

client privilege existed between government attorneys in the White House Counsel's Office and White House staff that permitted the employees to refuse to disclose communications involving the government counsel, and further, to order private attorneys to instruct their White House staff clients not to answer questions based on the White House's claim of attorney-client privilege. White House officials failed to search for and provide relevant documents in their possession in response to grand jury subpoenas. In some instances, witnesses' responses and document productions were coordinated by the White House Counsel's Office and the witnesses' private attorneys.

Despite these obstacles that substantially delayed this Office's receipt of relevant evidence, the Independent Counsel has determined that the investigation should now be concluded without the filing of criminal charges. This Report represents the conclusion of the investigation into the Travel Office matter, and that matter is now closed.

II. SCOPE OF REPORT

The reporting requirement under which this Office operates, 28 U.S.C. § 594(h)(1)(B) (1994), provides that before the Office is terminated, it shall:

file a final report . . . setting forth fully and completely a description of the work of the independent counsel, including the disposition of all cases brought.

This statutory language reflects a change from the pre-1994 law, which concluded with a so-called "declination clause," requiring that the final report include:

a description of the work of the independent counsel, including the disposition of all cases brought and the reasons for not prosecuting any matter within the prosecutorial jurisdiction of such independent counsel.³⁷

³⁷ 28 U.S.C. § 594(h)(1)(B), Pub. L. 100-191, 101 Stat. 1293, 1302 (1987) (emphasis supplied).

Thus, the Independent Counsel Reauthorization Act of 1994 did not include an express declination clause.

The declination clause's deletion did not reflect a congressional determination that an independent counsel could never express a view relating to the matters under investigation. To the contrary, the declination clause's deletion resulted from a compromise adopted in the House and Senate Conference Committee during reauthorization. This Office has given careful consideration to the legislative history relating to the deletion of the "declination clause," outlined in Appendix B, and determined that the analysis and findings contained in this Report are consistent with Congress's intention as reflected by the statute's language and its legislative history.³⁸ This Report has been prepared with this legislative history and the factors adduced by Congress in mind.

III. FINDINGS

The Independent Counsel has concluded his investigation and determined that no indictments should be brought in this matter. Consistent with Congress's directives embodied in the legislative history and the statutory reporting requirement, the Independent Counsel concludes it is in the public interest to set forth the facts about the conduct of the two persons -- William David Watkins and Hillary Rodham Clinton -- which resulted in the appointment of an independent counsel. In doing so, the Independent Counsel also sets forth sufficient analysis to permit the reader to understand the Independent Counsel's decision to decline prosecution in this matter.

³⁸ See also Final Report of the Independent Counsel In re: Eli J. Segal, Div. No. 96-1 at 2 (D.C. Cir. [Spec. Div.] Dec. 19, 1997) (deciding "to include in the report sufficient detail to assure the Court, and any others authorized to read it, that our investigation was thorough, professional and competent; that the decision to decline prosecution was based on the merits and on the evidence adduced by this Office; and that resources were used wisely and economically").