

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.<sup>38</sup> 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.

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<sup>38</sup> 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").

**Introduction --** This Office's inquiry has been the subject of substantial public interest and the decision of the Independent Counsel to decline prosecution is of public significance. Accordingly, the Independent Counsel deems presentation of an analysis of the grounds for his decision to be required to assure the public that the investigation conducted was professional, thorough, competent, and fair, and that the decision to decline prosecution and issue this report was based solely on the merits of the case and the evidence adduced by the investigation.

Any attempt to impute criminality to the investigation's subjects is contrary to the Independent Counsel's findings and conclusions. Rather, the analysis is provided in the hope that the public will accept the Independent Counsel's decision that the evidence was insufficient to establish the requisite elements of any criminal offense. All individuals, whether public figures or otherwise, begin any inquiry with the presumption of innocence.<sup>39</sup> That presumption has full force and effect unless and until a jury convicts a defendant based upon proof beyond a reasonable doubt.

In the Independent Counsel's judgment, insufficient evidence exists to establish criminal conduct beyond a reasonable doubt to a jury's satisfaction.<sup>40</sup> No indictments have been or will be sought in this matter. Thus, this Report fully and completely discharges William David Watkins and Hillary Rodham Clinton from all criminal liability for alleged violations of federal criminal law arising out of or related to their testimony or statements regarding the Travel Office firings.

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<sup>39</sup> Herrera v. Collins, 506 U.S. 390, 398 (1993) (citing In re: Winship, 397 U.S. 358 (1970)).

<sup>40</sup> See United States Attorneys' Manual, Principles of Federal Prosecution, § 9-27.220 (A)(stating that a prosecution should be recommended or commenced if “the admissible evidence will probably be sufficient to obtain and sustain a conviction”).

**Factual Findings** -- To determine the veracity of statements made by Mrs. Clinton and Mr. Watkins regarding Mrs. Clinton's role and her interaction with Mr. Watkins, this Office investigated fully a logically antecedent question: As a matter of historical fact, precisely what was Mrs. Clinton's role in the Travel Office dismissals? In other words, the jurisdictional mandate to determine federal offenses necessarily required the Office to develop a complete and thorough understanding of the historical events that resulted in the Travel Office firings. The Office therefore sought to establish a comprehensive historical record concerning the actions of all of the individuals who played a role in the Travel Office firings.

Our factual findings are summarized as follows. Concerning the interaction of senior White House staff and advisors with First Lady Hillary Rodham Clinton:

- ?? Mrs. Clinton first became aware of allegations of misconduct in the Travel Office during a conversation with long time friend and advisor Harry Thomason. Mr. Thomason and Mrs. Clinton had at least three separate conversations about the Travel Office.
- ?? Mr. Thomason was the impetus for Mrs. Clinton's concerns about the Travel Office. He also forcefully conveyed those concerns to other senior White House staff.
- ?? Chief of Staff Mack McLarty had two separate conversations with Mrs. Clinton regarding the Travel Office -- one on May 13 and one on May 16, 1993. In the May 16 conversation, Mrs. Clinton characterized the Travel Office allegations as a "serious matter."<sup>41</sup>
- ?? Deputy White House Counsel Vincent Foster, Jr. had at least two conversations with Mrs. Clinton regarding the Travel Office on May 13.
- ?? David Watkins had one conversation with Mrs. Clinton about the Travel Office, which occurred by telephone on May 14. His notes reflect that she said (referring to the Travel Office employees): "[W]e need those people out. We need our people in. We need the slots."<sup>42</sup>

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<sup>41</sup> McLarty GJ 7/31/96 at 80-82.

<sup>42</sup> Watkins's notes 6/2/93, OIC Bates No. 542-DC-00001499.

- ?? Senior White House staff and advisors -- principally McLarty, Watkins, Foster, and Thomason -- met and discussed Mrs. Clinton's concerns on at least three separate occasions.
- ?? Taken collectively Mrs. Clinton's comments took on great import among the White House staff and advisors. When combined with Thomason's continuous entreaties to act, the senior White House staff felt significant pressure to fire the Travel Office employees.
- ?? No substantial evidence exists to establish that Mrs. Clinton had any direct responsibility (whether informal or formal) for the actual decision to fire the Travel Office employees. The evidence, nevertheless, establishes that Mrs. Clinton strongly expressed her concern for prompt and appropriate action to senior White House staff and advisors. From this, those individuals understood that they were expected to act quickly.

Concerning the Travel Office's operation and the decision to fire the Travel Office employees:

- ?? At the time of the firings, the audit by KPMG Peat Marwick of Travel Office operations had uncovered evidence of fiscal improprieties relating to the handling of the petty cash account. The auditors reported to David Watkins their findings concerning record keeping and the handling of petty cash in the Travel Office.
- ?? At the time of the firings, the Federal Bureau of Investigation had determined that sufficient predicate existed to open a criminal investigation.
- ?? Catherine Cornelius, Clarissa Cerda, and Darnell Martens, who had all been involved in arranging travel for President Clinton's 1992 campaign, actively sought to replace the Travel Office employees to further their own professional interests.

**Prosecutorial Conclusions --** The Independent Counsel has concluded that the available admissible evidence is insufficient to prove to a jury beyond a reasonable doubt that William David Watkins, First Lady Hillary Rodham Clinton, or others committed any federal offense in providing information to the General Accounting Office, the United States Congress, or this Office regarding the Travel Office firings. More specifically, the Independent Counsel concluded that the evidence was insufficient to prove to a jury beyond a reasonable doubt that

either Mr. Watkins or Mrs. Clinton committed perjury or obstruction of justice during the course of their testimony before GAO, the Congress, and this Office's investigation.

Mr. Watkins testified repeatedly to the pressure that he felt from the First Lady to fire the Travel Office employees. Mr. Watkins had only one direct conversation with Mrs. Clinton, and neither his testimony nor that of Mrs. Clinton supports the allegation that she ordered or directed him to fire the Travel Office employees or that she pressured him to do so in that conversation. Mr. Watkins's testimony about the First Lady's involvement in the decision to fire the Travel Office employees is not contradicted by evidence that would persuade a jury unanimously beyond a reasonable doubt that it was false.

Concerning the First Lady's testimony before the grand jury regarding her involvement in the Travel Office firings, the evidence is overwhelming that she in fact did have a role in the decision to fire the employees and that she did have input with Watkins and White House Chief of Staff Mack McLarty, as well as Foster and Thomason. Nevertheless, the available admissible evidence is insufficient to prove beyond a reasonable doubt that Mrs. Clinton knowingly made a false statement in her sworn denial of such a role or input. Notwithstanding Mrs. Clinton's role and input into the decision to fire the Travel Office employees, allegations that her statements to Congress (including her responses incorporated from the GAO investigation) -- on this issue and other Travel Office-related issues -- were knowingly false could not be substantiated beyond a reasonable doubt.

**Closure of the Investigation** -- In light of these conclusions regarding the underlying conduct relevant to the Travel Office firings, the Independent Counsel has concluded the investigation of Mr. Watkins and Mrs. Clinton without seeking the return of an indictment. These matters are now closed.