yet refused to investigate the charges raised during the Reagan Administration of questionable behavior by the Travel Office staff, including the improper acceptance of gratuities. Nor would they agree to the requests of Representative Kanjorski to review documented claims of travel misuse during the Bush Administration. While conducting its own closed interviews of the fired Travel Office employees, which have never been provided to the Minority, the Majority refused to allow the Minority to depose these individuals or to question any witnesses with knowledge of activities under Republican administrations.

The Majority accuses the President of establishing a "cover-up" by placing Chief of Staff Mack McClarty in charge of the White House Management Review since he was involved in the firings. The Majority ignores the testimony of all those involved in the Management Review that Mr. McClarty in no way interfered with that report, and that the authors of the report, John Podesta and Todd Stern, were chosen by Mr. McClarty precisely because they had no involvement in the firings.

These baseless allegations demonstrate that this report is nothing more than a partisan witch hunt intended to embarrass a Democratic Administration shortly before the Presidential election. This politically motivated wild-goose chase might be amusing if it weren't so reckless and offensive. The Majority's actions in the course of this investigation have seriously undermined the long traditions of bipartisan comity and cooperation that this Committee has practiced for decades. It has repudiated a long-standing practice of this Committee by issuing subpoenas without even informing the Minority, let alone obtaining a vote by the Committee. It has ignored the precedents of the House and the advice of the Parliamentarians in making arbitrary rulings against the rights of the Minority. It has threatened individuals with contempt without even affording them the opportunity to appear before the Committee and answer the accusations. It has allowed Majority staff to run roughshod over the rights of witnesses.

In sum, the Majority has done everything in its power to abuse its authority for partisan gain. The Majority's conduct in the course of this investigation has been so egregious that it has done serious harm to the credibility of its report and of this Committee.

Despite the Majority's numerous unprecedented demands, the Clinton Administration produced every document asked for, more than 130,000 pages.

The Majority goes to great lengths to accuse the White House of a massive cover-up and cites as evidence its obstruction of the Committee's investigation. In fact, the Committee has demanded tens of thousands of documents that go to the core of the

President's office. These requests-- followed by subpoenas-- are unprecedented. Previous administrations have never allowed the access to staff and records that this Administration has routinely granted, save those rare investigations of criminal activity that rise to the level of Constitutional importance, such as the Watergate and Iran/Contra scandals.

A review of the unreasonable requests and demands by Chairman Clinger demonstrate that rather than obstructing this Committee's investigation, the White House has attempted to accommodate the Committee's needs in a timely and responsive manner. Yet, at every turn, the Majority has responded by further unreasonable demands and then public claims of cover-up.

On January 11, 1996, the Committee sent far-reaching and broad subpoenas to the Custodian of Records at the White House Office of Administration and a subpoena to the Custodian of the Records at the Executive Office of the President.

In correspondence to the Committee, John Quinn, Counsel to the President, raised significant issues of privilege regarding three categories of documents subpoenaed from the White House. Mr. Quinn argued that turning over these documents to the Committee would chill the deliberative process of the President's Counsel and the President's closest advisors. In addition, Mr. Quinn argued that the documents requested were not pertinent to the Committee's investigation. Moreover, Mr. Quinn argued that the Committee refused any effort to reach an accommodation on these documents.

Despite numerous requests over a three month period by the President's counsel to resolve all remaining White House Travel Office issues, the Chairman made no effort to accommodate the concerns of the Executive Branch. On the other hand, Mr. Quinn made several reasonable proposals to provide the Committee with access to confidential documents in order to accommodate the legitimate needs of the Committee.

The real motivation of the Majority's claims of stonewalling and cover-up by the White House-- and its contempt resolution against White House Counsel John Quinn-- are a carefully orchestrated effort by the Republican leadership to embarrass the President in the closing months of this election year. These efforts were made clear in a memorandum from Representatives Bob Walker and Jim Nussle to all House Full and Subcommittee Chairmen dated April 23, 1996. That memorandum follows:

[insert memorandum]

MEMORANDUM

To: All House Full and Subcommittee Chairmen
From: Bob Walker and Jim Nussle
Subject: Request for information - URGENT
Date: April 23, 1996

On behalf of the House Leadership, we have been asked to call all committees for information that you already have on three subjects listed below. We are compiling information for packaging and presentation to the Leadership for determining the agenda. You are a tremendous source for this project. The subjects are:

- ☐ Waste, Fraud and Abuse in the Clinton Administration
- ☐ Influence of Washington Labor Union Bosses/Corruption
- ☐ Examples of Dishonesty or ethical lapses in the Clinton Administration

Please have your staff review pertinent GAO reports, Inspector General reports or committee investigative materials or newspaper articles for departments and agencies within your jurisdiction that expose anecdotes that amplify these areas.

Send your material to Gini Thomas at H-226, U.S. Capitol or fax it to 6-1116. We need this information as soon as possible – no later than close of business on Friday, April 26.

cc: House Republican Leadership and committee staff directors

On May 2, 1996, only nine days after the Republican leadership issued this memorandum, the Committee announced the scheduling of a Committee meeting for May 9, to consider the contempt resolution. There was no consultation with the Minority Members of the Committee or the White House about the contempt resolution before sending out the Committee meeting notice on May 2. The failure to even consult with the Minority Members of this Committee about an issue of such importance strongly suggests that this resolution was politically motivated.

Between January 11 and February 26, 1996, the White House sent to the Committee 28,000 pages of documents. (Since that time, a total of nearly 80,000 pages of documents have been provided by the White House, and another 50,000 by the Department of Justice and the FBI.) However, because of the enormous breadth of the subpoena, there were a number of confidential and sensitive documents covered by the subpoena. In order to provide the Committee with access to those confidential documents, John Quinn presented a proposal to Chairman Clinger. That proposal is contained in a February 26, 1996 letter from John Quinn to Chairman Clinger. In that letter Mr. Quinn stated:

> As you know, the nature of this internal deliberative material was the subject of discussion at our February 15, 1996 meeting. At that meeting we described the materials we are prepared to have you or your staff review in camera and those that we are seeking your agreement to withhold altogether. This material is limited to (1) documents related to the ongoing criminal investigations of the Independent Counsel; (2) materials created in the course of preparation for Congressional hearings; (3) materials prepared in responding to this and other Congressional subpoenas; (4) White House Counsel vetting notes, staff meeting notes, and a subpoenaed legal analysis document unrelated to the Travel Office issues; and (5) personnel records which are of the type that are subject to the Privacy Act. We understand that you are considering our positions and the concerns which support them. This material is not included in this production. (Emphasis added)

Unfortunately, Chairman Clinger never responded to this or any other proposal of Mr. Quinn.

By February 26, the White House had virtually completed its document response to the Committee. As John Quinn stated in his letter of February 26 to Chairman Clinger:

> As you are aware, we have made a number of interim productions and have already provided the Committee with 28,000 pages of documents, including over 17,000 pages provided since January 22, 1996. We believe, with this production, the White house will have virtually completed its response to this subpoena. Given the breadth of the subpoena, of course, we may find additional documents. Should this occur, we will provide them to the Committee promptly. (Emphasis added)

Consistent with Mr. Quinn's promise to Chairman Clinger in his letter of February 26, to turn over to the Committee any additional documents uncovered, on March 4, March

8, and March 15, the White House sent to the Committee three very small supplemental productions of documents. However, inexplicably Chairman Clinger responded by sending a letter to Mr. Quinn dated March 20, 1996 critical of Mr. Quinn for uncovering additional documents. Chairman Clinger stated in his letter:

> Indeed, the February 26, 1996 production was to have been the final production except for the documents being held in suspension. In spite of this assurance, your March 15, 1996 production included still more responsive documents which clearly did not fall within your privileged categories. It is clear that we need to come to closure on all outstanding subpoenaed documents.

On March 21, 1996 John Quinn wrote a letter to Chairman Clinger restating what Mr. Quinn made clear in his February 26 letter to Chairman Clinger, that if additional documents were uncovered he would ensure that they were turned over to the committee:

> I thus made absolutely clear to the Committee that we would continue to work to confirm that there were no further responsive documents and that should we locate any further material, we would promptly provide it to the Committee.

In that same letter Mr. Quinn renewed his request to Chairman Clinger to work out a compromise on the issues of privilege:

> I look forward to discussing further with you the quite separate matter of our privileged documents. The issues raised with regard to those documents, of course, have nothing to do with either the discovery or the production of the letter about which you wrote me.

Chairman Clinger once again never responded to Mr. Quinn's efforts to reach a compromise on this issue. This was the second time that Chairman Clinger ignored a direct request from Mr. Quinn to resolve the outstanding issues of privilege.

On March 26, Chairman Clinger wrote to John Quinn and asked him to explain why the White House had instructed Mr. Craig Livingstone, Director of White House Personnel Security, to invoke executive privilege at a staff deposition taken on March 22, 1996. On March 27, Mr. Quinn wrote back to Chairman Clinger and explained that the White House did not instruct Mr. Livingstone to invoke executive privilege and that Mr. Livingstone did not invoke executive privilege as far as he could determine. In that same letter Mr. Quinn for the third time asked Chairman Clinger to resolve the issues of privilege:

> As you know, we have had preliminary discussions about resolving White House privileges in the course of this part of the Committee's investigation; but as of yet we have not had the opportunity to resolve that issue. I hope we will be able to meet soon to address that issue.

Without ever responding to John Quinn's third request to work out an accommodation on the issues of privilege, on May 2, 1996, Chairman Clinger sent a letter to John Quinn

informing him that a Committee meeting was scheduled for May 9, to vote a resolution of contempt against him unless all White House documents are turned over to the committee by close of business on May 8, 1996.

In a letter dated May 2, 1996, Ranking Minority Member Cardiss Collins wrote to Chairman Clinger indicating that she disagreed with the decision to seek a contempt resolution because Chairman Clinger had not attempted any accommodation with the White House. In addition Rep. Collins specifically requested a hearing before proceeding with the contempt resolution:

> In order for the Committee Members to have an understanding of all issues involved in this resolution, I request a hearing on this matter prior to any committee vote on this resolution. Fundamental due process and basic fairness require that each of the individuals who are identified in the resolution should be allowed to testify on the issue, and present their case. To suggest that individuals have willfully refused to comply with a Congressional subpoena and should be considered in contempt of Congress is a serious charge. At a minimum, they deserve to be allowed to provide the committee with their testimony on the issue.

In a May 3,1996 letter to Chairman Clinger, John Quinn again attempted to resolve the matter. In that letter, he clarified the three areas of confidential documents that the White House had provided to the committee:

1. Documents relating to ongoing grand jury investigations by the Independent Counsel;

2. Documents created in connection with Congressional hearing(s) concerning the Travel Office matter; and

3. Certain specific confidential internal White House Counsel office documents including "vetting" notes, staff meeting notes, certain other counsel notes, memoranda which contain pure legal analysis, land personnel records which are of the type that are protected by the Privacy Act.

In that same letter John Quinn pointed out that the material for which the committee was threatening contempt go far beyond events relating to the Travel Office matter itself. He also, once again, renewed his request to reach an accommodation on this issue.

On May 3, 1996 Chairman Clinger wrote a letter to Ranking Minority Member Collins denying her request for a hearing to resolve the privilege issues.

On May 6, 1996 Chairman Clinger wrote a letter to John Quinn refusing to discuss any accommodation or compromise and merely demanded all of the documents.

On May 6, 1996, John Quinn again wrote to Chairman Clinger offering to resolve these issues:

> My offer to work with you to reach a compromise stands. I believe we have not exhausted the

> opportunities for accommodating the Committee's needs consistent with the President's interest in protecting confidential White House communications. For example, I gather from news reports that you are particularly concerned about material related to the IRS and FBI inquiries. To the extent we have such documents, I am prepared to discuss making them available to you.

On May 7, 1996, Chairman Clinger wrote back to John Quinn and once again rejected his offer to reach any compromise.

On May 8, 1996, Chairman Clinger finally agreed to a meeting with Congresswoman Cardiss Collins and John Quinn. At that meeting Mr. Quinn presented a new proposal. He outlined the confidential documents that he was prepared to allow committee staff to review; he offered to produce a privilege log and provided a strict timetable by which all of this material would be available. Chairman Clinger agreed to consider Mr. Quinn's offer.

Within an hour after that meeting Chairman Clinger wrote to Congresswoman Collins rejecting Mr. Quinn's latest offer and refusing any compromise, but invited Mr. Quinn to submit his view on the issue of executive privilege.

On May 9, Mr. Quinn wrote back to Chairman Clinger to explain his objections to providing the Committee with the three categories of documents. In that letter he also renewed his interest in reaching an accommodation with the Committee. In the final paragraph of his letter Mr. Quinn wrote:

> As always, I remain willing in the meantime to discuss this matter with you so that the legitimate needs of the Committee and the interests of the White House can be met.

One final time Chairman Clinger did not attempt any accommodation with the White House.

The White House, after invoking Executive Privilege, nevertheless allowed Committee members and staff to review those 2000 privileged pages to assure themselves that there was no evidence of criminal conduct in those pages. After reviewing these documents, Chairman Clinger still demanded that nearly 80 percent of those privileged documents be provided. Rather than continue playing this cat-and-mouse game with the Majority where cover-up is alleged and documents selectively leaked, the White House decided to simply make all of its records available to the public. A letter dated August 15, 1996, from White House Counsel John Quinn to Chairman Clinger, describes the frustrations the White House was having in light of the Majority's repeated failure to keep its agreements:

[insert letter]

THE WHITE HOUSE
WASHINGTON

August 15, 1996

BY HAND DELIVERY

The Honorable William F. Clinger, Jr.
Chairman
Committee on Government Reform and Oversight
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

For several months, we have worked with you to find appropriate ways to provide your Committee information it has requested regarding the White House Travel Office and other matters. We have sought to accommodate the Committee's needs while at the same time ensuring that we protect the confidentiality of communications made on behalf of the President, including the official work of White House lawyers, in accordance with long-standing principles of separation of powers and executive privilege. As you know, the Attorney General and career officials at the Department of Justice have substantiated the President's claim of privilege with respect to over 1,800 pages of material sought by your Committee.

In June, we took the extraordinary step of providing you and your staff with access to the documents in question. We did so after reaching an understanding with you and Congresswoman Collins that these privileged materials would not be copied or divulged beyond the Committee's members and staff. This was thought by all involved to accommodate fairly Congress' asserted need for the information, while maintaining the Executive Branch's need to provide confidential advice to the President and to conduct candid deliberations in furtherance of his work.

In accepting access to the documents on this basis, you agreed to follow a specific procedure and employ a particular standard in the event you thought that a document from among these materials should be made public. Nevertheless, last week, I received a letter from you seeking the release of three broad categories of documents from among the approximately 1,800 pages subject to our agreement. This was followed by a letter from Barbara Olson of your staff specifically identifying over 1,400 pages -- nearly 80 percent -- of the privileged documents that she has told us you insist we provide the Committee no later

than tomorrow. Neither your letter nor the Olson letter makes the slightest acknowledgement of the process and standards to which we all agreed in June.

This abrogation of our agreement gives us grave concern. We thought we had mapped a way to work together to satisfy the needs of both Congress and the Executive Branch. We spent many hours, together with Mrs. Collins, working with you to craft what we understood you had agreed was a workable, bipartisan arrangement for determining the conditions under which we would provide the Committee with copies of privileged documents. But your commitment to honor our agreement has been replaced, apparently, by this unilateral demand. And, no doubt, this demand will be followed by false charges that we are abusing executive privilege if we insist upon following the procedure you agreed to follow in June.

As I have said to you repeatedly, there is a strong interest on the part of the Presidency as an institution in the confidentiality of communications such as those reflected in the documents you have demanded. Our assertion of this interest has not been out of concern over the content of these documents: as you well know after the long hours you have spent reviewing them, the documents confirm that these matters were handled properly.

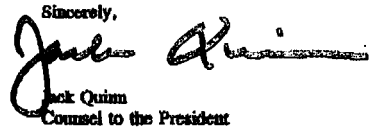
Be that as it may, there is an equally strong public and constitutional interest in ending the disparagement of the Presidency on which your Committee has embarked. In the past, the Committee has handled documents inappropriately, leaked selective portions of documents and deposition testimony in a manner that appears to be deliberately designed to unfairly impugn people, and read passages from privileged documents into a deposition record in plain violation of our agreement. All of this suggests that the Committee's investigation is not a search for the truth but a politically motivated partisan attack on the President.

The American people deserve better. They deserve to learn the whole truth firsthand and not through the filter of out-of-context leaks and mischaracterizations of privileged communications. Accordingly, in view of your determination to abrogate entirely the agreement you struck with me regarding the circumstances under which any of these documents might be made public, given the Committee's abuse of our attempts to accommodate your needs, and considering the nature of the matters at issue here, the President has directed me to release the documents you have demanded to the public. Only by elevating to the court of public opinion our constitutional dispute over the Executive Branch's attempts to meet the needs of the Congress can we undo the damage your

Hon. William F. Clinger, Jr.
August 15, 1996
Page 3

Committee has done to the separation of powers and assure the American people that this Administration has acted properly in regard to these matters. Your copies are enclosed.

Sincerely,



Jack Quinn
Counsel to the President

Enclosures

cc: Honorable Cardiss Collins (w/enclosures)

In sum, the White House has made available to this Committee every single document that it has demanded, despite the unreasonable natures of those demands and the utter unwillingness of the Majority to reach any accommodation on privileged documents.

The Majority's partisan conduct has damaged this Committee's credibility

The conduct of the Majority during the course of the Travel Office investigation has seriously damaged the credibility of this Committee, which until now had enjoyed a long and well-deserved reputation for fairness, bipartisanship, and the responsible conduct of oversight intended to improve the economy and efficiency of the Federal Government. It also has a long tradition of comity and cooperation between the parties. The Majority unfortunately has targeted its only significant oversight to embarrassing the White House purely for political gain, while abusing the rights of witnesses, ignoring Committee rules, essentially renouncing Committee practices and precedents, and otherwise acting arbitrarily in ruling against the rights of the witnesses and the Minority.

The catalog of abuses is lengthy, but is important to include at least the most egregious of them in these views, beginning with the unprecedented authority received by H.Res. 369 to compel witnesses to submit to sworn staff depositions. While we have supported our Committee's efforts to obtain all of the relevant information regarding the Travel Office firings, we doubt that this resolution, which grants authority to staff to conduct sworn depositions, was necessary. H. Res. 369 was an unprecedented grant of authority to the staff of a standing committee during the course of an ongoing investigation on the eve of a Presidential election. Under such troubling circumstances, there is a heavy burden on the proponents of the resolution to show a compelling need for such authority. We should not act just for the convenience of the staff, or because of an isolated case of a reluctant witness. There must be a convincing case that without this authority, the Committee cannot complete its investigation.

According to Chairman Clinger's letter to the Rules Committee, the stated reason for the Resolution was that "... we have been faced with the reluctance and even refusal of certain potential witnesses to voluntarily submit to staff interviews preliminary to a hearing." We are aware of no evidence that witnesses have refused to cooperate with the Committee during the course of this investigation. Further, we know of no witness who has refused to provide testimony to the Committee under oath. The Rules Committee received no documentation nor testimony demonstrating a compelling need for this extraordinary authority.

To the contrary, the record suggests that witnesses agreed to cooperate with the Committee, except when unwarranted conditions were demanded by the Majority staff. To the extent that witnesses were reluctant to submit to interviews, it was only after demands by the Majority staff that Minority staff not be present, or that interviews be taken under an oath administered by a staff that lacked such authority.

Both the Parliamentarians and the American Law Division of the Congressional Research Service had told Majority staff that there was no authority for staff to take sworn depositions absent a resolution by the House. Yet, knowing full well that they lacked both the authority to require a sworn deposition and the ability to administer an oath to witnesses, the Majority staff repeatedly threatened witnesses in an effort to force them to comply.

This behavior by the Majority staff was described in a letter to Chairman Clinger dated December 4, 1995, from David H. Williams, the attorney representing Patsy Thomasson:

> I called Ms. Bracher [Barbara Olson, a member of the Republican staff] back and told her that Patsy would still appear for a voluntary interview (provided that Democratic staff be allowed to attend, and) that I needed a commitment from her to confirm her agreement to this condition. Instead, what I got, was a series of threats that she would subpoena Patsy to a sworn deposition... and that... Patsy could be in a lot of trouble in refusing to do this interview privately as she had demanded.

An additional letter dated February 20, 1996, from Stephen L. Braga, the attorney representing Catherine Cornelius, to Chairman Clinger's staff provides further evidence that Chairman Clinger's letter to the Rules Committee was not accurate. In it, the attorney for Ms. Cornelius agreed to make her available for a transcribed interview provided that both Majority and Minority staff were present. The Majority staff turned him down, however, because he would not agree to swearing in his client, even though the Majority staff knew it had no legal authority to do so.

Abuse of Subpoena Power

The Majority has essentially renounced the Committee's long tradition of bipartisanship in the use of Committee subpoenas. Instead, it has acted behind Members' backs to issue subpoenas for hearings and for documents without demonstrating any compelling need. We can only conclude that the Majority has abused the subpoena authority for partisan political purposes, and not for any serious exercising of oversight for which the authority was intended.

As Ranking Minority Member Collins wrote to Chairman Clinger on August 2, 1996:

> I am thoroughly opposed to your partisan use of the committee's subpoena power to gain further documents relevant to the committee's FBI file investigation. For as long as I served on this committee, until this Congress, subpoenas were always issued only after concurrence with the Ranking Minority Member or upon a vote of the committee. You have apparently once again unilaterally issued a subpoena.

The Majority's first partisan use of its subpoena power came earlier this year when Chairman Clinger issued a subpoena to David Watkins to appear at the Committee's January 17 hearing. Chairman Clinger made the following incorrect statement during the hearing:

"The point has been made here that this is a very partisan exercise. I would point out that these subpoenas that have been issued in this matter have been done on a bipartisan basis with the consent of the minority."

However, the following exchange made it clear that Chairman Clinger misled the Committee and the public in his statements:

> Mr. Clinger. I do want to correct the record to show that the subpoena was issued to you, Mr. Watkins, and the subpoena for your documents was issued under my authority, because you are not any longer an employee of the White House. All of the other subpoenas that were issued to other members in the White House and for document production were issued on a bipartisan basis...
>
> Mr. Kanjorski. Mr. Chairman, if I may ask, just so the record is very clear, there has been some indication that this hearing today was held as a result of a subpoena that was issued in a bipartisan fashion. Am I understanding from your statement that that is not correct, the minority did not agree with the majority on this date or time or this particular witness at this time to appear, and it was solely done under your discretion under the rules as chairman of the committee?
>
> Mr. Clinger. It is correct that I issued the subpoena to Mr. Watkins, based on the fact that he had indicated really an unwillingness to appear voluntarily.
>
> Mr. Kanjorski. So today's choice of date and the issue of subpoena was made by the majority of this committee. Is that correct?
>
> Mr. Watkins. May I speak, please? I do not think that is correct. I don't think I ever rejected a request to appear.
>
> Mr. Clinger. Well, we do have a letter from the lawyer, from your previous attorney, I think, indicating...
>
> Mr. Watkins. I think that was for an interview, Mr. Chairman, not to testify before the committee.

In any case, any attempt to maintain even the specter of bipartisanship in the issuance of subpoenas was thrown out the window when the Chairman during the August 1996 recess issued subpoenas for records to the FBI, the Department of Justice, the CIA, and the White House, without any notice to the minority.

Selective Release of Depositions

The issue of the depositions entered into the record at the May 9, 1996, Committee meeting to consider the contempt resolution is a troubling example of arbitrary rulings for what appear to be partisan purposes. As the Parliamentarian has interpreted the Chairman's statement, all of the depositions taken prior to that meeting were entered into the record and therefore made available for use by the Members and the public:

> As the Members know, the committee has been in the process of conducting depositions as provided in Committee Rule 19 and, without objection, I would like to make these depositions part of the record.

After the meeting, the Majority General Counsel agreed with Minority staff that that was Chairman Clinger's intent.

However, the Chairman subsequently informed the Minority that only four depositions never described to the Members were placed into the record, allowing the selective use of these four depositions while restricting Minority Members from responding using the testimony obtained in other depositions. For example, on page four of the report filed for the contempt proceedings, information obtained from one of the depositions which Chairman Clinger deemed to be part of the record is included. However, the Minority was precluded from using any information from the dozens of other depositions that the Chairman contended were not included in the record.

The fact that Chairman Clinger stated that he placed all of the four selected depositions into the record-- but none of the others-- , regardless of the opinion of the Parliamentarian, leads us to conclude that his position was based on partisan politics, and not on any limited need related to the contempt proceedings. If the intent had been to release only information obtained at the depositions related to the White House production of records for purposes of the contempt, he could have asked-- and we would have agreed-- to place into the record only those pages of the depositions related to this issue. Nor did Chairman Clinger offer to reach any accommodation with the Minority on the use of the depositions which would meet both the needs of the Minority and the Majority.

While his position restricted the ability of the Minority to use deposition testimony during floor debate, it did not keep executive session material out of the press. June 4's *Wall Street Journal* quotes directly from an executive session deposition taken by the staff the previous day.

Ironically, in other cases rulings were made purportedly on advice received from the Parliamentarians. In a July 10, 1996, Memorandum distributed to Committee members, Chairman Clinger states:

> After having consulted with the House Parliamentarian and the Congressional Research Service's American Law Division, it appears quite clear that a government witness before this Committee cannot refuse to respond to pertinent questions put to him on the basis of the Privacy Act.

However, as is made clear in a memorandum to the Minority responding to the Chairman, the Parliamentarian vigorously disputed that account:

> I have received the fax you sent to me earlier today of the "Memorandum to File" regarding the applicability of the Privacy Act to Congress signed by Chairman Clinger wherein advice was ascribed to the Parliamentarian's Office relative to the legitimacy of a government

witness's assertion of the Privacy Act to excuse his failure to answer a question at a Committee hearing...

At no time did the Parliamentarian's Office attempt to advise the Committee on the legitimacy of the witness's assertion that the Privacy Act could be invoked as an excuse. In fact, this Office, when advising both the majority and minority staff of the Committee, repeatedly and unequivocally refused to advise on that issue.

Misuse of GAO

One of the more questionable examples of use of Committee powers for partisan purposes was the Chairman's use of the non-partisan General Accounting Office to create a criminal referral for possible false statements by David Watkins, particularly in light of the Majority's criticism of the White House for allegedly misusing the FBI for precisely the same reasons. According to a series of letters between Chairman Clinger and the GAO, GAO made this referral only after being directed to do so by Chairman Clinger. This misuse of the GAO has seriously compromised the independence of that agency. We are also deeply troubled by the precedents created for GAO based upon this action, since this appears to be the first time that a criminal referral has been made based upon a statement made in a GAO interview. The consequence of this action may undermine the credibility of GAO and the willingness of individuals to voluntarily provide information to GAO.

Our concerns over this matter center on four important items. First, the independence of GAO appears to have been compromised by the step-by-step process by which the Chairman led GAO to its referral letter. Beginning with the Chairman's first letter requesting an analysis of possible criminal violations based upon Mr. Watkins' unsworn interview with GAO and a subsequent draft memorandum prepared by Watkins, and culminating in the Chairman's direction to GAO that it forward any charges to the U.S. Attorney, the record of correspondence demonstrates that the decision to make a referral was not entirely independent.

Second, neither the GAO nor Chairman Clinger ever informed the Minority of this committee concerning this exercise until GAO had made its referral. It is particularly odd that the GAO would conduct a review of statements made during an interview in preparation of a report prepared pursuant to a Federal law enacted in a Democratic Congress and not see fit to inform Members of the Democratic party. Certainly, this approach can only add to the impression that the actions of GAO were used in a partisan manner.

Third, GAO officials have told staff that the criminal referral will send a strong message that it is important to tell the truth to GAO. However, the referral may also send a quite different message that statements to GAO investigators may lead to criminal charges, and therefore coooperation may be severely reduced. It now remains a question whether individuals will wish to answer GAO questions in the absence of a transcript or out of the presence of lawyers, if their unsworn statements, as paraphrased by GAO investigators, can be the source of a criminal referral.

Fourth, the immediate release to news media concerning the GAO referral can only lead to the impression that the entire GAO review was performed more for the sake of the media than for the use of the U.S. Attorney. GAO has confirmed that it is not their policy to release such information to the media. The release of this information is particularly ironic in light of the Majority's criticism of the White House's 1993 disclosure of the FBI investigation of the Travel Office employees.

The Majority's Travel Office report ignores much of the evidence

We recognize that the manner in which the White House handled the firing of the Travel Office employees unfairly tarnished the careers and reputations of the employees, particularly those with no financial responsibility for the Travel Office operations. It is not our intention to excuse the conduct of the White House staff, and indeed, the White House Management Review was itself critical of the firings, and resulted in reprimands for four individuals. Nevertheless, these mistakes do not justify the Majority's attempts to tarnish the reputations of many other government employees, including the career FBI and Justice Department investigators and the employees of KPMG Peat Marwick.

The premise of the Majority's long pursuit of the Travel Office matter is that none of the previous investigations into the matter was able to complete a thorough investigation. This, apparently, is the public excuse as to why the Majority persists in its investigation. However, the White House Travel Office matter has is fact been thoroughly investigated by career prosecutors in the Public Integrity Section of the Justice Department's Criminal Division in the course of their investigations into violations of law. There have been three such investigations by the Public Integrity prosecutors:

1) That Mr. Dale stole Travel Office funds.
2) That Harry Thomason and Darnell Martens violated conflict of interest statutes.
3) That Harry Thomason and Darnell Martens lied to investigators.

In the first case, after a two-year investigation, Mr. Dale was indicted on two counts of embezzlement, and was subsequently acquitted. In the second and third case, the Public Integrity prosecutors after lengthy reviews declined to prosecute the individuals for wrongdoing. Despite the Majority's lengthy arguments that Mr. Thomason was a special governmental employee, the Justice Department prosecutors found otherwise. There is no evidence that the prosecutors did not have access to all of the significant information in conducting these investigations.

The career prosecutors and investigators conducted themselves in a thorough, professional, and non-partisan manner.

The Majority states that "The Justice Department deferred to the White House during its investigations of the White House Travel Office," and implies that the criminal prosecution of Mr. Dale was compromised for political purposes. There is not a single shred of evidence to support these allegations. To the contrary, the Majority details the efforts of the Public Integrity Section-- including the issuance of a subpoena-- to obtain documents from the White House.

However, it is always extremely difficult to prove a negative, particularly in the absence of any specific evidence that the investigation by the Department of Justice was somehow tainted. Instead, we refer to three memoranda of the career Public Integrity

prosecutors detailing the facts they obtained during their criminal investigations of Mr. Dale, Mr. Thomason, and Mr. Martens. These three memoranda, the possession of which the Majority demanded upon threat of contempt to the Attorney General, had previously been shown-- though not given-- to the Committee. The Majority has refused to make these memoranda public.

These three memoranda present the evidence gathered by the prosecutors against Mr. Dale, Mr. Thomason, and Mr. Martens, and explain the basis for the actions taken in each case far better than we can in these views. These documents demonstrate the thoroughness, the professionalism, and the utter lack of bias of the career prosecutors whose credibility the Majority seeks to question. If the Majority were to release these memoranda, the public could judge for itself whether these investigations were thorough, professional, and unbiased.

The Majority's implication that the Justice Department somehow acted improperly in its prosecution of Mr. Dale is not supported by any evidence. To believe that the Department conducted the prosecution of Mr. Dale for political purposes smears the reputations of the FBI agents who first investigated the case; the frontline career prosecutors who recommended indicting Mr. Dale; the senior prosecutors of the Indictment Review Committee who approved of that recommendation; and the citizens of the grand jury who ultimately voted to indict Mr. Dale.

Even Mr. Dale, in sworn testimony before the Government Reform Committee, acknowledged that there was no misconduct on the part of the prosecutors or investigators who pursued the criminal case. Rep. Paul E. Kanjorski asked Mr. Dale:

> ... (W)hen the (allegation of criminal conduct) was referred to the Justice Department and the Public Integrity Section of the Justice Department; are you suggesting in any way that either those attorneys in the Justice Department, the people in the Grand Jury, the judge that tried the case or the people that made up the jury were in some way compromised?
>
> Mr. Dale: "Absolutely not..."[1]

The simple fact is that the Majority cannot overcome the decisions of the career prosecutors and investigators at the Department of Justice and the FBI who have reviewed all the facts and declined to prosecute any individual for any alleged violation of law with the single exception of Mr. Dale.

Indeed, if the Majority had taken the time to review the tens of thousands of pages of records it has subpoenaed or the dozens of depositions its staff has taken-- and indeed, if it had bothered to question the prosecutors themselves-- it might come to a different

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[1] "White House Travel Office," Hearing before the House Committee on Government Reform and Oversight, 104th Cong., 2nd Session (January 24, 1996)[hereinafter cited as "Hearing Day Three"] p. 173.

conclusion.

Prosecutors fully investigated allegations of a plan to fabricate evidence against Mr. Dale.

The Majority states that "there were missing documents in this case that Public Integrity believed ... might be in Catherine Cornelius' possession. Yet when Dale raised the issue of missing documents as a defense at his own trial, the Justice Department opposed this request... " The Majority's implication is one that has been stated repeatedly by Mr. Dale: that records missing from the Travel Office would prove him innocent of stealing funds and must have been taken by Catherine Cornelius as part of the plot against him, and that the prosecutors ignored this defense.

Recognizing that this would be Mr. Dale's response to the criminal charges against him, the Justice Department prosecutor's thoroughly reviewed the evidence and concluded that there was no plan to fabricate charges against the Travel Office employees.[2]

Further, the prosecutors found no evidence that Cornelius destroyed Travel Office records, and determined that Cornelius was not even aware of the existence of the petty cash log at the time the records were alleged to be missing by the Peat Marwick team.[3]

In fact, the prosecutors came to a very different understanding about the missing records: that Mr. Dale knew exactly where the missing records were kept, that he knew Cornelius was snooping around for evidence of questionable practices, and that he was the individual who was mostly likely to have destroyed the records in light of what they may have revealed.[4]

Whether the jury believed this version is not the issue. The prosecution memorandum makes clear that this was the judgement of the career prosecutors, and not improperly affected by outside influences.

The Majority refused to investigate allegations of impropriety on behalf of the Travel Office during the previous administrations

The Majority contends that Harry Thomason and Catherine Cornelius were the primary sources of allegations against the Travel Office employees. The Majority has put on thick blinders to any possibility that the Travel Office was in desperate need of review, stating instead that the employees there "worked hard and played by the rules." They repeat without any scrutiny Mr. Dale's contention that allegations of mismanagement at the Travel

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[2] See, AX500009.

[3] *Id.*

[4] See, AX500051.

Office were a "convenient excuse" intended to justify the firings. What they ignore is the fact that rumors about improprieties by Mr. Dale and the Travel Office had been circulating for years.

When the then-head of the White House Office of Administration under President Reagan first reviewed the Travel Office in the early 1980s, he found lax accounting practices that had the potential for fraud and abuse.[5] When he appointed Mr. Dale to head the Office in 1982, he set out strict guidelines to follow that included keeping complete records of cash receipts, to make daily deposits, and to follow other fundamental procedures to insure internal control and accountability. Mr. Dale never followed any of these guidelines.[6]

Serious allegations were first made about wrongdoing in the Travel Office in 1988 in an anonymous letter to the General Accounting Office (GAO) that charged Travel Office staff with accepting gifts from one airline doing business with the office. In return, the letter alleged, that airline received the Travel Office business.[7] One of the central allegations of the 1988 letter to GAO was that Barnaby L. Brasseux, a Travel Office employee, was married to a sales manager for Pan American World Airways, and that Pan American was the airline receiving Travel Office charters on a non-competitive basis.

When the Reagan White House, which had been forwarded the allegations by the GAO, questioned Mr. Dale about these charges, he admitted to investigators assigned by the counsel's office that the Travel Office staff regularly accepted gifts of tickets to sporting events and invitations to elaborate fishing parties from contractors, and in particular from Pan Am, according to a writeup of the interview:

> Dale stated all the major airlines, United, American, Continental, etc., including Pan Am, make available tickets to his office for sporting events being held in the area... Regarding the "fishing parties" on Chesapeake Bay, Dale stated that each September, Pan Am sponsors fishing parties in which they make spaces available... Dale stated he generally receives 4 or 5 invitations and handles them the same way he handles the sporting event tickets.[8]

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[5] See, General Accounting Office report, "White House Travel Office," (GAO/GGD-92-132, May 2, 1994) p. 21.

[6] For a discussion of the guidelines and Mr. Dale's subsequent practices, see EZ038299-300.

[7] The records disclosing these allegations and how the Reagan White House failed to investigate Mr. Dale's own subsequent admissions were introduced at the Committee's October 24, 1995, hearing, by Minority Members of the Committee. The hearing has yet to be printed.

[8] *Id.*

After interviewing Mr. Dale and his assistant Barnaby L. Brasseux and being told that he did receive free tickets and other gifts from contractors doing business with the Travel Office, White House official George Saunders recommended to Deputy Counsel Phillip Brady that no action be taken.[9]

In addition to taking no interest in Mr. Dale's admissions of accepting gifts from contractors, there is no evidence that the Reagan White House or the subsequent Administration took any action to ensure that competitive bidding was required when obtaining press charters. After Pan American declared bankruptcy, the charter business was transferred to a company called Airline of the Americas which was formed by former Pan American employees, and which subsequently became UltrAir.[10] According to the KPMG Peat Marwick review, of a total $2,996,511 disbursed from the Travel Office press travel fund from January 1, 1992, through May 15, 1993, $2,653,487 went to UltrAir or its predecessors.[11]

It was apparently well-known in the charter industry that Pan Am and its successors had been granted exclusive business with the Travel Office, and that the White House press business was not open to competitive bidding.[12] When asked about the lack of competitive bidding, Mr. Dale disputed that contention, but stated that no one else was interested in the business.[13]

Yet, during the course of the FBI investigation into the Travel Office, officials of a competing airline charter company which had done business with the Travel Office told the FBI that after Airline of the Americas became certified to perform charter flights, the competing company was never again contacted for charters by Mr. Dale. In an interview with the FBI, the president of the company stated that he had concern as to why the Travel Office did not have competitive bidding and why a charter company such as UltrAir would have an exclusive contract with the Travel Office.[14]

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[9] *Id.*

[10] See, FBI interview with Charles Pearce Caudle, President, Airline of the Americas (October 5, 1993, EZ014091-094).

[11] See, White House Travel Office Management Review (July 2, 1993), at Exhibit B, p. 9.[Hereinafter cited as "White House internal Management Review].

[12] See, FBI interview of Penelope Bea Sample (November 10, 1993, EZ014412-418).

[13] See, Hearing Day Three, p. 113.

[14] See, FBI interview with Douglas Ross Fischer, President, Miami Air International, Inc. (August 3, 1993, EZ014136-138).

In addition, following the change of Administrations, officials of yet another charter company, Midwest Express, attempted on a number of occasions to obtain White House Travel Office business. However, the phone calls went unanswered, and they were never contacted by Mr. Dale and were never asked to make a bid on charter flights for the Travel Office.[15]

The lack of competitive bidding suggested that UltrAir's billings to the Travel Office could be inflated. According to one UltrAir employee, following the Travel Office firings and the requirement that press charters be opened for bidding, UltrAir had to readjust its rates to be more competitive.[16]

In fact, according to Catherine Cornelius who was in the Travel Office following the firings, the White House was "deluged" with phone calls from charter companies wishing to bid on the Travel Office business. Even members of Congress were contacting the office in an attempt to find out how charter companies could bid for the business.[17]

Darnell Martens, who had 22 years experience in the aviation industry and whose firm TRM did work for the Clinton campaign, contacted Mr. Dale in early 1993 to discuss his firm's bidding on Travel Office business, Mr. Dale told him that he had "no chance" of obtaining any business.[18] According to Martens, Mr. Dale told him he would not be able to offer a better price than Mr. Dale was already getting, even though Mr. Dale never allowed Martens to make a bid, and thus could not have known Martens' best price:

> And Mr. Dale informed me that this was a waste of time. He said... there isn't anybody out there that you know of that I can't get to. There's no price that you can get that I can't get... I said, well, okay, but what if there is a better price of a better, you know, service that's available to you, just what if, that you haven't seen; wouldn't you like to take a look at it? And he said look, let me tell you again, I am not interested in hearing about it.[19]

The result of Martens' phone call was eventually circulated through the White House, and gave rise to further suspicions about Mr. Dale and the Travel Office.[20]

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[15] See, FBI interview of Donald Richer, Charter Account Executive, Midwest Express Airlines (November 11, 1993, EZ014409-411).

[16] See, FBI interview of Anthony Nicholas Gaeta (February 22, 1994, EZ014526-527).

[17] See, Cornelius Deposition (April 30, 1996), p. __.

[18] See, Martens Deposition (April 11, 1996) p. 48-59.

[19] *Id.*

[20] See, Management Review, Exhibit G.

The Majority refused to include in its investigation whether or not the Travel Office employees had improperly accepted gratuities, despite Mr. Dale's admission to investigators assigned by the White House Counsel's office that he had accepted gifts from the airline that was providing charter services for the Travel Office. Accepting gifts from contractors doing business with the office was against Federal regulations and may have violated Federal law. For example, Title 3 of the Code of Federal Regulations at section 100.735-14, which was in effect at the time, states:

> ... (A)n employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value from a person who: (1) Has, or is seeking to obtain, contractual or other business or financial relations with his agency.

Since Pan Am was doing business and seeking to obtain more business with the Travel Office, Mr. Dale's acceptance of gifts of tickets for entertainment and fishing trips appears to have violated the regulations governing White House employees.

In addition, 5 U.S.C.§ 7353 prohibits any Federal employee from accepting "anything of value from a person... seeking official action from, doing business with, or (in the case of executive branch officers and employees) conducting activities regulated by the individual's employing entity."

The Reagan White House, faced with this admission of impropriety, did not refer the evidence to the Justice Department for further investigation as required when any evidence of a crime is uncovered. Nor did it take any disciplinary action against the employees for improperly accepting gifts. Instead, as Reagan White House records make clear, no actions were taken.

The Committee has received from the Department of Justice statements and documents alleging other examples of conduct which may have violated Federal regulations and statutes. These include the receipt of free meals, the allowing of White House employees to use the Charter flights for a profit-making business, the acceptance of an interest-free loan by Dale from other White House employees, and the Travel Office's involvement in illegal shipments of wine to Washington on behalf of reporters.[21]

While these allegations have not been investigated by the Committee, if true they may have been in violation of 3 CFR 100.735-4, 3 CFR 100.735-14, and Federal law.

Other allegations of improper activities by the Travel Office for the benefit of the press corps were circulating at the White House. For example, reporters may have been allowed by Mr. Dale to avoid import duties on goods brought back from foreign trips.

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[21] See, FBI interviews of Joseph Piedagnel, America Trans Air, Inc. (July 27, 1993, EZ014156-161), Taddese Ghebremeschel (August 17, 1993, EZ0141-143) and Lindsey D. Cullison (February 9, 1994, EZ014354).

According to the *Wall Street Journal*:

> One veteran reporter tells of paying $200 for two rugs worth $10,000 during a trip to China several years ago. He says that he paid no duties or taxes on the rugs, and that Mr. Dale let him put the rugs on the press plane home. Many reporters have similar tales to tell.[22]

In addition, documents including letters and memoranda drafted by Mr. Dale and provided to the Committee by the Department of Justice suggest that the Travel Office assisted members of the press in illegally shipping large quantities of California wine to Washington on the Travel Office charter aircraft. According to an UltrAir employee, UltrAir objected to these shipments, and brought the issue to the attention of Mr. Dale.[23]

Although Mr. Dale had acknowledged in a memorandum to Marlin Fitzwater that the White House may have been illegally aiding members of the press in shipping large quantities of wine to Washington,[24] he gave a conflicting response when given an opportunity to explain this as well as the Travel Office's role in avoiding import duties in testimony before the Committee:

> Mr. Clinger: Let me just ask all of you one simple question, I think it requires a yes or no. My time is about to expire.
>
> One of the accusations was, and there was a whistleblower letter at one point that suggested that you all were sort of aiders and abetters of smuggling operations in terms of bringing in valuable oriental rugs and fines wines and so forth. Let me just ask each of you, if you would to say yes or no.
>
> Did you facilitate or aid or abet smuggling of this kind in any way?
>
> Mr. Dale: No, sir.[25]

The FBI, not the White House, was anxious to continue a criminal investigation of Mr. Dale's activities.

The Majority accuses the White House of pressuring the FBI into initiating a criminal investigation of the Travel Office by stating that Associate White House Counsel William

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[22] See, Frisby, Michael K., "Travel Office Trouble Casts A Shadow on Clinton, the Press and Seven Staffers," Wall Street *Journal* (May 24, 1993, A5A).

[23] See, FBI interview of James F. Leahy (November 4, 1993, EZ014404-408).

[24] See, Memorandum from Mr. Dale to Marlin Fitzwater, April 27, 1987, EZ027629.

[25] See, Hearing Day Three, page 65.

Kennedy "abused the FBI by repeatedly invoking the "highest levels" of the White House in meetings with the FBI." They then state that once the FBI decided to conduct an investigation, the White House Counsel's office shifted gears to keep the FBI at bay until friends of the White House did a review supporting what the White House wanted. The implication is that the FBI was coerced into agreeing to conduct an investigation, and then not allowed to review the evidence until the White House could somehow manipulate the evidence to justify the firings.

The Majority, in repeating accusations that the White House brought the FBI in for the sole purpose of discrediting the Travel Office employees, ignores the testimony of both the FBI agents and the White House officials.[26] The evidence received by the Committee portrays a White House staff that contacted the FBI only for advice-- and not to initiate an investigation-- and which was skeptical that there was enough information to begin a criminal investigation. In fact, the White House staff resisted FBI efforts to begin an investigation without the findings of an audit of the Travel Office.

The May 12, 1993, call to the FBI was made by White House Associate Counsel William Kennedy to FBI Unit Chief James Bourke after being asked to review the Travel Office issues by Deputy White House Counsel Vincent Foster.[27] After hearing allegations by Catherine Cornelius, a White House aide who had been assigned to the Travel Office, White House officials decided that an audit should be conducted to determine the scope of the problems that Cornelius was identifying in the Travel Office. After learning that the White House had no internal capability, Kennedy was assigned the task of coming up with a plan to address the problem.[28] As Kennedy testified, he decided to call Bourke to determine which government agencies might provide audit assistance because he had had regular contact with Bourke for purposes of background investigations :

> Mr. Goldberg: Can you explain again why you decided you needed to talk to Jim Bourke?
>
> Mr. Kennedy: Well, again, I had a good working relationship with him. He was somebody that I trusted, and I felt he reciprocated that trust. He was knowledgeable.
>
> Mr. Goldberg: What specifically, though, were you requesting?
>
> Mr. Kennedy: Help. The specific question was I have a problem over here. I don't know how to deal with it. I think that I probably need auditing or financial auditing help. I don't

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[26] In addition to the Majority's report, see, for example, the statement of Rep. Dan Burton, Hearing Day Three, p. 37.

[27] See, FBI interview of William Kennedy (September 15, 1993; CZ000517-527).

[28] See, Justice Department memorandum, "Report of OPR's Review Of The Conduct Of The FBI In Connection With Its Contacts With The White House In The Travel Office Matter,"[hereinafter cited as "OPR Report"] (March 18, 1994; AZ000500597) at p. 11.

> know where to get it. I don't know what's going on here. Can you help me? Can I talk to someone about a way to deal with this problem.[29]

The following day, May 13, Kennedy had several other calls with FBI officials who had been referred to him by Bourke. The Majority accuses Kennedy of summoning the FBI to the White House. In fact, Kennedy testified that in each case, FBI agents offered to come to the White House to talk to Kennedy despite his offers to go to the FBI's offices:

> Mr. Goldberg: So on two separate occasions that day you personally offered to travel to the FBI offices to obtain the assistance you were looking for, and in both cases the FBI stated that they would rather come to the White House, is that correct?
>
> Mr. Kennedy: Yeah. I mean, it wasn't that big a deal... It was, you know, I will be glad to come over there and he said, well, we will come over there. It was like that.
>
> Mr. Goldberg: So they obviously were not reluctant to come to the White House, would you agree?
>
> Mr. Kennedy: No, they were not reluctant to do that...
>
> Mr. Goldberg: If it was your intent to somehow force the FBI to conduct some sort of criminal investigation, would it have made sense to ask any of these FBI agents to begin an investigation during these meetings, these two meetings that we have discussed?
>
> Mr. Kennedy: First of all, it was never my premise to force any sort of investigation, period, end of story...
>
> Mr. Goldberg: You certainly had the opportunity during those two meetings if it had been your intention?
>
> Mr. Kennedy: Absolutely.
>
> Mr. Goldberg: And during those meetings, you did not ask the FBI to conduct a criminal investigation, is that correct?
>
> Mr. Kennedy: I did not.[30]

Bourke, according to the OPR report, confirmed that "Kennedy was not necessarily asking the FBI to investigate, but rather, 'wanted to pick someone's brain.'"[31]

Following several discussions with various FBI personnel, on May 14 Kennedy and Foster introduced Unit Chief Richard Wade and Supervisory Special Agent Thomas Carl to

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[29] See, Kennedy Deposition (April 9, 1996) p. 214.

[30] *Id.* At pp 62-63.

[31] OPR report at p. 13.

Catherine Cornelius, the White House aide who had reported specific allegations about the Travel Office to Kennedy and Foster after having been assigned there.[32] After meeting with Cornelius, Wade and Carl determined that there was sufficient predication that would allow the FBI to conduct an investigation. That same day, after discussions with the Department of Justice's Public Integrity Section, Acting Public Integrity Chief Joseph Gangloff concluded that "there was indeed sufficient predication for the FBI to initiate a criminal investigation."[33]

Kennedy testified to the Committee that both he and Foster were skeptical of the information they had received, and were therefore "surprised" that the FBI was ready to begin a criminal investigation based on the interview with Cornelius:[34]

> Mr. Goldberg: You had heard Cornelius' allegations about the Travel Office and were skeptical of the information you received; is that correct?
>
> Mr. Kennedy: Well, let's be clear here. We thought she was credible. We thought she knew what she was talking about, but we didn't know if there was a good explanation for what she had found, what she was hearing. We just didn't know.
>
> And so (we) were skeptical about whether there was fire where there seemed to smoke; absolutely. We didn't know what we (were) dealing with.
>
> Mr. Goldberg: But the FBI, upon hearing the same information, told you they believed predication existed based on the--
>
> Mr. Kennedy: Yes, yes. They had interviewed Catherine directly... But we did not feel at that time that an investigation by the FBI was warranted. We preferred, as subsequently happened, that the audit be conducted to find out what the hell was going on.[35]

FBI agents Carl and Wade expressed various concerns about conducting the audit, including the destruction of evidence and issues regarding testimony, yet Kennedy and Foster still did not believe a criminal investigation was warranted based on what they knew:

> Mr. Goldberg: With all the reasons the FBI was giving you to conduct a criminal investigation, you still went ahead with the review of the Travel Office?
>
> Mr. Kennedy: That is correct.

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[32] For the FBI's description of the contacts between Kennedy and the Bureau's personnel, see FBI memorandum "An Internal Review Of FBI Contacts With The White House As Related To The Investigation Of The White House Travel Office," (May 28, 1993; AZ00019-034).

[33] *Id.* At p. 9.

[34] See, Kennedy Deposition, at p. 64.

[35] *Id.* at p.65-66.

Mr. Goldberg: So it wasn't you or other members of the White House staff that were pressuring the FBI to conduct an investigation of employees at all; in fact, the FBI agents themselves were ready to begin a criminal investigation?

Mr. Kennedy: That is a fair statement; they were ready to go.[36]

Finally, the Majority once again tarnishes the White House for improper contacts with the FBI in the days leading up to and following the Travel Office firings. The White House itself admitted an improper appearance with these contacts.[37] But the record should clearly show that misjudgement does not equate to criminal conduct. As the Justice Department prosecutors noted, the White House, General Accounting Office, FBI, and DOJ's Office of Professional Responsibility all looked into the facts surrounding the contacts between the White House and the FBI, and each review concluded that nothing illegal had occurred in connection with these contacts.[38] In conclusion, the Justice Department prosecutors commended Foster and Kennedy for their actions with the FBI for bringing both caution and deliberation to the process.[39]

Peat Marwick found financial mismanagement and further evidence warranting a criminal investigation. The Majority has responded by attacking Peat Marwick officials

The Majority repeats Mr. Dale's testimony before the Committee that the Peat Marwick Review did not find evidence of mismanagement in the Travel Office, but rather was an excuse for firing the Travel Office employees. Yet, not content to criticize just the White House, the Majority tarnishes the reputations of the independent auditors by stating that it was "an 'independent' auditor which was neither independent nor an auditor. The management consulting-- not the public accounting-- arm of KPMG Peat Marwick was engaged to conduct a management review."

The Majority provides no support for its accusation that Peat Marwick was not an "independent" entity. The Committee to date has received no testimony or evidence that somehow Peat Marwick had a conflict of interest in performing its review.[40] As to the

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[36] *Id.*

[37] See, White House internal Management Review, p. 16.

[38] See, AX500014.

[39] See, AX500010.

[40] Herman stated during his GAO interview that he had performed some *pro bono* work for the National Performance Review, which entailed providing two half-day orientation sessions. The GAO report on the Travel Office contains no suggestions that Herman's assistance to NPR raised any conflicts for KPMG Peat Marwick.

accusation that it was not an auditing team, this is a distinction without a difference. Of the six individuals on the Peat Marwick team, five of them were Certified Public Accountants.[41]

Finally, Peat Marwick's inability to perform a formal audit was a function of the state of the records in the Travel Office.[42] According to Peat Marwick CPA Dan Russell, the Travel Office records were in such a poor state that "it could take us as much as two weeks to first summarize or re-create the records into what we call like a trial balance format and then, at that point, audit the financial statements that would be created off the trial balance. But it would be a major, major undertaking, given the condition (of the records)."[43]

Yet, the dismal state of the Travel Office's records did not stop Peat Marwick from uncovering significant evidence of mismanagement in the Travel Office, evidence that was communicated both to David Watkins before he made the decision to fire the employees, and to the FBI.

The Peat Marwick findings, under the heading of "Lack of Accountability," included: a lack of financial control consciousness, no formal financial reporting process, no reconciliations of financial information other than reconciliations of bank statements, and no documented system of checks and balances on transactions and accounting decisions within the office.[44]

When asked to explain these findings at the Government Reform and Oversight Committee hearing, Mr. Dale denied that the findings amounted to financial weaknesses.[45] However, that same day, Larry Herman, the Peat Marwick senior partner who led the Travel Office review, told the Associated Press that he did in fact find "clear evidence of financial mismanagement" which may have warranted the firing of Mr. Dale: "My personal assessment is ... that most companies today would question [his management] and would include questioning whether to remove that person from that position."[46]

Mr. Herman was even more direct in an interview he gave to the General Accounting Office in September 1993. According to the GAO record of interview:

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[41] See, Russell Deposition (March 27, 1996), p. 14.

[42] See, Thomasson Deposition (April 22, 1996), p.__.

[43] See, Russell Deposition, p. 74.

[44] See, White House internal Management Review, Exhibit B.

[45] See, Hearing Day Three, p.35.

[46] See, Hearing Day Three, p.112.

> In Mr. Herman's professional judgement, the Travel Office's accounting records were, "the messiest, most illegible bookkeeping," he had ever seen. He stated he was, "barely able to read the writing, very sloppy and inconsistent, with no explanation of differences." He was also frustrated that he couldn't obtain appropriate responses from Mr. Dale. Mr. Dale seemed to not understand the significance of items such as lack of reconciliations, missing pages, and lack of follow-up on open billings. Mr. Herman had orally briefed Mr. Dale on Peat's findings and repeatedly asked for his assistance in locating records. Mr. Herman believed, "that [Mr.] Dale had no concern for record keeping of other people's money."[47]

Further, Mr. Herman told GAO that "most of his clients would react the same way as the White House did. Mr. Herman's personal opinion is that it was a wise course of action to start over with [a] clean slate..."[48]

Information obtained during the course of the Peat Marwick review also provided sufficient evidence for the FBI of its own volition to initiate a criminal investigation of Mr. Dale. According to a memorandum from David Watkins to Mack McLarty attached to the White House Management Review, when FBI officials were briefed on the Peat Marwick findings, they "believed there was sufficient cause for them to conduct a criminal investigation..."[49]

Some of that evidence is contained in the Peat Marwick report's findings that of eight checks written against the Travel Office's Riggs Bank account totaling $23,000 made out to cash and signed by Mr. Dale, only $2000 was reflected in the petty cash fund. Of the $2000 entry to the petty cash fund, the corresponding check from the Riggs account was for $5000. The Peat Marwick team's suspicions were further described in later interviews they gave to the GAO and the FBI.

For example, Mr. Herman's interview with the GAO provides more detail about the missing cash:

> On Saturday [during the Peat Marwick review], Billy Dale was asked at least twice more about the missing $3000. Mr. Herman stated that Billy Dale suddenly seemed to recall something, then turned and opened his desk drawer or credenza and found the envelope with $2800. This raised another red flag to Mr. Herman. We [the GAO] questioned whether Mr. Dale had the opportunity to place the funds in the drawer between Friday and Saturday. Mr. Herman stated that he did.

Mr. Herman provided a progress report of the Peat Marwick review to two FBI officials that Saturday evening. According to the GAO interview with Herman, "The FBI

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[47] See, General Accounting Office interview of Larry Herman, April 4, 1994.

[48] *Id.*

[49] See, White House internal Management Review, Exhibit H.

agents were specifically concerned with 1) the 8 incomplete transactions; 2) the weak controls; and 3) the $2800 in Billy Dale's credenza."

Hon. Cardiss Collins
Hon. Henry A. Waxman
Hon. Tom Lantos
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Additional Views of Mr. Kanjorski

In its rush to justice the Majority has conveniently and deliberately ignored several important facts and has refused to depose or hear the testimony of important participants in the matters we are supposed to be investigating. Instead the majority has made a series of baseless, and politically-motivated charges which are not substantiated by the actual evidence available to the committee.

The Majority has conveniently ignored the fact that there was gross financial mismanagement at the White House Travel office at the time Billy Ray Dale was in charge of that office.

Mr. Dale has admitted that he commingled Travel Office funds with his own personal funds. If he had been an attorney and had commingled his clients' funds with his own, he would have been subject to disbarrment. Even if he had been a real estate agent and he had commigled his client's escrow accounts with his own accounts he would have been subject to professional sanctions. Furthermore, the review of the Travel Office operations done by the independent accounting firm of KPMG Peat Marwick, also makes it clear that there was serious financial mismanagement in the Travel Office.

The Majority never deposed nor heard testimony from the independent KPMG Peat Marwick team which reviewed the records of the Travel Office. That team included five Certified Public Accountants and concluded in a section of their report entitled "Lack of Accountability" that the Travel Office had a lack of financial control consciousness, no formal financial reporting process, no reconciliations of financial information other than reconciliations of bank statements, and no documented system of checks and balances on transactions and accounting decisions within the office.

The KPMG Peat Marwick Senior Partner who led the Travel Office review team, Larry Herman, told the Associated Press that he found, "clear evidence of financial mismanagement" which may have warranted the firing of Mr. Dale. Mr. Herman also told the GAO that in his professional judgment, "the Travel Office's accounting records were, 'the messiest, most illegible bookkeeping,' he had ever seen." Yet neither Mr. Herman nor any of his colleagues at KPMG Peat Marwick were ever deposed by the Committee, or invited to testify under oath.

It is both negligent and irresponsible for the Committee Majority to conclude its investigation without either deposing or receiving sworn testimony from the independent Certified Public Accountants at KPMG Peat Marwick who reviewed the records of the Travel Office.

It is even more negligent and irresponsible for the Committee Majority to accuse the FBI, the IRS, career prosecutors in the Justice Department's Public Integrity Section, and even a federal Grand Jury, of being part of a White House led effort to persecute Billy Ray Dale,

without ever deposing any of these individuals, or giving them an opportunity to clear their names by testifying under oath at a public hearing.

The Committee Majority accuses the White House of damaging the reputations of seven Travel Office employees, yet it is willing to cavalierly smear the good names of dozens of FBI agents, IRS personnel, career Justice Department employees in the Public Integrity Section and even a federal Grand Jury, without giving any of these individuals an opportunity to present their side of the story.

The Committee deposed more than 70 individuals in this case and received sworn testimony at hearings from several dozen. Yet it did not have time to depose or receive sworn testimony from a single KPMG Peat Marwick accountant, or a single FBI agent who worked on the case, or a single individual from the IRS or the Public Integrity Section of the Justice Department.

While the majority may wish to ignore these facts, it is demonstrably true that ***the decision to prosecute Billy Ray Dale was made by career federal prosecutors in the Public Integrity Section***, without any interference by the White House or political appointees at the Justice Department. ***That decision was concurred in by career employees at the FBI, and by a federal Grand Jury which concluded that there was probable cause to believe that crimes had been committed***. While Mr. Dale was subsequently acquitted by a jury, it is clear that the decision to prosecute him was made by career professionals and an independent Grand Jury based on probable cause, not as part of a conspiracy to persecute Mr. Dale.

No evidence was ever presented to the Committee that anyone at the White House or any political appointee anywhere in the Administration influenced any action by the IRS. Yet the Committee Majority continues to suggest that the IRS was part of a White House led conspiracy.

The sad truth is that the real cover-up in this case has been the cover-up by the Majority of facts which do not support its politically-motivated conspiracy theories.

The real cover-up is the cover-up of testimony from the KPMG Peat Marwick accountants who reviewed the operations of the Travel Office, and the cover-up of testimony from the career FBI agents and professional career employees of the Justice Department's Public Integrity Section. Why has the Majority muzzled the FBI and the Public Integrity Section? Why has the Majority deliberately and repeatedly suppressed the release of documents from the FBI and the Public Integrity Section?

When will the Majority right the wrongs which have been done to the reputations of independent, career employees of the FBI, the IRS, and the Justice Department, and to the Grand Jury?

Because these individuals have a right to have their cases heard, and because the American people deserve to hear "**the whole truth**," not just the Majority's selective use of testimony from witnesses it wants us to hear, I am including in my additional views the memos from the Public Integrity Section of the Justice Department on their decisions to prosecute Billy Ray Dale, and to decline prosecution of Harry Thomason and Darnell Martens. These memos

represent the conclusions of thousands of hours of work by career employees in the FBI and the Public Integrity Section of the Department of Justice. The memos conclusively demonstrate that these decisions were based on the evidence in each case and that political considerations played no part in either the decision to prosecute Mr. Dale, or the decisions to decline prosecution of Mr. Thomason and Mr. Martens.

These memos speak clearly, and convincingly, for themselves. Unlike the conclusions of the committee Majority, they are based on fact, not innuendo. It is unfortunate that the Committee Majority has suppressed these documents at the same time that it showed no reluctance to require the President to produce documents which were protected by Executive Privilege. The President waived his Executive Privilege and gave the Committee access to every document it requested. Given this unprecedented openness on the part of the White House, it is disturbing that the Committee has covered-up the opinions of KPMG Peat Marwick, the FBI, and the Public Integrity Section of the Justice Department. Because the FBI and the Justice Department have not been deposed or allowed to testify, I will let their words speak for themselves, and the American people can draw their own conclusions.

[August 10, 1994, Prosecution Memorandum: Billy Ray Dale, former Director, White House Telegraph and Travel Office]

[January 11, 1996, Recommendation to Decline: Harry Thomason and Darnell Martens]

[April 5, 1996, Recommendation to Decline: Darnell Martens and Harry Thomason]

Hon. Paul E. Kanjorski

DATE: August 10, 1994

ROUTING AND TRANSMITTAL SLIP		
TO: (Name, Office, Room, Building)	INITIALS	DATE
1. Joseph E. Gangloff Craig C. Donsanto		
2. Daniel P. Butler Raymond N. Hulser		
3. David E. Green		
4. Jackie M. Bennett		
5. Lynn C. Mattucci		

	Action Approval As Requested Circulate Comment Coordination	XX	File For Clearance For Correction For Your Info Investigate Justify		Note and Return Per Conversation Prepare Reply See Me See Remarks Signature

REMARKS: Indictment Review Meeting at 10:30 a.m. on Friday.

FROM: Stuart M. Goldberg Senior Litigation Coun. Public Integrity Sec. Criminal Division	ROOM NO. - BLDG. 12100 BOND FACSIMILE NO. 514-3003 TELEPHONE NO. 514-1412

U. S. Department of Justice

Washington, D.C. 20530

AUG 10 1994

MEMORANDUM

TO: Lee J. Radek
Chief
Public Integrity Section
Criminal Division

FROM: Stuart M. Goldberg
Senior Litigation Counsel
Raymond N. Hulser
Trial Attorney
Public Integrity Section
Criminal Division

SUBJECT: Prosecution Memorandum: Billy Ray Dale, former Director, White House Telegraph and Travel Office

INTRODUCTION

We propose to charge Billy Ray Dale, the former Director of the White House Telegraph and Travel Office (Travel Office), with converting to his own use approximately $54,000 in checks and $14,000 in cash received by him in connection with his official duties. The FBI has investigated this matter and strongly supports these charges.

SUMMARY OF THE CASE

In May, 1993, the White House terminated the entire staff of the Travel Office, including Dale, amidst broad allegations of mismanagement and wrongdoing in the Travel Office. There was much public criticism of the way the Clinton administration handled the firings and the way it attempted to bolster its decision to fire the staff by mentioning that the FBI had begun a criminal investigation.

The FBI investigation of the Travel Office began shortly after the staff was terminated. We determined that there was little or no evidence to support the kinds of allegations that were made at the time of the termination. However, in the course of our investigation, we discovered that Dale deposited approximately $54,000 in checks from the Travel Office into his personal bank account from January, 1988, through April, 1991, long before the Clinton administration came to Washington. We

have found no legitimate explanation for these deposits, and we propose to charge Dale with converting these checks.

We also found that Dale cashed a number of checks from the Travel Office's account that he failed to record, or recorded inaccurately, in the Travel Office books. The missing cash amounts to $14,000 during the period from February, 1992, through January, 1993, which also pre-dates the Clinton administration. We propose to charge Dale with conversion of this $14,000.

We anticipate no further charges against any Travel Office employee. Although we found no support for most of the allegations that led to the removal of the Travel Office staff, in the sections that follow we review the entire process that led to their removal because it is pertinent to our case and the defenses that Dale may offer.

THE DEFENDANT

Billy Ray Dale is 57 years old. He is married and has three grown children. He worked at the White House 32 years before he and the other Travel Office employees were terminated on May 19, 1993. Dale was permitted to file for retirement. He apparently is suffering from a stomach ulcer and other stress-related ailments that predate the problems in the office.

FACTS

A. Travel Office Overview

The Travel Office is located in the Old Executive Office Building on the grounds of the White House. It provides travel arrangements for members of the press when they accompany the President on his trips around the country and abroad.[1] During the relevant period, Dale was Director of the office and Gary Wright was his deputy. Five other persons worked for the office: John Dreylinger, Barnaby Brasseux, John McSweeney, Robert Van Eimeren and Ralph "Mo" Maughan.

Travel Office staff arrange for services for the White House press corps such as chartered aircraft, ground transportation for the correspondents and their equipment and baggage, working space, and communications facilities. They also assist in other ways, such as by securing suitable background decorations for press conferences and arranging for food and beverages.

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[1]The office also provides airline ticketing services for White House staff travelling on official business and sends and receives telegrams on behalf of the President. These functions are not at issue here.

While the employees of the Travel Office are paid with federal funds, the costs of the services they arrange are financed by the news organizations covering the President. Each correspondent travelling on a particular trip is billed a pro rata share of the costs related to that trip. Expenses are paid out of an account the Travel Office maintains in the name of the "Press Travel Fund" at the Riggs Bank branch one block from the White House.[2] During the relevant period, Dale and Wright were the only signatories on this account. Because of the high costs associated with the press charters, particularly those to foreign countries, large amounts of money flowed through the Travel Office and the Riggs account. For instance, from May 1992 through April 1993, the Travel Office disbursed about $7.7 million to pay for expenses related to press travel.

The Travel Office also kept substantial amounts of "petty cash" on hand to cover expenses that would arise during travel, such as gratuities to bus drivers and baggage handlers. Dale had primary responsibility for this cash, which he kept in a locked drawer at his desk. Before employees left for a trip, they would take money from petty cash and then hand back any unused portion when they returned. The amounts taken ranged anywhere from a couple of hundred dollars for a one-day domestic flight to as much as $5,000 or more for a lengthy international trip. Dale, and occasionally Wright, replenished the petty cash from time to time by cashing checks at the Riggs Bank, and entering the amount as a credit in the petty cash log. The log indicated how much petty cash was taken out for a particular trip, how much was returned, and by whom, and kept a running account of the balance of the fund. It was maintained at Dale's desk, near the petty cash. In addition, the log contained separate pages for each of the employees where they recorded the amounts that they received from petty cash, and how those funds were spent.

Dale was given considerable discretion on how the money in the Press Travel Fund was to be spent, although he occasionally consulted with the White House Correspondents Association and White House Press officials to obtain their views.

B. Travel Office Under Dale's Leadership--1982-1992

Dale became the Travel Office Director in 1982 when a White House internal review conducted by Reagan White House Director of Administration John Rogers found lax accounting practices and a

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[2]Bills are based on estimated costs. No effort was made by Dale to refund money to the travelers on a particular trip when actual costs turned out to be lower than expected. Indeed, the Travel Office sought to have a sizeable balance in the Press Travel Fund bank account in order to cover expenses that were incurred in planning the initial stages of a trip.

$150,000 surplus in the Press Travel Fund checking account due to overbilling. As a result of this review, Bob Manning, then the Director of the Travel Office, retired. His immediate replacement only lasted a few months, and Dale, who had been Manning's deputy, was named to head the office. Gary Wright became Dale's deputy.

No substantive reviews or audits of the office apparently were conducted from 1982 through May 1993. In October 1988, the GAO received an anonymous letter making numerous allegations against Barnaby Brasseux and his wife, who was employed by Pan Am as a manager in its Washington, D.C. office. Among other things, the letter charged that members of the Travel Office and other White House officials were guests of Pan Am at sporting events and fishing parties on the Chesapeake Bay and that White House press charters were offered to Pan Am without obtaining competitive bids. With the exception of the free tickets, Brasseux and Dale denied the allegations and the matter was closed.

Under Dale's stewardship, the traveling press was generally quite pleased with the way that the Travel Office handled the press charters. Ever changing Presidential schedules put considerable pressure on the office, and Dale apparently was able to handle the difficulties that invariably arose.

C. The Clinton Administration Comes to Town

Several employees of the Travel Office told us that from the inception of the Clinton Administration they were uneasy about whether they would be permitted to retain their positions as employees of the Travel Office. Like most White House career employees, members of the Travel Office serve at the pleasure of the President. As subsequent events showed, Dale and his fellow employees' concerns were justified.

Catherine Cornelius, the President's third cousin, had handled travel arrangements on the Clinton-Gore campaign. During the transition period, she expressed an interest in performing the same role in the Clinton White House. Unfortunately for Cornelius, however, she was initially hired as a low-level staffer working for David Watkins, then the Director of the White House Office of Administration.[3] At that time, Cornelius was 24 years old.

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[3]Watkins recently resigned after the news media publicized a helicopter trip he took to a Frederick, Maryland golf course. When the media discovered Watkins had taken this trip, he issued a statement claiming that among other things, it was necessary for him to scope out the course for the President and determine the actual time of play.

During the presidential transition and early days of the administration, Cornelius sent three memos to Watkins criticizing the operations of the Travel Office. She suggested that it be reorganized, the personnel replaced, and that she be named the new director. Watkins claims that he did not pay much attention to these memos or the Travel Office. Consistent with Watkins's claim, Dale asserts that he had no substantive contact with Watkins through the first months of the administration and did not know to whom he was supposed to report in the Clinton White House.

In early April, 1993, Watkins assigned Cornelius to the Travel Office. He claims that Cornelius was to assist with staff travel arrangements and to prepare a further report on the operations of the Office that could form a basis for considering how to reorganize the Travel Office to help with achieving the announced 25 percent staff reduction in the White House.

About the same time, Harry Thomason, a close friend of the President and Mrs. Clinton, advised Watkins of problems with the Travel Office. Thomason reported that the Travel Office was using only UltrAir, Inc. for domestic press charters, that there were rumors about the Travel Office staff receiving kickbacks from airlines and that Dale had expressed no interest in doing business with Thomason's business partner, Darnell Martens.[4]

In response to the allegations made by Thomason, Watkins told Cornelius to "keep her eyes and ears open." Cornelius claims that based on this instruction, during the next few weeks she looked around. She surreptitiously reviewed various trip files in the Travel Office and reported back to Watkins that there were numerous checks to cash, unreconciled estimated bills, and large fluctuations in the bank balances. She also told Watkins that two employees talked of their lakefront homes, another employee was planning a trip to Europe and talked about his race horse, and another spoke about a ski boat. Cornelius believed these comments reflected suspiciously high lifestyles for career government employees.

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[4]Thomason and Martens each own one-third interests in the aviation consulting firm of Thomason, Richland and Martens (TRM). Martens, who is President of the firm, passed on to Thomason rumors he heard about corruption and a lack of competitive bidding in the Travel Office. Martens also reported that he had spoken to Dale about securing business from the Travel Office and Dale had said there was no possibility of his obtaining any such business. Martens claims that he was seeking business for Penny Sample, a charter broker he was friendly with, and not for TRM. A contemporaneous memo written by Martens suggests otherwise.

From the time of her arrival, Cornelius was distrusted by the Travel Office employees, who were well aware of the Administration's interest in cutting staff and the possibility of a restructuring of the office.[5] Consequently, Cornelius was pushed to the back office and given little to do.

At 7 a.m. one morning, a copy of an old Travel Office check was found jammed in the office's copying machine. Everyone rightly suspected that the check was evidence that Cornelius was going through the office's files, though Cornelius denied it. After this incident, Gary Wright locked up many of the files and bank statements.

In late April or early May, Travel Office employees obtained, possibly from Cornelius's desk, a copy of the February 1993 memo Cornelius wrote suggesting that they be replaced and that she be named to head the office. They also obtained a copy of Martens's memo summarizing allegations of possible corruption in the office.

On or about May 10, 1994, a series of meetings began at the White House concerning information provided by Cornelius, Thomason and Martens concerning possible misconduct in the Travel Office. Two lawyers in the White House Counsel's Office, Vincent Foster and William Kennedy, participated actively in these meetings and briefed the FBI on the allegations. On May 13, the White House decided to ask the accounting firm of Peat Marwick to conduct a review of the Travel Office in order to get a firm handle on what problems, if any, existed there.

The FBI initially told the White House Counsel's Office that they wanted Bureau agents present during the review, in case White House employees made any statements to the accountants that might have to be introduced at a criminal trial. Foster did not like that idea, indicating that although he thought criminal activity had taken place, there might be some innocent explanation. After discussions back at Headquarters, the FBI decided that it should not be present during the review, in part because the accountants might get information from the Travel Office staff that might not be conveyed if agents were in attendance or conducting the review. The FBI called the White House Counsel's Office and conveyed this change in position. During this call, the Counsel's office stated that a decision had already been made by the White House to conduct the review without the FBI's involvement.

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[5]Indeed several Travel Office employees told us that almost immediately after the Inauguration, callers began phoning the Travel Office and asking for Cornelius, who didn't work there.

The White House Counsel's office did agree to follow certain rules concerning the review: that the review begin on May 14; that the White House keep the FBI apprised periodically of the review results; that if a smoking gun were found, the White House would notify the FBI immediately, and the FBI would respond whenever needed; and that at the conclusion of the audit, the FBI would begin its own investigation if the results of the review still justified one. The FBI provided no guidance on how the review should be conducted and offered no instructions to the accountants as to how the review should be handled.

On the morning of May 14, numerous White House staffers led by Patsy Thomasson, Watkins's deputy, met with the Peat Marwick staff to work out a methodology for the review. A decision was also made by White House staff to inform the Travel Office employees that the examination was being conducted as part of the National Performance Review, which all offices in the White House were scheduled to undergo. This was not true.

The Peat Marwick staff began work that Friday morning, May 14, at the Travel Office, and continued through the weekend.[6] The White House Counsel's Office called the FBI during the initial morning of the review to advise of its progress. The White House indicated that the records were in a shambles and that due to poor bookkeeping procedures and the condition of the records, the accountants would not be able to perform a full audit. That afternoon, the White House advised the FBI that Peat Marwick had discovered approximately 13 checks made out to cash for which there was little or no documentation to establish how the cash was spent. There was another questionable transaction involving a $5,000 check to cash, which was recorded in the petty cash log as only $2,000.

At 5:00 p.m. on Saturday, the Peat Marwick reviewers and White House staff briefed two agents from the FBI about the review. The meeting lasted roughly one hour. The accountants reported that when they had questioned Dale regarding the $5,000 check that was recorded as $2,000, he had no explanation for the discrepancy, but that he later "found" the money in his desk

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[6]On the same day, May 14, Mrs. Clinton apparently had a telephone conversation with David Watkins regarding the Travel Office. In that conversation, according to a handwritten note, Mrs. Clinton stated that Harry Thomason advised that his people can run things better for the same cost. She also told Watkins that "we need those people out--we need our people in--we need the slots."

drawer.[7] The reviewers indicated that there was still more work to be done and the White House staff promised to keep the FBI advised of any further developments. The auditors agreed to provide a final report by Wednesday, May 19. The FBI agents raised the issue of the security of the records, and the White House assured them that there would be no destruction of evidence.

On May 17, 1993, Peat Marwick provided a written report to the White House Counsel's Office. The report found a lack of financial controls and accounting systems, missing or inadequate documentation relating to invoices, contracts, bid solicitations and disbursements, and problems with the estimated bills sent to press organizations. Most importantly, the report found discrepancies with the petty cash funds.

According to the report, the Peat Marwick accountants examined every check written to "cash" on the Riggs account from January 1, 1992 through April 30, 1993. There were 17 in all. The reviewers found four checks written to cash for which there was no corresponding entry in the petty cash log. Dale had no explanation for why these were not recorded in the log book. As mentioned above, the reviewers also discovered a check for cash dated October 9, 1992 for $5,000 was recorded in the petty cash log as $2,000. Dale also could not explain why the petty cash logs for the period before February 1992 were "missing."

On May 19, 1993, the employees were terminated. Almost immediately after the removal of the seven Travel Office employees, there was a firestorm of criticism in the press asserting that the White House's action was precipitous and needlessly tarred the reputations of all the employees in the Travel Office. The five nonsupervisory employees were each given new positions in the Executive Branch. Dale and Wright remained retired.

D. The FBI Investigation

Shortly after the Travel Office employees were fired, the FBI began its investigation under our supervision. The vast majority of the allegations we examined proved meritless. However, we found substantial evidence that Dale in fact stole at least $14,000 in petty cash and that he converted approximately $54,000 worth of Travel Office checks to his own use. We found

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[7]We have reason to question Dale's explanation for the missing $3,000, and that is discussed more fully in the sections that follow.

no evidence of illegal conduct by any other members of the Travel Office.[8]

1. Conversion of Travel Office Checks

In the course of investigating the allegations regarding kickbacks and theft of petty cash funds, we examined Dale's bank records. We discovered that between January 1988 and April 1991, Dale deposited over $54,000 in Travel Office checks into a bank account in his and his wife's name at Equitable Bank, now known as Maryland National Bank. These deposits were not discovered during the Peat Marwick audit, nor have they been mentioned in any published reports concerning the Travel Office.

A total of 55 checks were deposited by Dale, ranging in value from $38.30 to $6,977.38. Fifteen were for more than $1000. Out of 27 deposits made by Dale, all but two totalled over $500 and only nine were less than $1,000.[9]

The checks taken by Dale consisted largely of reimbursements from telephone companies around the country to the Travel Office for overpayments made in connection with telephone service arranged for the White House press corps. Two checks were refunds from Greyhound, and the rest were payments by news organizations for charges billed to them in connection with trips taken by their correspondents. The media checks selected by Dale for deposit into his account were not from mainstream press

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[8]In the course of testifying [redacted] 6(e)

[9]Only one similar deposit was made into Dale's account at the White House Federal Credit Union and this money appears to have been properly handled. [redacted]

6(e)/RFPA

organizations, but rather English, Japanese, German and Hispanic media. Dale's selection of these checks is significant. The refund checks invariably were generated by the vendors on their own -- they arrived unexpectedly and their absence would not be missed. Similarly, the checks from esoteric news services were less likely to be scrutinized by those services when returned by their bank and those organizations were less likely to understand the meaning of Dale's name as the only endorsement.

Virtually all of the checks Dale took were made payable to the Travel Office and/or Dale as the Director of the Office and mailed to the White House.[10] While three were payable solely to "Billy Dale", we are able to tie all the checks deposited in Dale's personal account to official business of the Travel Office. For instance, Travel Office records reflect that the checks made payable to Dale, which were drawn on Deutsche Bank, were payments due from a German reporter for his share of expenses for charters arranged by the Travel Office.[11]

Almost all the checks were endorsed solely with a stamp reading "FOR DEPOSIT ONLY BILLY R. DALE". Five had handwritten endorsements by Dale and three had no endorsement.

The Travel Office also maintained a log in which they recorded checks that came into the office, including the amount, the payor, and the date the check came in. The employees, including Dale, shared the task of opening the mail, and each of them recorded incoming checks in the log at one time or another. None of the Travel Office employees we questioned were aware of any incoming checks not being recorded in the log. The 1989 log was the only checks received log that could be located for the years 1988 through 1991. Of the 12 checks that Dale deposited in his personal account in 1989, all but 3 were <u>not</u> recorded in the log.

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[10]Persons and corporations typically were instructed to send checks payable to the "Press Travel Fund" and to mail these to Billy R. Dale, Transportation Office, The White House, Washington, D.C. 20500. We know from our review of the Riggs deposits that about 95% of the checks were in fact so written--the remainder were made payable directly to Dale or the Travel Office or both.

[11]One check from Viva America Media Group was made payable tc Thomas Regalado, one of its correspondents. The check was for $2,816.19, the amount that Regalado owed for his share of trip expenses. This check was endorsed by Regalado and given to Dale, who stamped it for deposit only and deposited it in his account. Regalado was credited in the Travel Office records for having paid the amount due with this check. He recalls signing over this check to Dale.

We could find no legitimate reason for these checks to be deposited into Dale's personal bank account. Pursuant to the policy of the office, all checks were to be deposited in the Riggs Account across the street. Deposits were made at least once a week by Mo Maughan and occasionally others, and checks were kept in a drawer in a back room awaiting deposit. It certainly was not easier for Dale to have taken checks home to Maryland, rather than walk across the street. Indeed on 4 occasions, Travel Office checks were deposited by Dale in his account on the same day deposits were made to the Travel Office account at Riggs. On 2 other occasions, Dale cashed Travel Office checks at Riggs on the same day that he deposited checks into his personal account at Maryland National Bank.

There is no evidence that Dale used funds from his personal account to pay Travel Office expenses. He certainly did not write checks for such expenses, and our analysis of his financial records indicates that he and his wife withdrew only $31,360 in cash from their account during this period of more than three years. Thus, even if Dale spent every penny of this cash on Travel Office expenses, rather than on his and his wife's daily expenses, he still netted over $20,000 from the Travel Office checks.

Moreover, as discussed more fully below, there was no need for Dale to incur official expenses out of his own funds, or out of any source beyond the Travel Office account. There was a checkbook available in the office to pay Travel Office expenses, and Travel Office employees going on trips usually took a few blank checks with them to pay for any emergencies that came up. These were rarely required. If there was a need for cash, there was no reason for Dale to dip into his own pocket because there was more than ample petty cash available. Moreover, even if Dale had spent his own funds for Travel Office expenses, it would have been far easier to reimburse himself with either petty cash or a Press Travel Fund check made out to himself, rather than secretly depositing refund and other checks into his personal account. In fact, Dale and the other Travel Office employees routinely reimbursed themselves with petty cash when they incurred official expenses out of their own pockets.

2. Missing Petty Cash

The petty cash log, which is available only for the period from early 1992 through May, 1993,[12] and the Press Travel Fund

[12]The petty cash logs covering the period prior to February 1992 are missing. Dale had no explanation for the missing logs during the Peat Marwick audit, but the Travel Office employees speculate that Catherine Cornelius or others from the Clinton Administration who wanted to oust them from the Travel Office may

bank records reflect that Dale cashed the following checks, but did not enter the amounts in the log:

February 18, 1992	$3,000
April 10, 1992	$2,500
June 17, 1992	$3,000
January 11, 1993	$2,500

In addition, on October 9, 1992, Dale cashed a check for $5,000 at Riggs bank, and entered only $2,000 in the petty cash log.

The evidence indicates that Dale stole this missing $14,000 in cash, and did not merely fail to enter it in the petty cash log. First, the amounts are large, and it is highly unlikely that Dale simply forgot to enter them in the log. Second, on the date that most of the unrecorded checks were cashed, the balance in the petty cash fund already was sufficient to cover the upcoming expenses. In one instance, the petty cash fund balance was fairly low, but Dale cashed another check for $1,000 just two days later to replenish the fund, and entered that amount in the log. There was simply no need to cash these sizeable checks at the time they were presented. Third, at or shortly after the unrecorded checks to cash, Dale took money out of petty cash for trips in smaller amounts that were commensurate with the types of trips he made, and he recorded these withdrawals in the log. Thus, he cannot claim credibly that he used the relatively large amounts of unrecorded cash to pay trip expenses during this period. Finally, as discussed more fully below, there is no reason to believe that Dale was maintaining a separate, off-the-books cash fund to pay travel office expenses. None of the other employees was aware of such a fund, none of them ever used funds from such a source, and none were aware of Dale doing so.

The explanation that Dale offered the Peat Marwick auditors for the discrepancy between the $5,000 check to cash and the $2,000 amount that he entered in the log provides additional evidence that he stole the cash. On the first day of the Peat Marwick review, a Friday, Daniel Russell, a Senior Peat Marwick CPA, questioned Dale between 12:30 and 2:00 p.m. about the discrepancies, and Dale had no explanation. Russell again talked to Dale around 5 p.m. or 6 p.m., and he offered no explanations for the misrecording. Our investigation has disclosed that on that afternoon, Dale went to the White House Federal Credit Union and withdrew $2,500 in cash.[13] Dale had not made a cash

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be responsible for those missing records.

[13]This left Dale with a balance of approximately $15,000.

withdrawal from that account for over a year.[14] The following day, a Saturday, Dale withdrew [redacted] 6(e)/RFPA

That Saturday, Russell again asked Dale about the petty cash discrepancies, and Dale said that he now had an explanation for the missing $3,000. Dale went to his desk and produced an envelope containing $2,800 in cash, which he told Russell corresponded to a portion of the missing $3,000. Dale also produced a separate envelope that he said contained the petty cash. Russell saw money inside that envelope, but did not count it. Dale told Russell that he had set the $3,000 aside for an upcoming trip to Indonesia because he sometimes had to pay kickbacks when he traveled to that part of the world. Dale said that when the trip was cancelled, he simply forgot about the money. Dale said that the missing $200 must have been spent on some Travel Office expenses, but he could not recall what they were.

Dale's explanation is not credible. First, he clearly suggested to Russell that the money was sitting in his desk and that he had forgotten about it. Dale gave no indication to the accountant that he had gotten the money from his personal account, or that he was using his personal bank accounts to maintain Travel Office funds, and yet the bank records strongly suggest that Dale withdrew the cash from his own bank accounts to pay it back. Moreover, it is unlikely that Dale would have forgotten about $2,800 in cash sitting in his desk drawer, particularly when serious questions were being asked about the missing cash.

Second, there is no reason why this cash would not have been used for another trip when the alleged Indonesia trip was cancelled. Instead, additional checks to cash were written on five subsequent occasions, for a total of $9,500.

Third, Dale's explanation about kickbacks in Indonesia is inconsistent with the travel records for that period. The $5,000 check was cashed in October, 1992, and yet Dale made no international trips from January 10, 1992 until he left the Travel Office in May 1993. Moreover, 1992 was an election year, and Dale's 30 years of experience with the Travel Office would

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[14]Dale had, however, obtained cashiers checks from the White House Federal Credit Union and then deposited those checks in his Maryland National Bank account on the following occasions: September 16, 1992 ($1,500), January 7, 1993 ($1,500), and April 29, 1993 ($1,200).

[15]We are unable to obtain bank records reflecting what time this withdrawal took place.

tell him that it was extremely unlikely that President Bush would be taking a trip to Southeast Asia in October or November of an election year. In fact, there was no such trip in 1992 or the portion of 1993 during which Dale remained at the Travel Office.

LAW

A. Section 654

We propose to charge Dale with two counts of conversion under 18 U.S.C. § 654. Count One of the proposed indictment charges the check conversion scheme, and Count Two charges the petty cash thefts.

Section 654 of United States Code, Title 18 provides:

> Whoever, being an officer or employee of the United States or any department or agency thereof, embezzles or wrongfully converts to his own use the money or property of another which comes into his possession or under his control in the execution of such office or employment, or under color or claim of authority as such officer or employed, shall be fined...[and/or] imprisoned not more than ten years...but if the sum embezzled is $100 or less, he shall be ... imprisoned not more than one year....

Thus we must establish that Dale 1) was an officer or employee of the United States; 2) that he embezzled or wrongfully converted to his own use the money or property of another; and 3) that the money or property came into his possession in the execution of his employment, or under color or claim of authority. See United States v.Occhipinti, 772 F.Supp. 170, 178 (S.D.N.Y. 1991); United States v.Settle, 9 F.3d 110, 1993 WL 337537 (6th Cir. 1993). Dale must have gained "possession of the converted property either while properly performing his employment or while pretending to carry out the duties of his employment." United States v.Rippon, 537 F.Supp. 789, 791 (C.D. Ill. 1982).

There should be no dispute that Dale was an officer of the United States, or that the checks and petty cash came into his possession by virtue of his being the Director of the Travel Office. The issue at trial will be whether the checks and petty cash were embezzled and/or wrongfully converted.

Embezzlement and conversion are overlapping, but distinct offenses. The Supreme Court described conversion as follows:

> [conversion] may be consummated without any intent to keep and without any wrongful taking, where the initial possession by the converter was entirely lawful. Conversion may include misuse or abuse of property. It

> may reach use in an unauthorized manner or to an unauthorized extent of property placed in one's custody for limited use. Money rightfully taken into one's custody may be converted without any intent to keep or embezzle it merely by commingling it with the custodian's own, if he was under a duty to keep it separate and intact. It is not difficult to think of intentional and knowing abuses and unauthorized uses of government property that might be knowing conversions but which could not be reached as embezzlement, stealing or purloining.

Morissette v. United States, 342 U.S. 246, 271-72 (1952)[16]; see also, United States v. Fogel, 901 F.2d 23, 25-26 (4th Cir. 1990) (modern tendency to broaden the offense of conversion to include intentional and knowing abuses or unauthorized uses of government property which do not fit within the traditional common law definition of conversion). Conversion does not require an intent to make personal use of the property or to deprive another of his or her property permanently. Instead, "the offense of conversion includes the element of serious interference with another's property rights. Thus, if the defendant did not know that he was seriously interfering or that the property was another's he does not have the requisite intent and cannot be convicted of conversion." United States v. Scott, 789 F.2d 795, 798 (9th Cir. 1986).

On the other hand, a defendant commits the crime of embezzlement "'when being in lawful possession of the property of another, he fraudulently appropriates or converts such property to his own use with the intent permanently to deprive.'" United States v. Taylor, 867 F.2d 700, 702 (D.C. Cir. 1989)(embezzlement by bank employee); see also, Dobbins v. United States, 157 F.2d 257, 259-260 (D.C. Cir. 1946)(embezzlement requires "wrongful", not mere, conversion, core of the crime is the accused's wrongful intention).

We could attempt to argue that the crime of conversion was completed the instant Dale commingled Travel Office checks and cash with his own funds. However, we are unable to point to any specific duty Dale had to keep such money separate. He was not formally a trustee or custodian of these funds, and given his lack of a college or accounting degree and the informality of the office, we would be hard pressed to demonstrate he should have

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[16]Morissette deals with Section 641, which prohibits one from "knowingly convert[ing]," while section 654 bars a person from "wrongfully convert[ing]." However, the Morissette Court concluded that knowingly converts in the section 641 context means "wrongfully to deprive another of possession of property." Morissette, 342 U.S. at 276.

realized it would be legally improper to handle the funds in this manner. Furthermore, if a jury believed that Dale in fact spent on Travel Office expenses every cent that he commingled with the assets in his bank account, it is unlikely that it would convict him of such a technical violation.

We will argue that Dale did not make such expenditures and never intended to do so, but rather used the money for his own purposes. We will show that he placed the money in his personal bank account, and used it for his personal benefit.

B. Charging Considerations

We have chosen to charge Dale in two separate counts, one for his embezzlement/conversion of the checks and the other for the cash. The proposed indictment lays out some of the specific checks and amounts, but charges only that he embezzled and converted in excess of $100. This relieves us of the burden of showing that all of a particular Travel Office check or petty cash withdrawal was devoted exclusively to Dale's personal use. In order to defend against these charges, Dale would have to show that all the money taken was ultimately spent for the benefit of the Travel Office. We believe he will be unable to do so, as there are no records to reflect precisely what expenses were incurred and how those amounts matched the amounts he removed from the Travel Office. If such a document existed, we have little doubt that Dale's attorneys would have produced it to us and would have shown less interest in reviewing Travel Office records.

Charging multiple conversions in a single count should not present any legal problems. This is particularly so because the conversions are part of a continuing scheme. United States v.Girard, 601 F.2d 69, 72 (2nd Cir. 1979)(upholding single count charging 4 thefts in violation of §641); United States v.Pavloski, 574 F.2d 933, 936 (7th Cir. 1978)("Ordinarily embezzlement is accomplished by 'several separate transactions [that] may form a single, continuing scheme, and may therefore be charged in a single count.'")

Nor should the reference to checks converted outside the statute of limitations present any problems. The activity outside the statute of limitations is not actually charged, but is simply included as information that is relevant to Dale's continuing scheme.[17] Where there is a continuing scheme, it

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[17]Because Dale's deposit of the earlier checks is relevant to the charged conduct, and is neither inflammatory nor unfairly prejudicial, Dale will not succeed if he moves to strike these allegations as surplusage. See United States v. Jordan, 626 F.2d 928, 930 n.1 (D.C. Cir. 1980); United States v. Poindexter, 725

properly may be set forth in the indictment, even if a portion of the activity took place outside the statute of limitations. "The fact that a portion of the alleged pattern of violations occurred outside the limitations period does not defeat the indictment but the government must prove that at least one criminal act occurred within the limitations period." United States v. Kelley, 480 F.Supp. 901, 902 (E.D. Mo. 1979)(Hobbs extortion of multiple deliveries of concrete). Accord, United States v. Hedman, 630 F.2d 1184, 1199 (7th Cir. 1980)(single continuous plan of extortion with multiple payments--specific jury instruction on agreeing to offense within the limitations period); United States v. Forst, 655 F.2d 101, 104 (7th Cir. 1981)(indictment charged 25 year long Hobbs extortion).

Finally, we considered and rejected also charging Dale with violating 26 U.S.C. §7206(1), by failing to report on his federal income tax returns the money he received as a result of his illegal activities. Such charges are not properly venued in the District of Columbia because we have no evidence that Dale's returns were prepared, signed and/or filed here. See United States v.Marrinson, 832 F.2d 1465, 1474 (7th Cir. 1987). In any event, we believe such tax charges would add complexity to the case, without any equal benefit.

POTENTIAL DEFENSES

A. The Slush Fund

According to Dale's counsel, the primary defense will be that Dale paid various Travel Office expenses with off-the-books petty cash and personal funds that were reimbursed through Travel Office checks deposited in his bank account. In essence, Dale will claim that he maintained a separate "slush fund" to pay for certain White House press-related expenses.

The slush fund defense works somewhat differently for the check stealing scheme (January, 1988 through April, 1991) than for the petty cash thefts (February, 1992 through January, 1993), but we believe that Dale will offer that defense to both charges. Because we intend to charge Dale with taking checks and petty cash, but at different times, Dale will have to explain two different systems of maintaining the slush fund. During the check stealing period, he must argue that he used large amounts of cash from some personal, outside source to pay press expenses, and then funnelled the money back to himself with the stolen checks. During the period of the petty cash thefts, Dale must argue that he replenished the slush fund by simply cashing Press Travel Fund checks and not recording them in the log. Dale will also have to explain why he switched systems in 1992.

F. Supp. 13, 35 (D.D.C. 1989); Fed. R. Crim. P. 7(d).

There are several responses to the separate slush fund line of defense. First, no one knew about this fund. We have [redacted].[18] Each worked in the Travel Office with Dale for at least 9 years, and Wright worked with him for over 30 years. Not one, however, had any knowledge of Dale depositing Travel Office checks into his personal bank account, or of Dale using petty cash and not recording it in the log, or of the existence of any secondary source of funds outside the Riggs account and the office's petty cash drawer.[19] If such a separate fund was needed and in fact existed, it is hard to see why Dale never mentioned it to any of the other Travel Office employees, especially his deputy and longtime friend, Gary Wright. Indeed, since Dale only did a limited amount of travelling during this 1988-1993 period, it would seem to be essential to let at least one other person in the Travel Office know that such a fund existed and needed to be maintained.[20]

(b)(6)

In those limited instances in which employees used their own funds for expenses -- such as paying $20-40 cash in tips or placing a $50 truck rental on a personal credit card -- they were reimbursed promptly with petty cash or a Travel Office check made out to them. During the limited period for which we have the petty cash log, Dale reimbursed himself with petty cash on two occasions for out of pocket expenses, and recorded it in the log.

Dale apparently will argue that certain expenses needed to be kept off the books. Thus far, Dale's attorney has refused to fully identify what these expenses were, except to state that on international trips Dale may have made grease payments to foreign officials to get things done. We have investigated this claim by reviewing files, and by questioning Travel Office staff and others who travelled frequently on the press charters. We have identified only two trips where such payments may have been made:

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[18] [redacted]

(b)(6)

[19]Indeed, although they all had discussed with Dale the FBI investigation, he had not mentioned to them that he had taken any checks.

[20]From January 1988 through May 1993, Dale was on only 65 of the 307 press charters handled by the Travel Office. There were 29 international trips, and Dale worked 10 of these. He went on no international trips from January 11, 1992 through May 19, 1993. Wright travelled far more than Dale during this entire period.

a trip to Bali in 1986 and a trip to Korea in December 1991/January 1992.[21]

The accounts concerning the Bali trip, which took place prior to any events charged in the proposed indictment, are fairly consistent. According to John McSweeney, he got into an argument with a Balinese military officer who was refusing to allow luggage to be loaded onto the press plane. Dale stepped in, and walked away with the official. Shortly thereafter, Dale returned, the baggage was placed on the aircraft, and the plane was able to leave on time. Although no one saw any money being paid, Dale later told McSweeney that he slipped the official some cash. Dale subsequently told at least Wright and Brasseux about the alleged payment, and the story is well known among the Travel Office employees and others. No one can say for sure how much Dale paid.[22] Interestingly, they all assume that Dale used the Travel Office's regular petty cash to make this payment, and both [redacted] (b)(e)

[redacted]

other occasion. In the meantime, Dale's attorney mentioned to us that Dale had paid a grease payment in Korea as well as Bali. (b)(e)

[redacted]

There is some appeal to the idea that grease payments may have been made. Traveling with the President sometimes involved sudden changes in schedule, and it is easy to imagine that foreign officials could throw roadblocks in the way at the last

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[21]We have determined that these payments are not chargeable under the Foreign Corrupt Practices Act. That Act prohibits a United States citizen from using an instrumentality of commerce to pay money to a foreign official for purposes of influencing him, in order to assist the citizen "in obtaining or retaining business for or with, or directing business, to any person." Dale's payments were not for retaining or directing business to anyone.

[22]Wright claimed that from his conversations with Dale he thought that Dale paid "a couple of thousand dollars perhaps."

minute.[23] There are, however, several problems with this as a defense. First, it does not come close to explaining the $54,000 in checks taken by Dale during the 3 year period. To do so, such payments would need to have been a regular occurrence. Yet no other Travel Office employee, including Dale's predecessor, ever made such a payment, saw such a payment being made, or even saw one solicited. Although Dale was present on many of the international trips, Gary Wright traveled considerably more than Dale during the relevant period, and yet he never encountered this situation himself. Indeed, the fact that so many employees have heard the story of the Bali payment suggests that this was an unusual occurrence, and one that Dale did not keep to himself.

Dale's counsel also indicated that Dale paid other kinds of Travel Office expenses with outside funds. The only example he has given us was the purchase of four L.L. Bean rain suits for the personnel who loaded and unloaded the press luggage and equipment. According to Dale's attorney, Dale paid for the rain gear with his own funds. We have determined, however, that this expense was, in fact, recorded in the petty cash log, indicating that petty cash from the Travel Office was used to buy the rain gear. Moreover, there is simply no reason for Dale to pay such a legitimate expense with his own funds, or to keep such an expense off the books.[24]

During the period in which he stole Travel Office checks, Dale will also have to explain why he didn't simply use the more than ample petty cash to make grease payments. Given the informality of the petty cash record-keeping, the petty cash log would present little or no barrier to using petty cash to make grease payments, and petty cash was the obvious source for any such payments. In fact, as noted above, the other Travel Office employees assumed the Bali payment was made with petty cash, and Dale told two of them that it was. There was no shortage of such funds. During the period of the stolen checks, over $100,000 in were written to "cash." Moreover, if the petty cash ran out during a trip, Travel Office staff, including Dale, cashed Press Travel Fund checks on the road in order to get more. Dale may,

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[23]It is not clear, however, that a jury will approve of White House personnel bribing other government officials throughout Southeast Asia.

[24]Indeed, we have evidence [redacted] (de)

of course, argue that he came to the realization in 1992 that he should just use petty cash, and that is when he began cashing Press Travel Fund checks and not recording them in the log.[25]

B. No Reasonable Source for the Slush Fund

Another response to the slush fund line of defense, for the period of the stolen checks, is that there is no evidence in Dale's financial records that any such fund existed. There is no evidence that Dale wrote any checks from his own account to pay for Travel Office expenses, and thus the fund, if it existed, must have been separate from his own account. The FBI has reviewed records concerning all of Dale's bank and credit union accounts, savings bonds, real estate and other assets, and we have obtained Dale's tax records going back to 1987. The FBI has also reviewed the assets and accounts of Dale's three grown children, with whom he had transactions during the relevant period.

Dale and his wife used ATM cards to withdraw cash, in amounts ranging from $30 to $400 and in a pattern that is consistent with everyday expenditures.[26] During the period when Dale took the $54,000 in checks, they withdrew a total of approximately $31,360 in cash. Thus, even if Dale had used every bit of this cash to pay Travel Office expenses, he would have netted over $20,000 through the Travel Office checks he deposited into his account.[27] It is, of course, inconceivable that Dale used all of this cash for such expenses. Like all of us, he and his wife needed to pay cash for every day items such as lunch, gas, movies, dry cleaning, etc.

We will be able to show that rather than spend the Travel Office checks on White House press corps expenses, Dale used these funds for his personal benefit. The FBI evaluated Dale's net income and expenditures during the period from January, 1988,

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[25]Dale's lawyers have pointed to Dale's lack of a college degree and accounting background, and argued that we cannot assume Dale was acting illegally just because the system he set up might not be the most logical or efficient.

[26] Dale wrote only one check to cash during the relevant period, on March 22, 1991 for $100.

[27]The only other source of cash that we have identified are Treasury Checks made out to Dale for per diem travel reimbursements that Dale cashed and did not deposit into his accounts, and travel advances that he received. During the relevant period, this amounted to approximately $3,192. This still leaves Dale $20,000 short if he spent every penny of these funds and his ATM withdrawals on the Travel Office.

confirm that they were cashed and not deposited in an unrelated account. We have made a considerable effort to trace every possible refund, reimbursement or payment provided to Dale. The items we have identified total only a few thousand dollars.

It strikes us as dubious that Dale would use an inheritance from John, loan repayments from the kids and cash from checks to build up a large cash fund outside the bank. Indeed, the suggestion that Dale maintained a large cash fund is also undercut by the fact that he borrowed money from individuals on more than one occasion during the relevant period. Specifically, in 1990, Dale borrowed $8,000 at eight percent interest from George Bohrer, a White House Communications office employee, and he borrowed $2,000 from another White House employee. Dale apparently used the loan proceeds to buy a boat for over $11,000. Dale repaid the $2,000 loan promptly, and he repaid the $8,000 in equal installments over a period of more than three years. Dale must explain why he needed to borrow money from such sources, and pay interest on one of the loans, if he had a large cash horde available to him.[31] Similarly, Dale must explain why he and his wife regularly withdrew cash from the bank if he had a large cash fund already available.

C. The Petty Cash Thefts

Unlike the checks Dale deposited into his personal account, we have no direct evidence of Dale spending or depositing the cash that he failed to record in the petty cash log. Thus, our charge that he stole the unrecorded cash is based on circumstantial evidence. We believe the evidence is convincing that Dale stole the cash, but our case relies heavily on the fact that these checks were not recorded, or were recorded inaccurately, in the petty cash log. As a result, Dale may argue that he simply forgot to enter the checks in the log. Given the sometimes hectic schedule in the Travel office, there is some appeal to the argument that he got cash for a trip at the last minute, and just forgot to write it down.

We have several responses to that defense. First, these checks were for large amounts, and it is unlikely that Dale would forget to write down a $2,000 to $3,000 cash withdrawal. Second, if Dale forgot to write it down in the rush before a trip, he

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[31]Dale's lawyers assert that his loans prove that he was not stealing Travel Office checks or petty cash. They contend that if Dale was taking Travel Office checks and cash, he would have simply taken more, rather than borrow money and pay interest. Of course, the simple response is that he planned the timing and size of his thefts carefully in order to avoid detection. Moreover, interest is insignificant when you pay it with someone else's money.

through April, 1991. According to their analysis, Dale and his wife took in approximately $235,712 and spent or saved approximately $302,492, leaving an excess of $66,700. We will be able to show that these additional expenditures were financed with $54,189 in Travel Office checks and $13,808 in unexplained cash deposits,[28] totalling $67,997.

Dale's extra money was spent on his children and himself. In 1987, Dale used $59,706 from his White House Credit Union account to purchase property on Lake Anna, in Virginia. He then built a lake house on the property and spent thousands of dollars on improvements to the house. In 1990, Dale bought a boat for the lake house for over $11,000.

Dale was also generous with his children during the early 1990's. For example, in May 1990, Dale gave his daughter, Vicky Dale, $24,000 which she used to purchase a townhouse.[29] In 1992, Dale gave his son Steven and his wife $9,000, which they used, somewhat indirectly, toward the purchase of a house.

Because little, if any, of the expenditures from Dale's bank accounts were for the benefit of the Travel Office, Dale is left to argue that he had a separate cash horde from which he took cash that he used to pay for Travel Office expenses. However, the financial records simply do not support the existence of any such fund. We are aware of no source for such funds available to Dale, and he certainly did not report any such source on his income tax returns. Nor did Dale report the alleged cash fund as an asset on loan applications during the relevant period, or on his financial disclosure forms filed in 1992.

From our detailed analysis of Dale's financial situation, it appears that there are three potential sources that Dale might point to: an inheritance from his brother John, loan repayments from his children, and checks cashed but not deposited.

Dale's brother John was mentally ill and in and out of institutions for most of his later life. As noted in his VA file, due to his illness he spent money recklessly and as a

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[28]The $13,808 in unexplained cash deposits occurred much earlier than the cash thefts that we propose to charge. These earlier cash deposits may reflect that Dale was stealing petty cash at the same time that he was converting the checks, but we do not have the petty cash logs for that period to prove it.

[29]Dale gave $20,000 to Vicky directly, and funnelled an additional $4,000 to her through Steven. This is one of several convoluted transactions between Dale and his children. [redacted] (de)

[redacted]

result did not have enough for food and rent. Financial records in the file generally indicate that he had no money, with the exception of a line in a January 1988 record where $26,000 is scratched out and zero written in its place. From our review of the records, it appears that Dale in part managed John's financial affairs. At the time of his death, John was receiving approximately $800 per month in Social Security disability payments, which he spent almost immediately, and $1,500 a year from "investments." He had only about $100 in his bank account.[30] We have not been able to find out if he left a will and are in the process of retrieving his tax returns. Dale paid for John's funeral expenses, which amounted to approximately $5,000, directly out of his Maryland National Bank checking account. There are no checks that we can characterize as being payments from John's estate to Dale [redacted] (b)(6) We can find no evidence of this in Dale's records, or with John's last known employer, Riggs Bank.

Second, on several occasions during the relevant period, Dale provided money to his children, and he may claim that the children paid back these loans in cash. The largest amounts Dale gave to his children are $20,000 to his daughter Vicky in 1990 to help her purchase a condominium, and $9,000 to his son Steven in late 1992 to help him purchase a home. One problem with this suggestion is that Dale provided a gift letter to Vicky and her bank in which he stated that the funds were strictly a gift and would not be paid back. Moreover, the loan to Steven is well after the 55 Travel Office checks were taken. Another problem with this claim is that it is unlikely that Dale's children would have repaid such loans in cash, and in fact we have seen a number of checks from them to Dale. [redacted] (b)(6)

Third, we know that on occasion, Dale cashed checks rather than depositing them into his account. It is nearly impossible to determine how many times this occurred or how much money is involved as these records are not retrievable by account number. Rather, it is necessary to know what day the check was cashed and then to wade through the teller work for that period. We know that Dale cashed checks because we have identified various voucher reimbursement checks that were issued to him but not deposited in his account. We were able to trace these checks and

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[30]We also know that John had an account at the White House Federal Credit Union. Dale was a signatory on this account, which at the time it was closed in 1986 had a balance of approximately $12,000. Due to the routine destruction of records, we do not know what happened to this money.

could certainly do it when he got back. If Dale claims that he simply forgot to write it down and then took the money on a trip, when he returned from the trip he would have been required to put the remaining cash back in the fund, or explain what he spent it on. It is unlikely that Dale would forget not only about the substantial cash withdrawal before a trip, but also forget the equally substantial expenses he incurred on the trip. It is also unlikely that Dale spent exactly the amount that he took.

Second, at or shortly after the time of the unrecorded checks to cash, Dale took money out of petty cash for trips in smaller amounts that were commensurate with the types of domestic trips he made, and he recorded those withdrawals in the log. If Dale forgot to enter the larger amounts, he must explain why he contemporaneously remembered to enter the smaller amounts.

Third, the travel records and petty cash log indicate that Dale had no need to cash checks for trip expenses, or to replenish the petty cash, on the dates that most of the unrecorded checks were cashed. On those dates, the petty cash balance was either sufficient to cover the upcoming expenses, or it was replenished shortly <u>after</u> the unrecorded checks to cash. These facts indicate that Dale did not cash these unrecorded checks to get last minute funds for trips, but that he cashed checks and pocketed the money.

Finally, no other Travel Office employee was aware of petty cash funds being taken and not recorded in the log. When they took petty cash, they recorded it, and when they returned from a trip, they accounted for what they had spent and returned any that was left over. Dale certainly cannot claim that he gave any of the unrecorded cash to other Travel Office employees to spend, because they would have accounted for the expenditure or return of such substantial amounts. Thus, Dale must argue that, during this 13 month period, he himself incurred over $10,000 in cash expenses -- over and above the amounts he withdrew and recorded in the log -- and that in each instance, he forgot to enter either the withdrawal or the expenditure in the log.

Despite the weaker direct evidence, we believe that charging Dale with the petty cash thefts in addition to the stolen checks will assist us in responding to Dale's defenses. First, in response to the stolen checks, Dale's counsel has argued that he would not have been so foolish as to deposit checks into his personal account, leaving a clear paper trail, when he could simply have stolen the relatively untraceable petty cash. We can undercut that argument considerably by charging that Dale <u>did</u> steal petty cash.

At least with respect to the $5,000 check that was entered as $2,000 in the log, Dale is stuck with the grease payment defense because that is what he told the Peat Marwick auditor.

That line of defense is far weaker for the petty cash thefts, because Dale took the $14,000 in cash during a lengthy period in which he made no international trips. To the extent Dale offers the grease payment defense to explain the missing petty cash, we believe that his overall defense is weakened.

OTHER POTENTIAL WEAKNESSES

A. Missing Documents

As mentioned above, the petty cash logs for the periods prior to February 1992 cannot be located. Nor can we find checks received logs and other relevant materials from earlier years. Dale will certainly argue that these documents would exonerate him and that their disappearance is due to actions by persons with a motive to make him look bad or due to White House negligence.

On a number of occasions, Dale's attorneys have asked us whether petty cash logs exist for earlier periods. They are well aware that the Peat Marwick reviewers found that such logs were missing. We have declined to tell them what does and does not exist, for fear that Dale will shape his story accordingly. We believe from informal discussions with them that they will argue that the petty cash logs would establish Dale's innocence in the following way.

Dale will claim that he incurred certain expenses, such as a payment for unused hotel rooms. A receipt in the trip file will show that such an expense was incurred. Dale will claim that he paid this out of his "separate fund", not petty cash, and that the petty cash logs would prove this because they would show that no petty cash had been used for this purpose.

It is likely that Dale will blame the logs' disappearance on Catherine Cornelius and others in the White House who had an interest in raising questions concerning his management of the Travel Office. We will have to concede that Cornelius secretly went through the Travel Office's old files and removed several files from the office and took them home. Dale will probably also suggest that after the Travel Office employees were dismissed on May 19, the office was unsecured and open. Moreover, he may suggest that the files have been lost as a result of the sheer number of persons and entities that reviewed them: the FBI, GAO, IRS and White House Management Review team.

By charging Dale with the petty cash thefts, however, we can use the available petty cash logs affirmatively, and take some of the punch out of that argument. We can respond that the logs actually show Dale's guilt, and that the missing logs would not

exonerate him at all if we had them.[32] Indeed, if Dale suggests that others destroyed the petty cash records, we can argue that Dale knew exactly where the records were kept, that he had access to those records during the time that Cornelius was working in the Travel Office, that he knew Cornelius was reviewing Travel Office records hoping to find questionable items, and that he was the person most likely to destroy them given what they reveal about his thefts.

B. Political Prosecution

In addition to arguing that Cornelius and her colleagues destroyed documents, Dale will probably make the big picture argument that this prosecution is simply an effort by the Clinton Administration to avoid further embarrassment. As set forth above, prior to May 19, many individuals wanted the Travel Office employees replaced. Cornelius wanted Dale's job; Martens and other campaign air charter firms wanted the UltrAir business; and Mrs. Clinton and other White House staff wanted the slots for Clinton loyalists. Many allegations were made against Dale and his colleagues, from charges they sought kickbacks to claims that they selected Republican airlines. There was a firestorm of criticism when all seven were summarily dismissed, without notice or opportunity to be heard, and a public announcement was made that they were under criminal investigation by the FBI. In an acknowledgement that it had acted precipitously, the Clinton Administration rehired all the former employees, except Wright and Dale, for government positions. Moreover, Congress passed legislation providing that the employees' legal expenses be reimbursed with federal funds. Citing this backdrop, Dale will almost certainly argue that in order to justify in some way their actions, the Government brought an indictment against Dale.

The short answer to this is that Catherine Cornelius didn't put 55 Travel Office checks into Dale's personal bank account and didn't conceal the deposits from Dale's colleagues in the Travel Office. All the conduct charged occurred before the Clinton staff arrived. Moreover, we will need no testimony from any Clinton loyalist and will be in a position to successfully distance ourselves from them.

C. Absence of Government Witnesses

One additional obstacle we will have to overcome is that all the witnesses that we will call at trial, except for a financial expert from the FBI and a Peat Marwick accountant, will be

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[32]To follow up on the example described above, we will argue that the petty cash logs in fact would show categorically that the unused hotel rooms were paid for with Travel Office petty cash, not out of some private Dale slush fund.

hostile. The only persons who are able to describe the way the Travel Office operated and how it paid its expenses are the former employees of that office. Each of them, to different degrees, is hostile to the Government and friendly towards Dale. We can expect that they will bend over backwards to try to help him out.

[redacted] (6(e)) They will have to admit that they had no knowledge of Dale taking checks or cash, or of a secret slush fund. While several of them may try to shape their testimony in order to help Dale, we believe that the jury will see those efforts for what they are. In addition, it is not clear how Dale's former colleagues will react when they learn that he was depositing Travel Office checks in his account and hear his claims that he maintained a secret fund.

D. Proving the Negative

We are in the somewhat difficult position of trying to prove a negative, namely, that a separate fund did not exist, and that Dale had no extra income available to finance such a fund. Although it is impossible to be certain, we have very closely examined Dale's finances and that of his family and believe it is unlikely that Dale will be able to present credible evidence that he had such a fund.[33] Indeed, to do so probably would require him to open himself up to tax charges.

E. Potential Suppression Issue

At trial, we plan to present testimony from Dan Russell, one of the Peat Marwick accountants, concerning Dale's inability to explain to him the discrepancies in the petty cash log. Dale may seek to suppress these statements by taking either of two tacks. First, he may try to make an argument under Garrity v. New Jersey, 385 U.S. 493 (1967), that he only answered the accountants' questions because he felt compelled to do so, or be fired. That is not enough. Dale must show he had an objectively

[33]The only evidence we have found that Dale might have had a large amount of cash at home is a theft he reported to the Prince George's County police department. Dale told the police that on May 20, 1992, someone entered his house in the early evening and stole $1,000 from his wallet. From a review of Dale's bank records and the Travel Office's records, it is not clear where this money came from or for what purpose Dale was carrying it. This was, however, during the period when we believe Dale was stealing cash from the Travel Office--the evidence indicates he made one such theft of $2,500 on April 10--and the money may simply have been part of his cache of illegal proceeds.

reasonable belief that he would be fired for invoking his Fifth Amendment rights. United States v.Indronato, 628 F.2d 711, 716 (1st Cir. 1980); Minnesota v. Murphy, 465 U.S. 420 (1984); see also, United States v. Friedrick, 842 F.2d 382, 395 (D.C. Cir. 1988)(FBI employee ordered to appear and answer investigators questions). Dale was simply asked by the auditors to answer questions about the operation of the office and its records. Unlike Garrity and its progeny, there was no statute, regulation or procedure expressly stating that a White House employee must waive his Fifth Amendment privilege and there were no informal policies requiring Dale to do so, or be terminated. Absent special circumstances, the Fifth Amendment privilege is not self-executing and must be invoked by the person seeking to enjoy its protection. See Minnesota v. Murphy, supra. If Dale wanted to refuse to discuss the Travel Office operations, he was free to do so.

The second line of attack would be to argue that Dale was improperly tricked and deceived into consenting to discuss the Travel Office because he was falsely given the impression that the Peat Marwick inspection was merely a part of the ongoing National Performance Review and not part of a criminal investigation. Courts have held that "[t]rickery and deception rise to the level of impermissibility if there is clear and convincing evidence that government officials performed one or more affirmative acts that materially mislead the defendant." United States v.Mitchell, 763 F. Supp. 1262, 1268-69 (D. Vt. 1991)(EPA agents improperly delude subjects about the criminal nature of investigation). It also has been held that silence is impermissible, if it is part of an effort to mislead the individual being interviewed as to the criminal character of the investigation. United States v.Tweel, 550 F.2d 297 (5th Cir. 1977).

Dale, however, will be unable to show that the accountants were really stalking horses for the FBI. Nor can he show that the review was in fact a subterfuge for a criminal investigation. The White House, and not the FBI, hired the accountants and instructed them on what to examine. Moreover, the White House insisted that the FBI not participate in the review and in fact, the agents were only passive recipients of the information collected. Indeed, many of the matters looked at by Peat Marwick related to whether mismanagement of the office had occurred, and not whether a criminal offense had been committed. While Dale can point to the fact that he was falsely told by the White House that the accountants were examining the Travel Office records as part of the National Performance Review, he cannot show that this statement was for the purpose of tricking him into thinking this was an administrative, rather than criminal, review. In fact, it was an administrative review.

SENTENCING GUIDELINES

Under the sentencing guidelines, Dale would have a base offense level of 4. U.S.S.G. §2B1.1. He faces an increase of 7 levels because he converted roughly $69,000. There should be a two level adjustment for more than minimal planning, as that is "deemed present in any case involving repeated acts over a period of time, unless it is clear that each instance was purely opportune." U.S.S.G. §1B1.1, Comment (f); see also U.S.S.G. §2B1.1, Background. Moreover, we should be able to successfully argue that there should be a two level increase for abuse of position of trust, pursuant to §3B1.3. As a result, Dale would have a total offense level of 15 and face 18 to 24 months in prison.

CONCLUSION

We recommend that Dale be indicted.

DRAFT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HOLDING A CRIMINAL TERM
GRAND JURY SWORN IN ON JUNE 23, 1992

UNITED STATES OF AMERICA	)	Criminal No. _____
v.	)	Cts. 1-2: 18 U.S.C. § 654
BILLY R. DALE	)	

INDICTMENT

THE GRAND JURY CHARGES:

INTRODUCTION

At all times relevant to this indictment:

1. The White House Telegraph and Travel Office (Travel Office) was a department and agency of the United States Government that arranged for members of the press to accompany the President of the United States when he traveled outside of Washington, D.C.

2. Defendant BILLY R. DALE was the Director of the Travel Office, an officer and employee of the United States.

3. The Travel Office was responsible for collecting and maintaining on behalf of the press the funds used to pay the expenses associated with press travel. Those funds were maintained by the Travel Office on behalf of the press in a checking account at the Riggs Bank in Washington, D.C. (Riggs Account), which was sometimes referred to as the Press Travel Fund. Defendant BILLY R. DALE was a signatory on the Riggs Account. Those funds were also maintained in the form of cash that was obtained from the Riggs Account, and which was kept in a petty cash drawer near defendant BILLY R. DALE's desk in the Travel Office.

4. Defendant BILLY R. DALE and other employees of the Travel Office accompanied members of the press on travel and used checks from the Riggs Account and cash from the petty cash fund to pay the expenses associated with press travel, including the costs of air and ground transportation, hotels, telephone services, and other expenses. At the end of a trip, the Travel Office billed members of the press for their share of the expenses associated with the trip, and members of the press sent checks to the Travel Office as payment for those expenses. These checks were to be deposited in the Riggs Account and the funds used to pay for expenses associated with press travel; they were not the property of defendant BILLY R. DALE.

5. Telephone companies and other businesses that provided services to members of the press on travel, and who were paid for those services with funds from the Riggs Account, sent refund checks to the Travel Office. These checks were to be deposited in the Riggs Account and the funds were to be used to pay for expenses associated with press travel; they were not the property of defendant BILLY R. DALE.

COUNT ONE

(Conversion of Travel Office Checks)

6. The Grand Jury realleges paragraphs 1 through 5 of this Indictment.

7. While Director of the Travel Office, defendant BILLY R. DALE took and deposited in his personal bank account at Maryland National Bank, formerly Equitable Bank, 55 checks, totaling approximately $54,208.61, which checks were payments sent to the Travel Office by

members of the press and refund checks sent to the Travel Office by telephone companies and other businesses. Among the 55 checks taken by defendant BILLY R. DALE and deposited in his personal bank account, during the period from in or about February, 1988, through in or about April, 1991, were the following:

DATE	AMOUNT OF CHECK	PAID BY
3/23/89	$3,159.38	CENTEL
6/10/89	$1,396.72	South Central Bell
5/4/90	$2,376.00	U.S. West Communications
9/7/90	$4,173.43	Die Welt, through Deutsche Bank
1/18/91	$1,215.04	Ohio Bell
4/2/91	$6,997.38	Die Welt, through Deutsche Bank

8. From in or about March 9, 1989 and continuing to in or about April, 1991, in the District of Columbia and elsewhere, defendant BILLY R. DALE did knowingly and willfully embezzle and wrongfully convert to his own use money and property of another valued at $100 or more, that is, checks provided to the Travel Office, which money and property belonged to the press and came into defendant BILLY R. DALE'S possession and control in the execution of his duties as Director of the Travel Office and under color and claim of his authority as Director of the Travel Office.

All in violation of Title 18, United States Code, Section 654.

COUNT TWO

(Conversion of Cash)

9. The Grand Jury realleges paragraphs 1 through 5 of this Indictment.

10. On or about the dates listed below, in the District of Columbia and elsewhere, defendant BILLY R. DALE did knowingly and willfully embezzle and wrongfully convert to his own use money of another valued at $100 or more, that is, cash from the Riggs Account that was the property of the press, which money came into defendant BILLY R. DALE'S possession and control in the execution of his duties as Director of the Travel Office and under color and claim of his authority as Director of the Travel Office:

Date	Amount of Cash
February 18, 1992	$3,000
April 10, 1992	$2,500
June 17, 1992	$3,000
October 9, 1992	$3,000
January 11, 1993	$2,500

All in violation of Title 18, United States Code, Section 654

A TRUE BILL

_____
FOREPERSON

_____
STUART M. GOLDBERG
Senior Litigation Counsel
RAYMOND N. HULSER
Trial Attorney
Public Integrity Section
Criminal Division
U.S. Department of Justice
P.O. Box 27518, Central Station
Washington, D.C. 20003
(202) 514-1412

U. S. Department of Justice

Washington, D.C. 20530

January 11, 1996

MEMORANDUM

TO: Lee J. Radek
Chief
Public Integrity Section
Criminal Division

FROM: Stuart M. Goldberg
Senior Litigation Counsel
Raymond N. Hulser
Trial Attorney
Public Integrity Section
Criminal Division

I Agree 1/11/96

Declined on Dec 15 1995 Lee Radek 1/11/96

SUBJECT: Recommendation to Decline: Harry Thomason and Darnell Martens

As part of the White House Travel Office investigation, the Public Integrity Section and the FBI looked into allegations that Harry Thomason, a personal friend of the President, and Darnell Martens, a Thomason business associate, violated the federal conflict of interest statutes. Our investigation indicates that, although Thomason had ready access to the White House due to his close relationship with the President, neither Thomason nor Martens held a position as a government employee or special government employee; nor is there evidence that they believed that they held such a position. Accordingly, neither Thomason nor Martens are subject to the provisions of 18 U.S.C. § 208 or § 205, and we cannot establish a criminal violation. We recommend that the Section decline prosecution of Thomason and Martens.

The FBI concurs with this recommendation.

THE SUBJECTS

Harry Thomason is a Hollywood television producer and personal friend of the President and First Lady. Thomason is also a pilot, and has an interest in aviation. Thomason met Martens in 1989, when Thomason was purchasing an aircraft from Executive Jet, a

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corporate charter company where Martens was employed. In approximately November 1991, Thomason, Martens and another friend of Thomason's, Daniel Richland, formed a consulting company called Thomason, Richland, and Martens, Inc. (TRM). Each of the three was to provide $1,000 of initial capital, but only Martens and Thomason did so. Additionally, Thomason loaned the company $24,000. According to Martens, the three considered themselves equal partners in the company, although Thomason and Richland were not active in the company's operations. Martens is the President of TRM.

FACTS

The investigation of this matter has included extensive interviews by the FBI, testimony before the grand jury, and review of thousands of pages of documents, [redacted] 6e The documents include notes of interviews conducted by the White House during the White House Management Review, including interviews of Thomason and Martens. In addition, Martens was interviewed during the criminal investigation. There are a substantial number of sources of information, and there have been numerous efforts to reconstruct the chronology of events leading up to the termination of the Travel Office employees.

A. Thomason's Initial Activity at the White House

Thomason was involved in a variety of aspects of the Clinton/Gore campaign, and produced the campaign film called "A Place Called Hope." Following the election, Thomason was Co-Chairman of the Presidential Inaugural Committee. Thomason was also an overnight guest at the White House on several occasions during the first part of 1993, including his stay in the residence on the night of the inauguration. A variety of documents reflect the President's close personal relationship with Thomason.

In March 1993, Rahm Emanuel, then an Assistant to the President for Political Affairs, asked Thomason to come to the White House and provide guidance on ways to better use the White House for public relations events and improve the President's image.[1] Emanuel asked Reta Lewis, Special Assistant to the President for Political Affairs, to coordinate with Thomason on the presidential image project. Lewis prepared an itinerary for a series of meetings at the White House on April 30, 1993 and May 1, 1993, for Thomason and actress Markie Post, wh was to accompany him.

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[1]Emanuel's request to Thomason is reflected in an April 1, 1993 memo from Emanuel to Mark Gearan.

An application for a White House temporary hard pass for Thomason was prepared on March 10, 1993, signed by Thomason on March 22, 1993, and submitted to the Office of Personnel Security (OPS) on the following day by the Office of Management and Administration (OMA). The words "RUSH-ASAP" were handwritten at the bottom of the form.

On the application, in the block labelled "Assignment," there was a line to be filled in to reflect to whom Thomason would be reporting. Handwritten on this line was the word "President." This appears to be in the handwriting of Clarissa Cerda, the OMA employee who prepared the application. The form also indicated that Thomason's status was that of a "volunteer." In the section captioned "To be completed by Volunteer," Thomason signed beneath a statement reading "I acknowledge that the personnel data above is correct and that I am volunteering my services without compensation or promise of such."[2]

According to D. Craig Livingstone, Director of OPS, the temporary hard pass is available to White House staff and long-term volunteers, while an "access" pass is available for volunteers and others who will not need long-term access. In order to receive a hard pass, an individual is required to complete the paperwork to initiate an FBI background check, and the pass is issued when the background check is completed. Individuals with a hard pass can make appointments to have others visit them at the White House, while those with an access pass cannot. Livingstone did not believe that Thomason should receive a hard pass, and called Cerda. Cerda told Livingstone that Thomason was dispersing Inaugural Committee funds and should be given a pass. Livingstone then checked with W. David Watkins,[3] the head of OMA, who confirmed that

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[2]In addition, on March 23, 1993, OPS Director D. Craig Livingstone sent to the Secret Service a "Request for Pass" formally requesting a 90-day Temporary Pass for Thomason. This form, which was not reviewed by Thomason, listed President Clinton on the line asking for Thomason's "Immediate Supervisor's Title and Name." On the line for Thomason's "Title and Office" was typed "Office of the President." A memorandum was issued the same day to the FBI from Bernard Nussbaum requesting a name check in connection with the issuance of the White House pass. This memo reflects that Thomason was being considered for "Access," rather than for a "White House Staff Position" or a "Presidential Appointment."

[3]Watkins later resigned after the news media publicized a helicopter trip he took to a Frederick, Maryland golf course. When the media discovered Watkins had taken this trip, he issued a statement claiming that among other things, it was necessary for him to scope out the course for the President and determine the actual time of play.

Thomason should receive a temporary hard pass.[4] In addition to Thomason, hard passes were provided to eight other persons who were not government employees, who also were not required to complete an FBI background security form.[5]

When Thomason arrived on April 30, Lewis escorted him to the security office where he had his picture taken and signed for his temporary hard pass. Markie Post arrived a short time later, and was not issued a hard pass. Lewis escorted Thomason to the meetings on April 30 and May 1. These meetings included sessions with media consultant Mandy Grundwald, the Health Care Group, the Scheduling and Advance Staff for the President and the First Lady, the White House Communications, Correspondence, Social Events and Political Affairs staff as well as other senior White House advisers such as Bruce Lindsey and George Stephanopoulos. The talking points the White House prepared for Thomason and Post reflect that the White House was looking for advice on how best to convey political messages, such as the President's position on health care, and how to otherwise polish the President's image. The Administration also wanted input from Thomason and Post on how events should best be staged for television and to tap their expertise concerning the use of up-to-the date technologies. Thomason presented his ideas concerning the project at the end of the two days of meetings.

According to the entry records supplied by the White House, it does not appear that Thomason returned to the White House until May 10. From that date on, according to records produced by the Secret Service, Thomason used his pass to enter the White House regularly through the end of May.

At the White House, Thomason was provided with access to a telephone and computer, along with office space in the East Wing. It is not clear whether Thomason had exclusive use of that office. At times, Thomason's personal assistant from California, Roberta Ferguson, worked with him in the White House.[6]

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[4]Livingstone believed that Thomason should be put on an access list or should be given a "residence pass," which he thought carried the most clout.

[5]These consisted of political consultants and a pollster (Skip Rutherford, Paul Begala, Mandy Grundwald, James Carville and Stanley Greenberg), a confidant of Mrs. Clinton (Susan Thomases), a prospective staff member (Harold Ickes), and David Watkins's wife, Eileen.

[6]During the period from May 10 through June 6, Thomason stayed at the Jefferson Hotel, where he had stayed during his inauguration work.

In connection with his project, Thomason met with a variety of White House staff. It appears, however, that no one was responsible for supervising his work.[7] A number of White House officials who were interviewed indicated that they saw Thomason in the White House complex, but none said they were aware of any work he was doing beyond the imaging project and tying up loose ends connected with the Presidential Inaugural Committee.

Thomason presented an unsigned, undated report on his imaging project. The report discussed possible sources for funding the implementation of Thomason's suggestions. Rather than federal government funds, the report suggests using surplus funds from the inauguration.

Thomason received no compensation from the government for his work at the White House.[8] He was appointed to no government position, had no title and took no oath of office. No applications, resumes or other employment-related information was maintained on Thomason or Martens by the White House Personnel Management Division.

B. The Travel Office

During the Clinton campaign, TRM worked with the campaign's air charter broker, Air Advantage, and Martens had regular dealings with the head of Air Advantage, Penny Sample. Shortly after the inauguration, Martens asked Thomason for a point of contact regarding bidding on White House press corps charter business. After Thomason checked with Dee Dee Myers, Martens called her directly. According to Martens, Myers told him that the White House was not tied to any particular charter operator, and that Martens should contact Billy Dale, who was at that time the Director of the Travel Office.

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[7]The application for Thomason's temporary hard pass indicated that he would be reporting to the President. Only a small number of high-level officials are actually supervised by the President. A document produced by the Presidential Diarist, Ellen McCathran, reflects only the following meetings between the President and Harry Thomason: February 16, 1993, meeting and bowling; February 17, 1993, speech preparation sessions with senior staff and advisers; February 18, 1993, meeting; April 30, 1994, private dinner with the Clintons and Markie Post; May 28, 1993, meeting with Thomason and his wife; and June 4, 1993, dinner with the Clintons and Thomason's wife.

[8]Thomason's attorney, Robert Bennett, has indicated that Thomason's income is quite substantial, and has argued that it is incomprehensible that Thomason would have been motivated in his efforts by the prospect of obtaining government funds either for his work at the White House or through government contracts.

The Travel Office is located in the Old Executive Office Building. It provides travel arrangements, including charters, for members of the press when they accompany the President on his trips around the country and abroad. Travel Office staff arrange services for the White House press corps such as chartered aircraft, ground transportation for the correspondents and their equipment and baggage, working space, and communications facilities. The Travel Office also provides airline ticketing services for White House employees.

Martens contacted Dale on the telephone in late January or early February, 1993. According to Martens, Dale informed him that there was no combination of price and service under which he could obtain the press charter business. Dale told Martens that no one could do better than the present charter arrangement, and because press funds were involved rather than government funds, service rather than cost was the primary goal. Martens found Dale's flatly negative response suspicious, and he wrote a memorandum of his conversation with Dale.

Martens is adamant that he was not seeking business for TRM in this conversation, but for Air Advantage, the charter broker with whom he had worked during the campaign.[9] However, the contemporaneous memo written by Martens strongly suggests on its face that he was interested in obtaining business for TRM.[10] There is no mention of Air Advantage anywhere in the memo, and Penny Sample says that she had not spoken with Martens about Air Advantage obtaining Travel Office charters at that time. Moreover, an earlier version of the memo that Martens sent to Thomason in March, 1993, explicitly proposes that the Travel Office functions should be "outsourced to TRM/Air Advantage."[11] In fact, there is evidence of Martens's interest in obtaining business for TRM as early as January 1993. Martens wrote Thomason a memo on January 29, 1993, proposing ways to "pursue Washington opportunities," one of which was for TRM to handle press corps travel.

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[9]Martens maintained this position during his interviews in the White House Management Review and during his proffer with the Department of Justice.

[10]TRM certainly benefited from Air Advantage's work for the campaign. According to Air Advantage, they paid TRM approximately $277,000 for its campaign charter work.

[11]Martens's cover memo to Thomason dated March 3, 1993, cautions Thomason: "[t]he attached summary is for YOUR EYES ONLY at this time since I cannot yet prove everything contained in the report. I do believe it to all be true but proof is always something else again."

Dale's response, which Martens found suspicious, may have been the result of poor timing. For several years, Pan Am had been the exclusive provider of the White House press charters. Pan Am provided red carpet treatment for the press on these charters, including spacious seating, hot meals, extra flight attendants, and liquor. The Pan Am crews also became experienced in handling the difficulties of accompanying Air Force One on travel. When Pan Am went out of business in December 1991, Dale bid out the press charter business to a variety of companies for approximately 6 months. During that period, the Travel Office had difficulty because the new charters were unable to provide the same first-class service that the members of the press demanded on these trips. In June 1992, a new company, Airline of the Americas (AOA), which was formed and staffed largely by former Pan Am employees, began handling White House press charters. Because of its close ties to the former Pan Am, AOA once again provided the kind of service that the press demanded, and quickly became the exclusive press charter operator.[12] At the time that Martens called the Travel Office, it appears that Dale was once again comfortable with his charter operator, and was unreceptive to the suggestion of opening up the process again. Moreover, from the earliest days of the new administration, Dale and the other Travel Office employees were well aware of the possibility of losing their jobs, and this may have made Dale particularly defensive of their operations. There is no evidence that Martens was aware of these possible explanations for Dale's flat refusal.

The day of Martens's call to Dale, Martens spoke to Thomason about it on the set of one of Thomason's television shows. He told Thomason that there was no bidding process at the Travel Office and that there was no way to obtain Travel Office charter business. Martens says that he spoke to Thomason about the Travel Office again in late February or early March, 1993, and that he related information that he had obtained from Air Advantage's Penny Sample. According to Martens, Sample told him about information that she had obtained from Ross Fischer, Vice President of Miami Air, which had provided charter service to the Travel Office in 1992. The information that Martens says he received included the following: that Dale told Fischer that he would have to reach some arrangement with Dale in order to obtain Travel Office business; that Miami Air was not interested in reaching any arrangement with Dale; that Miami Air officials were not surprised by Dale's response to Martens; and that Dale had a reputation as a tough businessman. This furthered Martens' suspicions regarding his conversation with Dale.

Sample, who was also interviewed in our investigation, has a different recollection of her conversation with Martens. According to Sample, Fischer had told her that Miami Air was pleased to have

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[12]AOA subsequently changed its name to Ultrair.

provided charter service to the Travel Office, but could not provide satisfactory arrangements, and that Dale was difficult to please. Sample says that Fischer also told her that "one would like to take a shower" after speaking to Dale. Although Sample did not elaborate on what that statement meant, she did not interpret it to refer to any impropriety, and did not find the statement unusual when speaking about people in the travel business.[13] Sample does not recall exactly what she related to Martens, other than that the Travel Office was not open to competitive bidding. She does not recall whether she related to Martens her conversation with Fischer, but, if she did so, she says that she did not convey to Martens that Dale demanded or accepted any kind of gratuity or kickback.[14]

According to the notes from Thomason's interview during the White House Management Review, Thomason indicated that he was angered by the information Martens had provided about the Travel Office. He said he informed the President that there was something wrong with the travel department, but did not provide him with any specifics. Instead, Thomason simply told the President that he would contact the appropriate people.

In early April 1993, Thomason telephoned Watkins in OMA, and related what he had heard about the Travel Office. According to Watkins, Thomason told him that Martens, his partner in TRM, had attempted unsuccessfully to solicit business from Dale, and that Thomason had heard that Dale was not interested in accepting any new business. Thomason also told him that many people in the industry knew that individuals in the Travel Office had been "on the take" for years. Thomason suggested to Watkins that the Travel Office staff should be fired, and that this would result in favorable press showing that wrongdoing had been discovered and handled.

Shortly before this time, Watkins had assigned Catherine Cornelius, a Special Assistant in OMA, to the Travel Office. Cornelius, the President's third cousin, had handled travel arrangements on the Clinton-Gore campaign, and she had expressed an

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[13]Whatever explanation Sample herself offers for this statement regarding Dale, if she passed this information on to Martens, it obviously would have furthered his suspicions.

[14]In the course of our investigation, the FBI interviewed Fischer and numerous other employees and officers of the charter companies who did business with the Travel Office. None was aware of any impropriety, such as gratuities or kickbacks, in the process of bidding for or obtaining Travel Office business. However, [redacted] 66

interest in performing the same role in the Clinton White House. During the presidential transition and early days of the administration, Cornelius had sent three memos to Watkins criticizing the operations of the Travel Office. She suggested that it be reorganized, the personnel replaced, and that she be named one of the new directors. Watkins claims that he did not pay much attention to these memos or the Travel Office during the early days of the administration.[15]

According to Watkins and Cornelius, her initial assignment in the Travel Office was to assist with staff travel arrangements and to prepare a report by May 15 concerning the operations of the Office that could form a basis for considering how to reorganize the Travel Office to help achieve the announced 25% staff reduction in the White House.

In response to the allegations made by Thomason, however, Watkins told Cornelius to "keep her eyes and ears open."[16] Cornelius claims that based on this instruction, during the next few weeks she looked around. She surreptitiously reviewed various trip files in the Travel Office and reported back to Watkins that there were numerous checks to cash, unreconciled estimated bills, and large fluctuations in the bank balances. She also told Watkins that two employees talked of their lakefront homes, another employee was planning a trip to Europe and talked about his race horse, and another spoke about a ski boat. Cornelius believed these comments reflected suspiciously high lifestyles for career government employees.

One evening while Cornelius was photocopying various Travel Office checks payable to charter companies and to cash, the copy machine jammed. As a result, Cornelius took some original files and bank statements home with her. The following morning, a photocopy of a check was discovered jammed in the machine, and everyone in the Travel Office correctly suspected that the check was evidence that Cornelius was going through the files, although Cornelius denied it to the other employees. After this incident, many of the files and bank statements in the Travel Office were locked up, and Cornelius was unable to return the documents that she had brought home. Subsequently, she brought these documents to the White House Counsel's Office and they were supplied to the FBI.

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[15]Catherine Cornelius has indicated that, during the course of the subsequent Management Review, Patsy Thomasson instructed her that, if she were asked, she should say that Watkins did not review her memos.

[16]Cornelius says that Watkins consulted a leather bound notebook from which he appeared to read a quote: "those guys are a bunch of crooks. They have been on the take for years." No such notes were produced or found during our investigation.

We have found no evidence that Cornelius destroyed Travel Office records. Although Dale's counsel and others have suggested that she removed years of petty cash logs from the Travel Office, the evidence indicates that Cornelius was not even aware of the existence of a petty cash log at the pertinent time. Indeed, her lack of awareness of the office's regular petty cash system is evidenced by the fact that she found the mere existence of checks to cash suspicious.[17]

On approximately May 10, 1993, Thomason asked Watkins what he had learned about the Travel Office, and Watkins told him that Cornelius was due to make a report on May 15 and that Thomason should speak with her. Thomason contacted Martens in Cincinnati and asked him for any documents he had reflecting his contact with Dale, and Martens faxed him the memorandum he had written. Cornelius was out of town on May 11, and when she returned on May 12 she met with Thomason to discuss the Travel Office. Watkins then met with Thomason and Cornelius, along with Martens, who had

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[17]Cornelius was interviewed several times, [redacted] concerning her activities. Her factual accounts were largely consistent each time, and her story is supported by other evidence. In sum, Cornelius, who was 24 years old at the time, was asked by her supervisor, David Watkins, to gather information about the operation of the Travel Office, and she did so. Her awkward attempt to review the Travel Office files, and the suspicions that she developed regarding the Travel Office employees based on their offhand comments about their vacations and hobbies appear simply to reflect Cornelius's lack of sophistication and experience. We uncovered no plan to trump up charges against the Travel Office employees.

just arrived in Washington.[18] In these meetings, they shared their information concerning the Travel Office.

Following this, they brought the issue to the attention of Deputy White House Counsel Vincent Foster. Before his death, Foster made extensive notes in which he attempted to recreate the events that took place after he became involved. Foster was also interviewed in the management review, and we have notes of that interview. Foster initially met with Watkins, Thomason and Cornelius, and then brought in Associate White House Counsel William Kennedy, III to take responsibility for the matter. The evidence indicates that Martens left before any meetings with Foster.

Foster recognized the need to take allegations of wrongdoing seriously, but indicated that there could be innocent explanations for a variety of things, such as checks to cash. Foster and Kennedy brought some caution and deliberation to the process, and resisted the suggestion that action should be taken against the Travel Office employees immediately.[19]

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[18]Martens was in town for meetings concerning an aviation consulting proposal, which is discussed below. When Martens arrived at the White House, he was given a temporary volunteer pass as opposed to the hard pass provided to Thomason. The paperwork relating to the pass reflected that Martens was a volunteer reporting to "Harry Thomason/David Watkins" and the Office of Administration. The Request for Pass submitted to the Secret Service from Livingstone's office stated that Martens's Immediate Supervisor was "David Watkins." A request also was sent from Bernard Nussbaum to the FBI asking for a name check on Martens in connection with issuance of the pass. A box on the form was checked indicating that Martens was being "considered for. . .White House staff position." Another box could have been checked indicating he was being "considered for. . .[a] Presidential Appointment," or a blank line could have been filled in. There is no evidence that Martens completed, signed or reviewed any of this pass paperwork. It appears that after receiving the pass on May 12, 1993, Martens never used it.

[19]Jeff Eller, Director of Media Affairs in the Communications office, was a strong proponent of quickly terminating the Travel Office employees. The evidence indicates that he repeatedly argued that they should be terminated promptly so that the White House would stay ahead of the story in the press. Eller's motives, however, may not have been focused entirely on how the White House handled the story in the press. He also had a personal relationship with Catherine Cornelius at the time, and knew of her interest in the Travel Office.

The evidence indicates that Watkins and Patsy Thomasson were concerned that the Travel Office operations, which were under their responsibility, continue uninterrupted if any changes were to be made.[20] On May 12, at the instruction of Watkins, Cornelius contacted World Wide Travel, which had provided travel services to the Clinton/Gore campaign, to see whether World Wide would be available to provide temporary assistance with the reservations and ticketing work that the Travel Office provided employees in the Executive Office of the President.[21] Similarly, Darnell Martens contacted Penny Sample at Air Advantage to ask whether she could come to Washington for a short period to assist with arranging charters for the press. According to Cornelius, Thomason referred Martens to her and Martens phoned and said he knew a capable volunteer to help with charter arrangements. Sample has indicated that Martens contacted her around May 19, but the evidence indicates that Martens spoke to her as early as May 13.[22]

Watkins, Patsy Thomasson and others assert that any long term Travel Office business was to be subject to competitive bidding and that Sample and World Wide's involvement in the Travel Office was an initial stopgap measure. These assertions are supported by Watkins's memorandum to Mack McLarty dated May 17, 1993. In that memo, Watkins indicated that he was bringing in World Wide Travel temporarily while he developed procedures for requesting bids, and that Cornelius would run the new "Travel Section" on an interim basis. The memorandum also indicated that "outsourcing" some of the travel functions would reduce the Travel Office staff from seven to three, saving four slots toward the goal of reducing the White House staff by 25%. A copy of this memo was also sent to the First Lady.

World Wide Travel and Air Advantage agreed to assist with the Travel Office operations, and they stepped in when the Travel Office employees were terminated. Foster's notes state that Harry Thomason was adamant from the outset that he would have nothing to do with any Travel Office business.

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[20]Watkins had doubts about Cornelius's ability to run the Travel Office without assistance from someone with more experience in the field.

[21]Cornelius had worked with World Wide Travel during the campaign, and maintained contact with them during late 1992 and early 1993.

[22]A one-page fax dated May 13 from Martens to Thomason states, "Penny & I can be at the White House to assist 'C' as needed to begin operations." The fax also indicates that Martens was looking into the availability of aircraft, and states, "30 day Billing Cycle No Problem."

Foster asked Kennedy how he would investigate the allegations regarding the Travel Office, and Kennedy indicated that the Office of Administration did not have the capacity to perform an audit of the Travel Office. On May 13, Kennedy contacted the FBI to inquire whether they could look into the allegations regarding the Travel Office. Two agents from the FBI came to the White House on the 13th, and met with Kennedy and Foster.[23] They also spoke to Catherine Cornelius, and reviewed the documents that she had obtained from the Travel Office and been unable to return. After discussing the matter with the FBI, Foster spoke with then Chief of Staff Mack McLarty, and they decided to bring in outside auditors to review the Travel Office operation, rather than beginning with an investigation by the FBI. The White House Counsel's office decided to begin the review on May 14 and agreed to keep the FBI informed of its results.

Early on the morning of May 14, numerous White House staffers led by Patsy Thomasson, Watkins's deputy, met with the Peat Marwick staff to work out a methodology for the review. A decision was also made by White House staff to inform the Travel Office employees that the examination was being conducted as part of the National Performance Review (NPR), which all offices in the White House were scheduled to undergo. This was not accurate. The sudden timing of the Travel Office review, the scope of the review and the fact that it was prompted by suggestions of wrongdoing distinguished the Travel Office review from the normal NPR activity. However, there were individuals involved in the Travel Office review that were also involved in the NPR. For example, Jennifer O'Connor from the White House and Larry Herman from Peat Marwick were involved in both. Moreover, David Watkins and Patsy Thomasson maintain that the Travel Office was going to be reviewed in the normal course, and they simply moved it up in the schedule.[24]

The Peat Marwick staff began work that Friday morning, May 14, at the Travel Office, and continued through the weekend.[25] The

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[23]Kennedy met initially with two other agents from FBI Headquarters, who put Kennedy in touch with the FBI personnel who might have jurisdiction over the matter.

[24]There is also evidence that the White House staff did not treat the Travel Office review as simply routine. For example, the night before the Travel Office review began, Jennifer O'Connor spent the entire night with Catherine Cornelius and Cornelius' roommate, Clarissa Cerda.

[25]On the same day, May 14, Mrs. Clinton apparently had a telephone conversation with David Watkins regarding the Travel Office. According to handwritten notes dated June 2, 1993, Mrs. Clinton stated that Harry Thomason advised that his people

White House Counsel's Office called the FBI during the initial morning of the review to advise of its progress. The White House indicated that the records were in a shambles and that due to poor bookkeeping procedures and the condition of the records, the accountants would not be able to perform a full audit. That afternoon, the White House advised the FBI that Peat Marwick had discovered approximately 13 checks made out to cash for which there was little or no documentation to establish how the cash was spent. There was another questionable transaction involving a $5,000 check to cash dated October 9, 1992, which was recorded in the petty cash log as only $2,000. Dale was questioned about the cash discrepancies during the first day of the review, and he had no explanation. He was also asked about missing petty cash logs, and he had no explanation.

At 5:00 p.m. on Saturday, the Peat Marwick reviewers and White House staff briefed two agents from the FBI about the review. The meeting lasted roughly one hour. The accountants reported that when they had first questioned Dale regarding the $5,000 check that was recorded as $2,000, he had no explanation for the discrepancy, but that he later "found" the money in his desk drawer. The reviewers indicated that there was still more work to be done and the White House staff promised to keep the FBI advised of any further developments. The auditors agreed to provide a final report by Wednesday, May 19. The FBI agents raised the issue of the security of the records, and the White House assured them that there would be no destruction of evidence.[26]

The Peat Marwick review found a lack of financial controls and accounting systems in the Travel Office, missing or inadequate documentation relating to invoices, contracts, bid solicitations

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could run things better in the Travel Office and save money. This is not consistent with Foster's notes that indicate that Thomason was adamant that he would have nothing to do with any Travel Office business. According to the June 2 note, Mrs. Clinton also told Watkins that "we need those people out--we need our people in--we need the slots." Foster's notes indicate that he also spoke to the First Lady on May 14, advising her that William Kennedy was handling the Travel Office matter, and that they were bringing in outside auditors. In written responses to questions from the GAO, Mrs. Clinton recalled having brief contacts with Foster and Watkins regarding the Travel Office, but she did not recall her conversation with Watkins "with the same level of detail as Mr. Watkins." She had no specific recollection of any conversations with Harry Thomason regarding the Travel Office.

[26]Foster's notes reflect that he was advised Travel Office employees might have discovered there would be a review and might attempt to destroy relevant records. The locks on the Travel Office were changed after the first day of the review.

and disbursements, and problems with the estimated bills sent to press organizations. They also found serious discrepancies with the petty cash funds involving thousands of dollars in missing cash for which the Director of the office, Dale, had no explanation. On May 17, Watkins sent a memorandum to Mack McLarty describing how the Peat Marwick review had come about, outlining Peat Marwick's findings, indicating that he planned to dismiss the Travel Office employees, and setting out his plan for interim operation of the Travel Office. On May 19, 1993, all seven of the Travel Office employees were terminated, and World Wide Travel and Air Advantage were brought in to handle the travel arrangements. The White House made no distinction among the Travel Office employees, although Dale and his deputy, Gary Wright, had primary responsibility for the financial operations of the Travel Office, and Dale was responsible for the missing cash. In announcing the termination of the Travel Office employees, the White House also mentioned that the FBI was involved.[27]

After the termination, the press widely criticized the White House's action. The five nonsupervisory employees were each given new positions in the Executive Branch, and Dale and Wright remained retired.[28] Within a matter of days, World Wide Travel and Air Advantage terminated their Travel Office operations.[29] The General Services Administration brought American Express in quickly to handle the reservations and ticketing functions.

C. Federal Aircraft Survey Proposal

From late January 1993 through May 1993 Darnell Martens also contacted the White House, the Office of Management and Budget (OMB) and the General Services Administration (GSA) in an effort to line up a consulting contract for TRM to survey the federal aircraft fleet. Martens was convinced that the federal government

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[27]The White House, General Accounting Office, FBI, and DOJ's Office of Professional Responsibility have all looked into the facts surrounding the contacts between the White House and the FBI in this matter. Each review concluded that nothing illegal had occurred in connection with these contacts.

[28]During the criminal investigation that followed, we discovered that Dale had secretly deposited over $54,000 of Travel Office checks into his personal bank account. Dale was indicted on two counts of embezzlement, under 18 U.S.C. § 654, and was acquitted on November 16, 1995. During the trial, Dale admitted to having improperly deposited the checks in his account; however, he claimed he spent an equivalent amount of his own money for the benefit of the Travel Office.

[29]Air Advantage arranged only one press charter, for a Presidential trip to New Hampshire.

had no comprehensive inventory of the aircraft it owned and operated, and that TRM could help achieve certain operating efficiencies by suggesting changes in the numbers and types of aircraft.

On January 29, 1993, Martens wrote a memo to Thomason and Dee Dee Myers recommending that TRM solicit a consulting project from the White House to survey the aircraft fleet with an eye toward improving operations and reducing the deficit. Martens followed up with a memo dated February 11, 1993, addressed to Thomason as Chairman of TRM, in which Martens provided information concerning why TRM was "uniquely qualified" to do the survey and explained that TRM had demonstrated its capabilities to the President through its efforts for the campaign and transition teams. The memo described the project as furthering the administration's goal of deficit reduction. It did not mention any fees to be paid to TRM for the survey.

White House records and later memos from Martens indicate that Thomason discussed the February 11 memo with the President, and that the President referred the memo to Mack McLarty, his Chief of Staff, with a notation that "these guys are sharp" and that this matter should be discussed with Leon Panetta and Phillip Lader, then Director and Deputy Director, respectively, of OMB.

Martens was persistent in his effort to sell his aircraft survey. He wrote to Thomason again in March, and then in April he wrote several memos to Bruce Lindsey, who was an Assistant to the President, Senior Advisor and Director of the Office of Presidential Personnel. Martens told Lindsey that Thomason had discussed the idea with the President and that the President was interested. He also made it clear to Lindsey that the project would include a contract for TRM; in his proposed scope of work, Martens estimated the TRM fee at $270,500. Lindsey says he met with Martens as a courtesy to Thomason, whom Lindsey considered a loyal supporter of the administration. Lindsey says that he was initially interested in the idea, but that he lost interest when he realized that Martens was representing TRM, and that TRM would have a major role in the proposed survey. Lindsey says, however, that he did not know that Thomason had an interest in TRM, and he never discussed the aircraft survey proposal with Thomason. In his interview during the Management Review, Thomason indicated that he had discussed the aircraft survey idea with Lindsey.

Apparently as a result of the President's cover note on Martens's February 11, 1993 memo, the survey proposal was forwarded to OMB. In early May 1993, Jack Kelly, a Management Analyst at OMB, received a copy of Martens's February 11 memo. Because it had been referred from the White House, Kelly immediately attempted to contact Martens, and met with him on May 6. At the meeting, Kelly told Martens that OMB was not the right office for the proposal, and suggested that Martens contact the Interagency Committee on

Aircraft Policy (ICAP) at the General Services Administration, as well as the various agencies that owned aircraft to see whether they were interested in such a survey.[30] Following their meeting, Kelly wrote a memo to Frank Reeder at OMB, describing Martens's proposal and making clear that the proposal involved a contract for TRM and that Martens and Thomason had formed TRM. Kelly also proposed suggesting to GSA that they contact Martens to invite Martens to make a presentation. A notation on the memo indicates that Reeder told Kelly to simply send the materials to GSA, and not make any suggestions as to how GSA should proceed. Reeder's note says, "I would hate to prejudice a future procurement."

The particular trail of the proposal after these events is difficult to establish, but it is clear that no action was taken by the White House, OMB, or GSA to conduct the proposed aircraft survey or to hire TRM to conduct such a survey. It appears that the project died with the blow up of events at the Travel Office in May 1993. In fact, in a memo to OMB Director Panetta dated August 25, 1993, Roy Neel reiterated that no action had been or should be taken on the proposal, and stated that the White House had instructed OMB in July that no action should be taken.

ANALYSIS

We have considered whether Thomason's or Martens's conduct in connection with the Travel Office or the proposed aviation contract constituted a violation of 18 U.S.C. §§ 205 or 208. We have concluded that there is insufficient evidence that Martens or Thomason was an employee of the federal government, a necessary element under both section 205 and section 208. Moreover, even if we could show beyond a reasonable doubt that Martens or Thomason was a government employee for purposes of these statutes, we are unable to demonstrate that they knew they were such employees.

Section 208 prohibits executive branch employees from participating as Government employees in certain matters in which they have a financial interest. The section bars such employees, including a special government employee, from:

> participat[ing] personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, in a . . . contract, claim, controversy, charge, accusation, arrest, or other

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[30]Martens subsequently met with the Executive Officer for ICAP, Lawrence Godwin, and described his proposal. Although Martens told Godwin that Thomason was interested in the proposal, Godwin did not know who Thomason was. Godwin provided Martens with some background information, but otherwise took no action regarding the proposal.

> particular matter in which, to his knowledge, he . . . [or an] organization in which he is serving as officer, director, trustee, general partner or employee . . . has a financial interest. . . .

Under section 208, the government must prove the following beyond a reasonable doubt: (1) the defendant was an officer or employee of the executive branch; (2) that he participated personally and substantially in his official, governmental capacity in a particular matter; and (3) that he knew he had a financial interest in the matter. See e.g. United States v. Nevers, 7 F.3d 59, 62 (5th Cir. 1993).[31] Moreover, we also would be required to show that Martens and Thomason knew that they were government employees. United States v. Baird, 29 F.3d 647, 652 (D.C. Cir. 1994) (§ 203 case); United States v. Nofziger, 878 F.2d 442, 443 (D.C. Cir. 1989) (Under 18 U.S.C. § 207 "the government was required to prove that [the defendant] had knowledge of all the facts making his conduct criminal.").

In a section 208 prosecution in this case, we would have to prove the following: (1) that Martens and Thomason were government employees or special government employees; (2) that they knew they were such employees; (3) that as government employees, they knowingly participated in decisions concerning the Travel Office or the awarding of a federal aviation contract; and (4) that they did so knowing that they or TRM had a financial interest in the replacement of the Travel Office employees or the awarding of the aviation contract.

Section 205 prohibits an "officer or employee of the United States" from acting "as agent . . .for anyone before any department [or] agency . . .in connection with any . . . [contract, claim, controversy, charge, accusation, arrest, or other particular matter] in which the United States is a party or has a direct or substantial interest." A special government employee is subject to this prohibition only in relation to particular matters involving a specific party or parties "in which he has at any time participated personally and substantially as a Government employee or special Government employee...." or in relation to those matters pending in the department or agency of the Government in which he is serving, unless the special government employee has served less than 61 days in such agency or department during the past year. 18 U.S.C. § 205(c).

There are no reported cases of prosecutions under section 205 in the last 20 years and few cases have been brought under this statute. Under section 205, it appears that we would have to prove

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[31]A knowing violation constitutes a misdemeanor under 18 U.S.C. § 216. To convict Thomason or Martens of a felony, we would have to prove that they acted willfully.

the following beyond a reasonable doubt: (1) that Thomason or Martens were government employees or special government employees; (2) that they knew they were such employees; and (3) that either of them knowingly acted as an agent before the White House on behalf of TRM, Worldwide or Air Advantage in connection with the Travel Office terminations, or acted as an agent before the White House or ICAP on behalf of TRM in connection with the federal aviation consulting contract that was being sought.

Thus, we can establish a criminal violation under section 205 or section 208 only if we can prove that Thomason or Martens were government employees or special government employees, and knew they were such. Neither 205 nor 208 defines the phrase "employee," nor is it defined elsewhere in Title 18. The term "special Government employee" is defined in 18 U.S.C. § 202. Under section 202, for purposes of sections 205 and 208 a special government employee is defined as follows:

> an officer or employee of the executive or legislative branch of the United States Government . . .who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days, temporary duties either on a full-time or intermittent basis . . ..

In the absence of an explicit definition of "employee" in the criminal conflict of interest statutes, the Public Integrity Section, the Office of Legal Counsel, the Office of Government Ethics, and Congress traditionally have looked to the definition of employee set out in 5 U.S.C. § 2105, which deals with the Civil Service.[32]

Section 2105 defines an employee as one who is:

1. appointed by a government employee acting in an official capacity, including the President;

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[32]Indeed, in November 1989, Congress formally amended section 202(c) so that it expressly stated that for purposes of the criminal conflict of interest statutes, including 205 and 208, the term "employee" means those individuals defined in 5 U.S.C. § 2105. In May 1990, Congress removed this reference from section 202 because it discovered that §2105 is limited only to those persons appointed in the civil service, and Congress wanted military officers as well as members of civilian uniformed services such as the Public Health Service included within the coverage of the conflict of interest laws. See Detailed Explanation Prepared by House and Senate Legislative Counsel to P.L. 101-280, 1990 U.S.C.C.A.N. 169, 136 Cong. Rec. H1646 (April 24, 1990).

2. engaged in the performance of a Federal function under authority of law or an Executive act; and

3. subject to the supervision of a government employee while engaged in the performance of the duties of his position.

The Courts construing section 2105 have held that all three of these elements must be met, and that the requirements for these elements should be strictly construed. Watts v. Office of Personnel Management, 814 F.2d 1576, 1579 (Fed. Cir. 1987); Bisson v. Office of Personnel Management, 908 F.2d 947, 949 (Fed Cir. 1990). Courts have rejected a "totality of the circumstances" approach, holding that "[a]n abundance of federal function and supervision will not make up for the lack of an appointment." Costner v. United States, 6865 F.2d 1016, 1020, 229 Ct.Cl. 87 (1981).[33] The starting point in analyzing whether a person was a government employee under section 2105 is whether that person had a federal appointment.

Bayless Manning, a leading commentator on the conflict of interest laws, has noted that normally a formal relationship is required:

> One does not become an "employee of the United States" merely by voicing an opinion on government matters to a federal official at a cocktail party. The distinction may be shadowy in a particular case, and each situation must be judged on its own facts. Formalities can play an important part. In the ordinary situation, a person will not be considered to be a consultant-employee if he does not bear a formal appointment, is not enrolled on the personnel roster of the relevant agency, has no government personnel file in his name, and has not been sworn in or signed the customary oath of a government employee.

Federal Conflict of Interest, pp. 29-30 (1964). Manning goes on to note, however, that other factors might also be relevant:

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[33]Indeed in Horner v. Acosta, 803 F.2d 687 (Fed. Cir. 1986) the court found that members of a unit formed to perform intelligence functions were not government employees even though they were hired and supervised by Naval officers, trained at government training facilities, and issued government identification (which did not give their true position or functions). The Court concluded that the evidence indicated the members of the unit were not appointed, noting that there was an absence of the usual indicia of civil service status, such as an executed SF-50 (Notification of Personnel Action), or SF-52, (Request of Personnel Action) and that there was a general practice not to administer the oath of office.

> Is the person's advice solicited frequently? Is it sought by one official, who may be a personal friend, or impersonally by a number of persons in a government agency that needs expert counsel? Do the meetings take place during office hours, and does, perhaps, the adviser maintain a desk or working materials in government facilities.

Id.

In the context of providing advice, the Office of Legal Counsel has discussed whether one could be a government employee without such formality. In 1977, OLC considered whether a person who advised the President almost daily, principally on an informal basis, would thereby become a Government employee or special Government employee. Opinion 77-9, Office of Legal Counsel, Department of Justice, February 24, 1977. Applying the factors listed in 5 U.S.C. § 2105, OLC noted that the adviser was not formally appointed, that it was doubtful his personal advice on a wide variety of issues would be regarded as a Federal function, and that the largely personal relationship between the President and his adviser was apparently based on mutual respect rather than an assignment of duties under the President's supervision. OLC concluded that the adviser did not have to be designated as a special Government employee and abide by the restrictions of the conflict of interest laws solely by virtue of his informal consultations with the President.

In its analysis OLC commented, however, that "an identifiable act of appointment may not be absolutely essential for an individual to be regarded as an officer or employee in a particular case where the parties omitted it for the purpose of avoiding the application of the conflict of interest laws or perhaps where there was a firm mutual understanding that a relatively formal relationship existed."

OLC reached a different conclusion concerning the adviser's work on a current social issue, as opposed to his usual role as informal adviser. The adviser called and chaired a number of meetings attended by employees of various agencies in relation to this work, and assumed considerable responsibility for coordinating the Administration's activities in this particular area. OLC concluded that for these purposes the adviser was engaging in a government function when he performed these duties and that he presumably was working under the direction or supervision of the President. OLC determined that the adviser should be designated a

special Government employee for purposes of this work, that he be formally appointed and take an oath of office.[34]

There is no evidence that Martens or Thomason had any formal status as a government employee or special government employee. Neither was appointed to a position, took an oath of office or received a title. The White House personnel office has no record of either of them applying for or receiving a position, and they received no compensation from the Government. We located no one who said that Thomason or Martens sought a government position, or that either held himself out as a government employee.[35]

Nor is there sufficient evidence that either Thomason or Martens was a de facto government employee or special government employee for purposes of § 205 or § 208, or that they sought to avoid the formalities of government office in an effort to skirt the conflict of interest laws.

It is true that Thomason for a short period had a hard White House pass, made some use of an office at the White House and that he provided advice to the President and other White House staff. However, such facts are consistent with a volunteer status, and there is no evidence that he hid behind such status in an effort to avoid the strictures of sections 205 and 208. The White House pass application that Thomason himself signed clearly indicated on its face that Thomason was serving as a volunteer, and his uncompensated activities at the White House are consistent with that status. While the pass Thomason received was equivalent to the type of pass normally provided to employees, such hard passes also were provided to at least eight others who were not employees.

Moreover, there is insufficient evidence that Thomason performed a federal function or acted under the supervision of a federal employee. As a close friend of the President and Mrs. Clinton, Thomason on occasion provided informal advice to the President. He appears to have provided some thoughts concerning

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[34]Whether or not a person should formally be designated as an employee and given the oath, as OLC concluded in that instance, does not answer the more difficult question of whether that same person could be charged with knowing and willful criminal conduct under the conflict of interest laws. The appointment process and oath serve not only as legal formalities, but provide concrete evidence that the person knew of his or her status as a government employee.

[35]In a January 29, 1993 memo to Thomason, Martens suggested that they "[o]btain some form of official status as advisors to the White House for general aviation policy matters." The documents do not indicate that Thomason or Martens followed up on this suggestion.

the President's first State of the Union address in February 1993 and offered guidance, along with actress Markie Post, about how best to stage Presidential events and use the symbols of the Presidency. This is the type of advice that Presidents routinely seek from friends and informal advisers outside of the Government.[36]

In connection with the White House's Travel Office inquiry, Thomason simply supplied information he received from Martens to Watkins and Foster as well as a recommendation of how to handle the matter from a media prospective. He was also involved in lining up Sample to replace the terminated employees. He talked to Watkins a couple of times and attended meetings with Foster and others. Our investigation disclosed that he made no decisions concerning how the inquiry was to be conducted and did not participate in the decision to terminate the employees. Simply put, Thomason had no official responsibility for handling this matter and only provided information and limited informal advice. Moreover, throughout this period Thomason continued to operate his television production company and other business interests. Under these circumstances, we could not convince a jury or a court that Thomason's activities rendered him a government employee under the conflict of interest statutes, that he knew that he was an employee, and that he engaged in knowing or willful criminal conduct.[37]

The fact that Thomason, a close friend of both the President and Mrs. Clinton, was given use of a desk, telephone and computer in the East Wing does not change our conclusion. Volunteers are afforded work space elsewhere in the White House, such as the correspondence unit.

As to Martens, we simply cannot prove that he was an employee for purposes of section 205 and 208, and that he knew he was such. The only "official" action that we could point to in order to establish his status as an employee is that he provided information concerning the Travel Office to Thomason and Watkins. He

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[36]Thomason might also argue that his imaging project, which focused on communicating President Clinton's message more effectively, was political campaign work, rather than federal government work. In fact, the proposal that Thomason prepared suggested the use of inaugural funds for its implementation, rather than government funds.

[37]We also note that Thomason's assistance to Martens in connection with the federal aircraft survey contract predated his activities in connection with the Travel Office. Thus, the later Travel Office activities cannot be used to show that Thomason was a government employee at the time that he passed along Martens's aircraft survey proposal, a requirement that would have to be met in a § 205 or § 208 prosecution based on that proposal.

apparently attended only one meeting on the matter. He did not work on Thomason's imaging project, and while Martens received a White House pass, it was a volunteer pass, and the Secret Service has no record of it being used.

Even if we were able to show that Thomason or Martens was a government employee for purposes of section 208 and knew of their status, we would have difficulty establishing the other elements of the statute beyond a reasonable doubt. Both men participated in some manner in the inquiry concerning the Travel Office -- at minimum providing information relevant to the decision-makers. It is not at all clear, however, that such participation would qualify as "substantial" under the statute. Thomason and Martens clearly had no decision-making role. Moreover, even if we could establish that they had some employment status, we would have difficulty establishing that the employment was connected with the Travel Office. Thus, Thomason and Martens could argue that they simply provided factual information relevant to the Travel Office inquiry and that their participation in this process was outside the scope of any alleged employment. We have little evidence to attack that claim.[38]

CONCLUSION

For the foregoing reasons, we recommend that prosecution of Thomason and Martens be declined.

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[38]Such a claim would bar a prosecution under § 205 as well. Section 205(c) states that special government employees who have worked less than 60 days are only barred from acting as agents in matters in which they have participated personally and substantially as a Government employee or special government employee. Thomason arrived at the White House to begin work on the imaging project on April 30.

U. S. Department of Justice

Washington, D.C. 20530

April 5, 1996

Declined
4/5/96
Lee J. Radek

I concur
4/5/96

MEMORANDUM

TO: Lee J. Radek
Chief
Public Integrity Section
Criminal Division

FROM: Stuart M. Goldberg
Senior Litigation Counsel
Raymond N. Hulser
Trial Attorney
Public Integrity Section
Criminal Division

SUBJECT: Recommendation to Decline: Darnell Martens and Harry Thomason

INTRODUCTION

Darnell Martens and Harry Thomason were interviewed as part of the White House Travel Office Management Review, which examined the firing of the Travel Office staff. In addition, Martens was interviewed by the FBI during the course of our Travel Office investigation. In their interviews, Martens and Thomason generally denied having an interest in securing White House Travel Office business for their aviation consulting firm, Thomason, Richland and Martens (TRM). During our investigation, we obtained documents suggesting that they may have had such an interest.

Based upon those documents, we conducted further investigation to determine whether there is a basis for false statement charges against Thomason or Martens under 18 U.S.C. §1001. We issued a series of grand jury subpoenas, reviewed documents from the relevant individuals and businesses, had certain handwritten notes transcribed, and conducted additional interviews, including interviews of the employees involved in the White House Management Review.

We have concluded that the oral, unsworn and unrecorded statements made by Martens and Thomason to the Management Review team and by Martens to the FBI cannot support a successful prosecution under 18 U.S.C. §1001. Accordingly, we recommend that prosecution be declined in this matter at this time. If additional information develops, we can reopen the case.

The FBI concurs with this recommendation.

I. FACTS

We set forth many of the relevant facts previously in the Billy R. Dale prosecution memo dated August 10, 1994 and our January 11, 1996 memo recommending declination of Martens and Thomason on conflict of interest charges. We incorporate these by reference.

On May 25, 1993, the White House announced that Chief of Staff Mack McLarty would begin an internal management review of the decisions and events surrounding the dismissal of the Travel Office employees, and that he would be assisted by Director of the Office of Management and Budget, Leon Panetta. Panetta and McLarty assigned the task of interviewing witnesses and collecting documents to John Podesta, then Assistant to the President and Staff Secretary. Podesta in turn assigned his deputy Todd Stern. Two junior employees in McLarty's office, Dwight Holton and Andre Oliver, also provided assistance, largely by listening and taking notes.

One of the matters that the Management Review team looked at was the involvement of Harry Thomason, Darnell Martens and TRM in the firing of the Travel Office employees. Toward that end, interviews were conducted of both Thomason and Martens.

A. Martens interview

Martens was interviewed by phone on June 14. Podesta, Stern and Holton participated in this call. There were follow up calls on June 23 and June 26. All the calls were unsworn and unrecorded, and the White House employees who spoke with Martens were not trained or professional interviewers. The documents indicate that only Stern and Holton took notes. The notes are not a detailed transcript of the words that were spoken; rather, they capture the substance of the questions and answers, and reflect the thoughts of the note-takers. The notes taken by Stern and Holton are not consistent with one another in recording the particular words that Martens spoke.

The notes reflect that the June 14 interview traced how Martens met Thomason in 1989 and how Martens, Thomason and Thomason's agent, Dan Richland, formed TRM as equal partners to provide consulting services to corporations concerning their

corporate aircraft operations. Martens was the sole employee of TRM.

Martens described how at Thomason's request in January 1992, he made a trip to Little Rock, Arkansas to help the Clinton campaign set up their charter aircraft operations. Martens then began to help the campaign on a regular basis. Initially, when the campaign was still using small corporate aircraft, Martens helped pick the right size of aircraft and talked to charter companies to help line up the equipment. By February, the campaign started using larger aircraft, and Martens had no experience chartering big airplanes. Martens recommended that the campaign retain a charter broker, Air Advantage (AA), to handle that task. AA was already doing business with the campaign and was run by Penny Sample.

AA would locate and arrange for equipment, ground fees, fuel and catering. For his part, Martens would help the campaign choose the right combination of price and service offered by the charter operators as well as review contracts, invoices and other financial aspects related to the charters. Martens also compiled the per leg cost of trips for Federal Election Commission reports. AA billed the Clinton campaign for its services, and included a per hour charge for Martens. After the campaign, Martens continued to work for the Clinton transition team.

Holton's notes reflect that Martens indicated that after the campaign he wanted to get back to aviation consulting and TRM's business plan. He assumed that the Travel Office had competitive bidding. He had become close to AA and several of the carriers that supplied equipment. Martens recounted that he and Thomason talked about it, and he told Thomason he would recommend AA and the operators highly.

Holton's notes reflect that Martens was asked whether there were "[d]iscussions about TRM doing White House business?". Holton recorded Martens response as, "For charter/wh travel, no, absolutely not."[1] Stern's nine pages of handwritten notes of this interview do not include either this statement or response. They merely state that "DM wanted out --did not want big A/C work (for the Adm'n)."[2]

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[1]Holton's notes reflect that at this point Martens did mention TRM's interest in obtaining a consulting contract concerning the government's civilian aircraft.

[2] Stern's notes regarding a follow up call with Martens on June 26 call state almost in their entirety, "Happy to set up meeting w/ PS [Sample] not looking for consulting."

Martens then recounted that in late January 1993, he asked Thomason if he could find out who was responsible for travel at the White House.[3] Thomason reported back that he spoke to Dee Dee Myers and she thought a bidding process was involved. In the first week of February, Martens called Myers and she referred him to Billy Dale. Martens then spoke to Dale.

Martens advised the Management Review team that he told Dale he was with TRM and that he coordinated travel during the presidential campaign. Martens told Dale that there were a lot of people interested in offering charter aircraft to the White House and asked what the process was. Martens said that Dale assumed he was calling as a charter broker, which TRM was not.

Dale told Martens that everyone wanted White House business and that he could get any price Martens could. Dale insisted there wasn't any price/service combination at which Martens could get business from the Travel Office. Dale's reaction was almost violent, telling Martens, "Don't waste my time or yours." Martens said he thought Dale "was saying that he could get great bids -- he was a broker, he was viewing me as broker, so unnecessary." Dale told Martens he would meet with him the next time Martens was in D.C., but advised Martens not to make a special trip.

After the call, Martens spoke to Sample, and she told Martens that the Travel Office was using one airline and that Dale was not interested in competitive bidding. Martens told the Management Review team that he was taken aback, and started developing a memo in his lap top computer. He stated that the memo was started and completed by mid-February.

Prior to the interview, the Management Review team had already obtained a copy of the final version of this memo. The memo had been faxed by Martens to Thomason on May 10, 1993, and had been circulated by Thomason to others in the White House as evidence of irregularities in the Travel Office.

The memo describes Martens's contacts with Dale concerning the Travel Office, and includes information Martens later collected, largely through Sample. It discusses the Travel Office's use of predominantly one charter airline, which Martens alleged was Republican operated, and which Martens stated had insured press coverage of Bush campaign appearances by not fully charging the press for travel costs.

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[3]Stern's notes read "late January HT flying to DC going to WH DM -- find out who's flying press corps so I can call find out what opportunities."

On its face, Martens's memo seems to describe efforts by TRM itself to obtain Travel Office business. The memo is entitled "WHITE HOUSE PRESS CHARTERS" and is labelled "confidential." Under the heading "The Proposal", the memo begins:

> Dee Dee Myers stated to both Harry Thomason (personally) and Darnell Martens (by phone) that the White House was not tied to any particular charter operator and that based on that assumption she saw no reason why Thomason, Richland & Martens, Inc. (TRM) should not be able to compete for the White House Press Corps charter business.

The memo goes on to recount that Dee Dee Myers referred Martens to Dale and "Mr. Dale informed Mr. Martens that there was no possible combination of price/service under which TRM could earn the White House business and to not waste his time discussing the matter." According to the memo, Dale asked "what could TRM do that he could not do." The memo indicates that Martens responded as follows:

> Martens informed Dale that TRM purchases a much higher volume of charter hours than the White House does and that the buying power could be combined with the White House business to lower the cost from particular vendors to the Press Corps.

In a section entitled "The Result", Martens wrote

> With 20 years of experience in air charter and being the former "president" of Air Elvis, I can state without equivocation that the operator and aircraft are out there and they are capable and deserving of some of the business. Why can't they compete for the business?

In a summary section, the memo lists the following points: that there is no competitive bidding for Travel Office charters, that the current operator has only two aircraft and attempted to provide free transportation to press covering the Bush campaign, that the Travel Office refuses to discuss business opportunities with legitimate charter operators and that the Travel Office claims price is of little significance because the press pays, even though the government pays for officials flying on the press planes.

Holton's notes indicate that the Management Review directly asked Martens about the conflict between his claims that he was seeking business on behalf of others -- not TRM -- and the direct references in the memo to seeking business on the part of TRM.

According to Holton's notes[4], Martens was asked "In memo, you refer to possibility of TRM getting WH business?" Martens responded that it didn't seem important because it was a memo to himself: "I knew what I was talking about which was to find out bidding process." Martens maintained that there was "nothing" in this for TRM. He stated that TRM would not have done consulting on this bid, but on future projects.

Martens further explained that he was trying to bring closure to the campaign relationships; it did not seem like a big deal. He "wanted to see if AA could get some business." He did recognize that he would get some business goodwill out of his efforts.

After writing the memo, Martens said he spoke to Thomason in Los Angeles the third or fourth week of February when Martens saw him on the set of Designing Women. Thomason was surprised at the lack of competitive bidding. According to Holton's notes, Martens stated the matter "didn't come up again until May I'm out of it until May." Martens said he "had gone ahead with the initial business plan. Didn't have anything to do with charters." According to Holton's notes of the June 23, 1993 follow-up call, Martens was not sure if he sent the memo to Thomason until May 10, but may have done so in March.[5]

During the interview, Martens did acknowledge that he was interested in a consulting bid concerning the federal government's fleet of civilian aircraft.

Finally, according to Holton's notes, after the firings, Thomason asked Martens who should help set up the charters for the press and Martens recommended Sample.

As part of our investigation of potential false statements, the FBI interviewed Podesta, Stern and Holton about their interviews with Martens. They recall the substance of the information that they got from Martens and described what they believe Martens was trying to convey. However, their recollection concerning the details of what specific statements Martens actually made in the interviews is not strong. In fact,

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[4]Stern's notes are silent on this.

[5]Holton's notes of this follow up call also appear to reflect that Martens said he told Thomason about the call earlier. Indeed the White House Management Review report recounts that Martens did so, and gave Thomason greater detail in his trip to Los Angeles in early March.

Stern does not recall one of the follow up calls at all.[6] Stern told the FBI that during the June 14 interview Martens made it clear that he was not interested in obtaining business for his own company, but instead was interested in helping others who had worked on the campaign by attempting to ascertain how companies could bid on and obtain White House Travel Office business. Stern recalled that Martens told him that when he wrote the memo summarizing his conversation with Dale, he referenced TRM only as a shorthand for the other companies that might want to bid for White House Travel Office business. Stern also explained a reference in his interview notes to Martens inquiring about opportunities for flying the press corps. Stern said this referred to Martens asking about opportunities on behalf of other companies which had a relationship with the Clinton/Gore campaign. Stern drew no distinction between Martens attempting to get business with the White House Travel Office during his conversation with Dale and Martens attempting to obtain business with the White House Travel Office at any other time.

Stern also told the FBI that Martens said in his interview that he was trying to get business from the Government for TRM on a different matter. According to Stern, Martens related that he was interested in doing an audit of Federal corporate-size aircraft. He did not believe that these planes were used efficiently and thought TRM could conduct an audit to determine how the aircraft could be shared.

In his interview with the FBI, Podesta recalled that Martens said that TRM was not in the same business as the Travel Office. TRM worked primarily with corporate executive jets while the Travel Office chartered large planes and handled commercial bookings. Martens explained that when he wrote the memo he was using TRM as an example and did not specifically mean TRM. Martens did not distinguish between TRM and other companies as he was merely seeking information. Podesta drew no distinction between Martens's denial of attempting to get business in the conversation with Dale and Martens attempting to get business with the Travel Office at any other time.[7]

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[6]In evaluating the reliability of their recollection, we note that the Martens telephone interviews were part of what the Management Review report called "an extensive series of interviews with persons inside and outside the White House."

[7]During a prior FBI interview on March 3, 1994, Podesta had a similar recollection of this interview. Podesta recalled Martens telling him that he was not interested in obtaining Travel Office business for himself, but rather was inquiring for a friend. Martens acknowledged that in his call with Dale, he stated that he was asking for business for his company. Martens

(continued...)

Podesta also recalled that Martens had stated that he was attempting to obtain business with GSA and had spoken to GSA about fleet management and small airplane utilization.

Finally, when interviewed by the FBI, Holton recalled that during the Management Review interviews, Martens stated that he had expressed an interest to Thomason in determining whether the Travel Office was open for competitive bidding. Martens stated that he was affiliated with Air Advantage and he was interested in the possibility of getting business for AA with the White House. Holton recalled Martens denying that he was attempting to get business for TRM. According to Holton, Martens had stated that he was never interested in obtaining travel office business. Martens did not mention during the interviews if he had spoken to Thomason about obtaining business with the Travel Office for TRM. Martens made it clear that his only interest was for AA.

Holton also recalled that Martens advised he was attempting to get business with the federal government on a different project. That project involved studying the fleet of Federal aircraft in order to make it run more efficiently.

B. Thomason interview

As part of the Management Review, Thomason was interviewed face-to-face by both Podesta and Stern on May 27, 1993. No one else was present. For his part, when questioned by the FBI, Stern initially could not recall the interview. The FBI then showed Stern his notes, which read in the pertinent part:

> DM --:appropriate to bid on WH Charters? HT: No, No. HT do not like travelling press on planes. Why not create good will w/charters by white paper on how to bid for WH business? TRM did not want to do what he did on campaign[8]

After reviewing his notes, Stern told the FBI that Thomason said he had told Martens that it was not appropriate for TRM to

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[7](...continued)
says that this was simpler than saying he was calling on behalf of someone else. Martens said that the memo that he had written was for his own use.

[8]The notes reflect that Thomason then called Dee Dee Myers, and had Martens follow up. Thomason also acknowledged that Martens's memo just mentioned TRM and did not say what other charters he was talking about. Finally, Stern's notes reflect that Thomason told the interviewers he knew Martens was making efforts to do a study for GSA of the government's civilian aircraft.

solicit business with the Travel Office. Thomason believed, however, that it was still useful to determine how a company would go about the bidding process. Thomason wanted to use that information to create good will with companies who had worked on the Clinton/Gore campaign. Stern could not recall when Thomason said this conversation occurred. Nor could he recall if Martens had mentioned the conversation in his interview.

Podesta also had little recollection of the Thomason interview. He told the FBI that his best recollection was that Thomason was not trying to get business for himself or TRM. After reviewing his notes, he stated that the notes reflect that Martens asked Thomason if TRM should bid on the Travel Office business. Thomason told Martens they should not.[9] Podesta did not know when the conversation between Thomason and Martens occurred.

C. White House Management Review Report

On or about July 2, 1993, the White House Management Review report was issued. It synthesized the interviews in the following fashion:

> Harry Thomason has said consistently that his actions with regard to the Travel Office were in no way motivated by a desire to enrich himself, and his assertions are not contradicted by the record. Still, in early February, Thomason made a call to the White House on behalf of Darnell Martens, his partner in TRM. Martens, in turn approached the Travel Office in an apparent effort to secure business. That approach was outlined in the memo to file that Martens wrote at the time.
>
> Martens asserts that, although the memo speaks in terms of TRM earning White House business, he wanted to learn how to bid on White House charter business not for his own company, but for other companies in the charter and charter brokerage business with whom he developed relationships during the Clinton-Gore

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[9]Podesta's notes in the relevant part state:

> would we bid on W.H. charters. H.T. NO white paper on how we can bid

The notes go on to reflect that Thomason stated he asked Myers who to call. As a result of that conversation, Martens ended up calling Billy Dale. Thomason acknowledged that no white paper was ever produced. However, in early February a memo was prepared of the Martens-Dale conversation.

> campaign. Even so, Martens remained an interested party. Had he been successful in helping charter friends obtain White House contracts, good will may have accrued to his benefit in other transactions with the same companies.
>
> It is entirely plausible that Thomason was in no way motivated by the hope of financial gain. On May 20, when Thomason was asked by Stephanopoulos, who was unaware of the Martens memo, whether he had any financial interest in any company bidding on White House work, Thomason, not viewing TRM as bidding on the charter business, specifically denied it...

(Report at 19).

D. FBI interview

As part of the criminal investigation that was supervised by the Section, Darnell Martens was interviewed by the FBI on September 2, 1993. At the time, Martens was represented by attorney Robert S. Bennett.[10] After numerous discussions with us, Bennett agreed to the interview on the condition that we confirm to him that Martens was not a subject or a target. Accordingly, shortly before the scheduled interview we sent him a letter advising that Martens "is neither a subject nor a target of the Department's investigation at this time." We were unwilling to provide such a letter concerning Thomason, and consequently Bennett decided not to make Thomason available for an interview.

Present at the interview were FBI Special Agents Pamela Bombardi and Dana Gillis, along with Stuart Goldberg. Martens was represented by Bennett and an another lawyer in his firm, Roberto Iraola.

Agents Bombardi and Gillis generated a nine page FBI 302 of the interview. That 302 was dictated one week after the interview. At the beginning of the interview, Martens was questioned concerning the origins of TRM, how Martens met Thomason, and TRM and Martens's role in the Clinton-Gore campaign.

Martens described TRM as a firm providing consulting services to companies concerning the budgeting and operation of corporate charter aircraft. After being introduced to the Clinton campaign by Thomason, Martens began to help the campaign run its charter operations. In the process, Martens recommended

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[10]Martens is now represented by Tom Green.

that AA be selected as the campaign's charter broker, based on its past performance in the arrangement of spot charters.

Martens recounted that after the inauguration, he asked Thomason for a point of contact regarding bidding on travel business of the White House press corps. In late January, Thomason told Martens he had spoken to Dee Dee Myers and referred Martens to her. Martens related that he called Myers and she transferred his call to Dale. Dale told Martens he was not interested in hearing proposals from either operators or vendors regarding aircraft and that he could match any proposal Martens might bring forth. Dale conveyed to Martens that there was no combination of price or service that could be offered to obtain White House Travel Office business. Dale stressed that since press funds were involved, service and not price was all that mattered. Dale invited Martens to meet with him the next time he was in DC, but cautioned him not to make a special trip.

During this conversation, Martens advised Dale that throughout the Presidential campaign, TRM performed functions related to air charter operations in much the same manner as the Travel Office.

Martens stated that at the conclusion of the conversation he generated a computer file detailing results of what had just transpired between himself and Dale. It was this memo that ultimately was faxed to the White House.

The Gillis and Bombardi 302 reflects that, as he did with the Management Review team, Martens told the FBI that he "was not soliciting business for TRM during his conversation with Dale." This statement in the 302 is supported by the rough notes of both agents. Gillis's notes reflect Martens stated "No continuing TRM role if Air Advantage had obtained W.H. business Could possible [sic] have been brokerage firm for screening business to Air Advantage," and that "When talking to Dale was not soliciting business for TRM."[11] Similarly, Bombardi's rough notes state "No soliciting business for TRM".[12]

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[11]Gillis's notes also reflect that Martens stated that he, "would not receive (unintelligible) for W.H. business." The word that Gillis could not make out in transcribing his notes for us might be "fee".

[12]Gillis's notes also reflect that "Martens had asked Thomason to Let D.D. Meyers [sic] that Martens interested in bidding on white house press corp business." Agent Bombardi's notes on this subject state, "after election had asked Harry-- if ever see Dee Dee Myers -- ask if opportunity to bid on press corp--". Stuart Goldberg's handwritten notes reflect that

(continued...)

The 302 also reflects that Martens stated that during the campaign Sample had expressed to Martens an interest in obtaining the White House travel business, although Martens was unable to recall a specific conversation with Sample regarding access to the Travel Office business. Martens did recall that prior to his conversation with Sample, he had spoken with her about what she could offer the Travel Office and she told him she was aware of carriers with new equipment and lower prices.

During the interview, Martens was pressed on the conflict between his memo and his denial that he was seeking business on behalf of TRM. Although acknowledging the apparent conflict, Martens was insistent that he was calling on behalf of Air Advantage and others, not TRM. He said the purpose of the memo was to jog his memory. As the 302 states, "Martens role was to introduce Sample to someone in the WHTTO. According to Martens, TRM was to have no role in White House travel had Air Advantage acquired business from the WHTTO."

Martens recounted that the day of his call with Dale, he related the conversation to Thomason while on the set of Designing Women. Martens told Thomason that Dale said there was no bidding process regarding the White House Travel Office operation and that there was no way to obtain the White House business. Martens recounted that in mid to late February, Martens met with Thomason. At that time he told Thomason that Sample had said the Travel Office was known in the travel industry to use one carrier exclusively and that Sample had passed on negative comments concerning Dale's dealings with Miami Air. Martens did not ask Thomason to make any contacts or do anything regarding White House travel business.

On May 10, 1993, Martens was called at his Cincinnati Office by Thomason, who was in Washington at the time. Thomason asked Martens to provide him with any written communications he had regarding his telephonic contact with Billy Dale. Martens faxed a copy of the memo he had previously written himself, attaching a transmittal sheet.

E. Relevant TRM Documents

REDACTED: 6(e) [redacted] we obtained a number of documents from Harry Thomason through his attorneys. Two of these documents on their face appear to indicate that Martens, at least in late January and early March 1993, had an interest in

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[12](...continued)
Martens spoke of wanting to bring "closure" to his relationship with AA and the operators and accordingly "Asked HT -- if you see Dee Dee -- ask her if any opp for anyone in campaign to bid on WH press charters."

TRM obtaining business in some fashion from the Travel Office. On January 29, 1993, Martens wrote a memo to Thomason, labelled confidential, listing a number of "TRM ACTION ITEMS." The memo focuses on possible ways to improve TRM's future business prospects.[13] In item two, the memo states,

> If we are to pursue Washington opportunities:
>
> . . .
>
> D) Determine who controls the scheduling of the White House Press Corps aircraft. This can be done by TRM such as the campaign aircraft were handled.

Next to this item, there is a handwritten note stating, "DHM [Martens] will pursue with Dee Dee Myers."[14] This appears to indicate that Martens suggested to Thomason the possibility of TRM seeking for itself business from the Travel Office.

Martens's apparent interest in Travel Office business is echoed in a document sent from Martens to Thomason. On or about March 5, 1993, Martens faxed Thomason an earlier version of the memo regarding his conversation with Dale.[15] In a cover memo dated March 5, Martens states

> Attached is a summary of where we are in the White House Press Charter story. The attached summary is for YOUR EYES ONLY at this time since I cannot yet prove everything contained in the report. I do believe it to all be true but proof is always something else again.

The cover memo goes on to refer to the fact that Air Advantage is assisting Martens in collecting information.

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[13]Among other things, the memo recommends that TRM obtain official status as advisors to the White House for aviation policy matters and proposes one or more of several consulting project such as a review of all non-military government aircraft and development of a computerized safety and operational database. Martens also suggests that TRM use the trade name of "Harry Thomason & Associates" to capitalize on Thomason's name recognition.

[14]We have not identified whether it is Thomason who made this notation. For purposes of this analysis, we assume that this is the case.

[15]Martens supplied a later version of the memo on May 10 to Thomason. That version was circulated in the White House prior to the firings.

The version of the memo accompanying the fax is substantially similar to the one ultimately faxed to the White House on May 10. However, there is one significant difference. After describing the contact with Myers, Dale's negative comments and information concerning the alleged pro-Bush efforts of the charter operator used by the Travel Office, the memo contains a section entitled "The Solution." This section reads in its entirety:

> 1) At minimum...
>
> ...the Administration should direct the White House Transportation Department to contact TRM/Air Advantage who would systematically search the market for the best price/service combination for the flight request made on behalf of the press.
>
> In this way, the White House business would be spread among several operators and the equipment best suited to the mission would be acquired. Also, under this system, no allegations of monopolies or favoritism could be made against the White House Transportation Department.
>
> 2) At best...
>
> ...the Administration should disband the antiquated Transportation Department system in favor of the functions being outsourced to TRM/Air Advantage. This would provide services equal to those now supplied, place all transactions at "arms length" and make it possible to reduce the White House staff by 4 to 5 people (one administrative person would likely be retained in the White House as a coordinator) -- an estimated savings of $250,000 per year

Although we have found numerous versions of the May 10 memo, no other versions contain this "Solution" section or expressly propose that TRM or Air Advantage obtain Travel Office business.[16]

Finally, a third document raises some questions concerning Martens continuing involvement with Sample in connection with the Travel Office business. On May 13, 1993, six days before the Travel office employees were fired and the day before the Peat

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[16]We have been unable to date these other versions and determine whether this "Solution" section was inserted for the first time on March 5, or determine when it was dropped out.

Marwick audit commenced, Martens sent Thomason a fax in the White House stating:

1 30 day Billing Cycle No Problem
2 Aircraft are being reviewed for Sun., if needed
3 Penny & I can be at White House to assist "C" as needed to begin operations
4 Call me with update when convenient[17]

F. Foster notebooks

A file relating to the Travel Office was found in Vincent Foster's office after his death. In the file were several notebooks where, among other things, Foster attempted to trace the chronology of the events leading up to the Travel Office firings. From the manner in which these notebooks were maintained and the notations on them, it appears that Foster was maintaining these for his personal use and not for public dissemination. One of the chronologies drafted by Foster is dated May 30, 1993, and is labelled "Attorney Client Privileged in anticipation of Litigation." Part of the entry for May 12, 1993 relates a discussion concerning how the Travel Office operations would be handled if the personnel were terminated. Foster states

> in course, whether in response to Q or implication, HT said he nor his company would have nothing to do with it, wouldn't get near it, very emphatic.

In a similar chronology describing the events of May 12, which is labelled "PRIV", Foster recounted that Watkins talked about how the Travel Office would be run if the personnel were fired. He briefly described a discussion concerning about whether Worldwide and Cornelius would be inserted on an interim basis, noting "HT --wouldn't touch it."

II. LAW

Section 1001 of Title 18, United States Code, provides in pertinent part that:

> Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and

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[17]Martens told the FBI in his interview that after the firings, Cornelius called him for a recommendation on a travel coordinator. He recommended Sample and said he thought she would do it without pay. He then called Sample and told her he had volunteered her services. Martens said he was not aware of the arrangements agreed to between Cornelius and Sample.

> willfully . . . makes any false, fictitious or fraudulent statements or representations, shall be fined no more than [$250,000[18]] or imprisoned not more than five years, or both.

To prove a violation of §1001, we must show beyond a reasonable doubt that Martens or Thomason (1) made a statement (2) that the statement is false or fraudulent; (3) that the statement is material; (4) that the statement was made knowingly and willfully; and (5) that the statement pertained to an activity within the jurisdiction of a federal agency. See e.g., United States v. Steele, 933 F.2d 1313, 1318 (6th Cir. 1991).

Willfulness is shown by evidence that the defendant acted "deliberately, voluntarily, and intentionally." Devitt, Blackmar & O'Malley, Federal Jury Practice and Instructions, §37.14 (1990). Or, "with an intention to do something the law forbids." 1A L. Sand, et al., Modern Federal Jury Instructions 36-9 (1993).

A department or agency has jurisdiction "when it has the power to exercise authority in a particular situation." United States v. Rodgers, 466 U.S. 475, 479 (1984). While the question has not been specifically addressed in the D.C. Circuit where venue would lie,[19] the jurisdictional element is generally treated as a matter of law for the court to decide, although the jury must decide whether the false statement was actually in connection with a matter within the jurisdiction of the United States. See 1A L. Sand, et al., Modern Federal Jury Instructions 36-10 (1993); Devitt, Blackmar & O'Malley, Federal Jury Practice and Instructions, §§37.07 and 37.11 (1990).

A fact is material if it "has a natural tendency to influence, or was capable of influencing, the decision of the tribunal in making a (particular) determination." United States v. Diggs, 613 F.2d 988, 999 (D.C. Cir. 1979), cert. denied, 446 U.S. 982 (1980) (quoting Weinstock v. United States, 231 F.2d 699, 701-02 (D.C. Cir. 1956)). See also United States v. Hansen, 772 F.2d 940, 950 (D.C. Cir. 1985) (statement is material if it "tended to conceal information that would have prompted investigation or action"), cert. denied, 475 U.S. 1045 (1986). Proof of actual reliance on the statement is not required, as "the Government need only make a reasonable showing of its potential effects." Diggs, 613 F.2d at 999. Under the Supreme Court's recent decision in United States v. Gaudin, 115 S.Ct. 2310 (1995), materiality is an issue for the jury.

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[18]The fine provision is governed by 18 U.S.C. § 3571(b).

[19]The FBI interview was conducted in Washington, D.C., and the telephone interviews were conducted with the interviewers in Washington, D.C.

Section 1001 may be applied to "statements [that were] not under oath [and were] not stenographically transcribed." See Marzani v. United States, 168 F.2d 133, 141 (D.C. Cir.), aff'd by an equally divided court, 335 U.S. 895 (1948). "The absence of such formal trappings is relevant, of course, to the difficulty of proving beyond a reasonable doubt exactly what the defendant said and whether he intended to deceive his audience as to a material question of fact...." United States v. Poindexter, 951 F.2d 369, 387 (D.C. Cir. 1991).

III. ANALYSIS

Cases charging unsworn, oral false statements under section 1001 are difficult, and are brought rarely unless joined with other criminal charges. Because the statements are not written or formally transcribed, the government has the burden of proving that the defendant made the specific statements that he is charged with making, and proving that the context of those specific statements supports the meaning that the government attributes to them. Once a particular factual statement by the defendant is established, the government must then have strong evidence that the specific statement made by the defendant was false, and that he made the statement knowingly and willfully.

In evaluating the potential charges against Martens under section 1001, we have attempted to identify the particular statements that were made by Martens that we can prove are false. Because generalized impressions cannot be the basis for a prosecution, we have reviewed the notes taken by the interviewers at the time that they spoke to Martens in order to identify the statements Martens in fact made. Without references directly from the notes, the defense would be able to successfully attack the Government's case solely on the basis of whether or not the charged statements in fact were made.[20]

The interviews that occurred during the White House Management Review are the most vulnerable on this point. They were conducted over the telephone, were not conducted by trained or professional interviewers, the notes of the interviewers are not consistent with one another on what Martens actually said, and the present recollection of the interviewers is weak.

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[20]The general impressions include, for example, Holton's recollection that Martens indicated in his interview that he had no interest in obtaining Travel Office business, and that his only interest was on behalf of Air Advantage. Such impressions unavoidably reflect the knowledge and thought processes of interviewers, and they are not a record of the words and statements actually spoken by Martens. As such, they would be subject to strong challenge by the defense if used as a basis for false statement charges.

The notes of Holton, the most junior member of the team interviewing Martens reflect the following from the telephone conversation with Martens:

> Discussions about TRM doing White House business?
> For charter/wh travel, no, absolutely not.

Stern's nine pages of handwritten notes of this interview do not include either this statement or response. They merely state that "DM wanted out --did not want big A/C work (for the Adm'n)."

Stern's notes of a follow up phone call with Martens state almost in their entirety, "Happy to set up meeting w/ PS [Sample] not looking for consulting." In his interview with the FBI, Stern said he does not recall the conversation and does not know what was meant in his notes.[21]

Holton's notes also reflect that Martens was asked "In memo, you refer to possibility of TRM getting WH business?" Martens responded that it didn't seem important because it was a memo to himself: "I knew what I was talking about which was to find out bidding process." Martens maintained that there was "nothing" in this for TRM.[22] TRM would not have done consulting on this bid, but on future projects. Again, Stern's notes are silent on this statement.

The statements made to the White House Management Review team would provide a poor foundation for a criminal prosecution. We must have proof beyond a reasonable doubt of all elements, including that a particular statement was made and that this specific statement was false. Yet the interviewers have little or no specific recollection of Martens's words, and none of the potential false statements is found in the notes of more than one individual. This is especially significant because Martens would attempt to claim that any damaging statement is taken out of context and that the notes are inaccurate. For example, Martens would certainly argue that he was not expressly asked if there were any "[d]iscussions about TRM doing White House business?" because if he had been, his answer would not have been "no, absolutely not".

Martens could acknowledge that there were such discussions and that this was known publicly. He could point out that Thomason readily was admitting such a discussion with Martens to

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[21]For instance Stern cannot say what time period in 1993 this comment refers to.

[22]At the same time, both Martens and Thomason acknowledged to the Management Review team and to the FBI that they were generating goodwill from which they might benefit in the future.

the press. For instance, Thomason was quoted in a May 23, 1993 Los Angeles Times article as stating that Martens contacted him after the election about the possibility of TRM supplying aircraft to the Travel Office. Thomason told the Los Angeles Times:

> He [Martens] asked me, "do we want to do business with them [the Travel Office]," Thomason recalled. I said "no, I don't think we should fool with that."[23]

Indeed Thomason recounted this conversation to Podesta and Stern when they interviewed him on May 27, just two weeks before they interviewed Martens.

Martens could convincingly argue that he must have misunderstood the question, or that it was inaccurately recorded by Holton. He would be supported by the absence of any similar question and answer in Stern's notes and the fact he had no reason to "conceal" something that was common knowledge and which, as Thomason explained, did not lead to any illegal activity.

The FBI interview was conducted by professional interviewers, and is not subject to the same degree of challenge on this point. We have reviewed the agents notes and 302 to identify specific statements that we might be able to show are false. The notes taken by Special Agents Bombardi and Gillis, as well as the 302, agree that Martens stated that he "was not soliciting business for TRM during his conversation with Dale."[24] Because this statement is strongly grounded in the agents' notes and 302, and is relatively specific, we have focused on this statement as a potential basis for a false statement charge.

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[23]Thomason went on to say that he did tell Martens that he saw no reason why Martens could not contact the White House on behalf of other companies in which Thomason had no financial interest -- as long as the companies were seeking only to obtain business through competitive bidding.

[24]There are other references in the notes indicating that Martens suggested he was not interested in obtaining business and certainly the agents got that impression. For example, Gillis' notes state, "No continuing TRM role if Air Advantage had obtained W.H. business Could possible [sic] have been brokerage firm for screening business to Air Advantage." Gillis's notes also state, "would not receive (unintelligible) for W.H. business," and the unintelligible word could be "fee." These references lack the specificity and clarity required for a 1001 prosecution.

Based upon our review of the evidence, we have concluded that the government cannot prove beyond a reasonable doubt that this specific statement was false, and that Martens made the statement knowingly and willfully.

The strongest proof of falsity that we have are the documents from January and March, 1993, in which Martens appears to express an interest in obtaining Travel Office business along with Air Advantage. The documents are in Martens's own words, and they provide relatively strong circumstantial evidence that Martens was interested in obtaining Travel Office business at least until early March. However, without more, these documents do not provide proof beyond a reasonable doubt that Martens's statements about his conversation with Dale were knowingly and willfully false.

In his FBI interview, Martens was shown his memo regarding his conversation with Dale, and he did not dispute that the memo indicates that he spoke to Dale in terms of TRM doing business as a broker. He has admitted that he used that language, but claims that his purpose was to learn about the bidding process, not to obtain business for TRM. The government's case would rely on a particular reading of the documents, and Martens would argue that his interpretation is the most reliable because he was the author. Moreover, the phrase contained in the agents' notes -- "soliciting business" -- is also subject to some interpretation, and it does not appear in any of Martens's documents.

Beyond the documents, we lack live witnesses who could establish that Martens's statements were false.[25] Indeed the only live witnesses on the disputed issues will be defense witnesses -- Harry Thomason, Penny Sample and others who will say that they had no knowledge of TRM soliciting business for itself. In fact, from the earliest stages of this matter, Thomason has offered a consistent explanation. He has said that Martens raised the possibility of TRM obtaining White House business, and that he told Martens no. Thomason says he told Martens instead to gather information about the process for obtaining Travel Office business so that they could pass it on to others who were involved in the campaign and potentially develop good will. The documents are consistent with Thomason's explanation, and this is also corroborated by the private notes taken by Vincent Foster,

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[25]Dale could be a witness as to the phone call he received from Martens; however, Martens has not disputed that he spoke to Dale in terms of TRM getting business from the Travel Office, and the content of their phone conversation would not be a contested issue.

which indicate that Thomason was emphatic that he would not be involved in Travel Office business.[26]

The government would also have difficulty establishing a convincing motive for Martens to lie about this particular fact. We would have to show why Martens admitted several facts that were potentially embarrassing, but lied about others. For example, Martens admitted to using political access (by having Thomason call Myers) to solicit business for Air Advantage, a company that had assisted with the campaign, and with whom Martens had a business relationship. He also admitted that he was attempting to obtain aircraft survey work for TRM from the federal government and that he met with Bruce Lindsey in the White House concerning that proposal. Martens can point to his admission of these facts that were potentially embarrassing, and use this to challenge the government's suggestion that he made false statements about obtaining Travel Office business to avoid embarrassment to himself or the administration. Instead, he can argue that he would have admitted that he was soliciting Travel Office business for TRM if it were true, but it was not true. In support of this, Martens can also point to the fact that TRM was not in the charter brokering business, and thus could not do the Travel Office business that the government would have to prove he was soliciting in order to establish a violation of section 1001.[27]

The nature of the statements and proof in this case raise an additional difficulty in that the potentially false statements do not focus on concrete conduct, statements, or actions by Martens. That is, Martens did not deny making a particular call, attending a particular meeting, or writing a particular memo. Instead,

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[26]The only issue raised by Thomason's explanation is timing. When did Thomason tell Martens that TRM should not seek to obtain Travel Office business? Thomason has indicated that it took place prior to Martens' contact with Dee Dee Myers and Dale, but the documents suggest Martens may have had an interest in obtaining Travel Office business after that contact.

[27]Martens's memo of his conversation with Dale, which we would need to rely on in a §1001 prosecution, supports Martens on this point. The memo states, "Martens informed Dale that TRM purchases a much higher volume of charter hours than the White House does and that the buying power could be combined with the White House business to lower the cost from particular vendors to the Press Corps." Martens would be able to say that this demonstrates that he was not soliciting business on behalf of TRM, but rather for charter brokers such as AA. Charter brokers such as AA purchase high volumes of charter hours, but the evidence indicates that TRM did not.

Martens admitted all of the facts that establish his conduct.[28] For example, he acknowledged that he contacted Dee Dee Myers, and then spoke to Dale. Moreover, Martens admitted that Dale got the impression that he was seeking business for TRM as a broker, and that he spoke to Dale in those terms. In sum, there is no dispute over the facts of what Martens said or did.

As a result, the alleged falsity would focus on what Martens's state of mind was when he took those actions and spoke the words that he agrees he spoke. For example, it would not be enough to prove that Martens called the Travel Office and spoke to Dale in terms of TRM obtaining business, because Martens admitted that he did so. Instead, we would have to show that Martens was actually "soliciting business for TRM" when he said the words that he agrees he said. Moreover, in a false statement case, we would have to show not only that Martens was soliciting business in that conversation, but that he was intentionally lying when he was interviewed months later and denied that he was soliciting business.[29]

Because the alleged falsity and our proof would be centered on Martens's characterization of what he was doing in his conversation with Dale, rather than on a particular act, we would be faced with an additional level of difficulty that is not present when the allegedly false statements are representations about the existence or non-existence of a concrete fact. Given the other problems of proof presented in this case, the defense would exploit this to raise ambiguity and doubt in the minds of the jurors.

Moreover, because Martens admitted that he had a conversation with Dale, admitted what was said, and admitted that he wrote a memo about the conversation, the defense could argue

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[28]Martens may have done so because he had little choice given the documents; but whatever his motives, we cannot dispute that Martens acknowledged what he said and did.

[29]Literal truth is a defense to a false statement charge under section 1001, see United States v. Milton, 8 F.3d 39, 45 (D.C. Cir. 1993), cert. denied, 115 S.Ct. 299 (1994), and thus the government would be required to disprove any literally truthful interpretations offered by the defense. For example, Martens could argue that "soliciting business" has a particular meaning for him in his line of work, and that his conversation with Dale was not a business solicitation as he uses that phrase. Similarly, because TRM would have to work through a charter broker, like Air Advantage, Martens could argue that it was not possible for him to solicit business directly with the Travel Office.

to the jury that any alleged falsity is trivial. This argument goes to the element of materiality, and further reduces the case's limited jury appeal.[30] The argument would also cause the jury to question the government's motives for bringing the case.

While not a determinative factor in our recommendation, we note that the background behind the Travel Office matter would enable Martens to portray his indictment as a political prosecution. Given the on-going and close congressional scrutiny of the Department's handling of this criminal investigation, Martens would have ample ammunition from which to argue that the Department bowed to political pressure from Congress and offered him up as a sacrificial lamb. This is particularly the case since section 1001 charges are rarely brought when based solely on unsworn and unrecorded oral statements, and there are no other criminal charges accompanying the false statement counts. Given this backdrop, Martens could argue effectively that he was a scapegoat, and that, out of all of the resources, investigations, and attention devoted to this matter, the only charge is an oral false statement from an interview, and the person to be charged is an outside business person with little connection to the administration.

Thomason

We also have concluded that a successful 1001 prosecution cannot be brought against Thomason. Such a prosecution would have to be based upon Thomason's representation during the White House Management Review interview that he told Martens that TRM should not bid on the Travel Office business. We have neither documents nor witnesses to refute this statement. Each of the documents we have recommending that TRM take an interest in soliciting such business from the Travel Office was authored by Martens, not Thomason. Thomason can easily say that he dismissed these suggestions of his over-eager partner. Indeed, Thomason's claim that he was not interested in Travel Office business is bolstered by several entries in Vincent Foster's notebooks. According to Foster, in meetings prior to the Travel Office firings, when the topic of who would take over the Travel Office operations came up, Thomason emphatically stated that he was not interested. Because Foster's notebooks appear to have been for his personal use and not public dissemination, we think a jury would find his handwritten notes to be highly credible.

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[30]Because the issue of materiality is now left to the jury under Gaudin, the defense would be permitted more latitude on exploring this issue before the jury.

CONCLUSION

We recommend that prosecution of Martens and Thomason be declined.