

then might also have discussed with Mr. Nussbaum, and that Mr. Nussbaum knew that Mrs. Clinton was involved in hiring Craig Livingstone. The lack of such evidence renders that supposition untenable and provides no basis for prosecution.

Finally, the circumstances surrounding the preparation of the insert itself, which was the principal evidence relied upon by the Attorney General in seeking the appointment of an independent counsel, failed to corroborate its accuracy. Absent evidence to corroborate both the substance of the statement in the insert or even that Mr. Nussbaum said what the insert claims he said, the Independent Counsel concluded that the United States could not prove beyond a reasonable doubt that Mr. Nussbaum's testimony before the House Committee was false. Prosecution therefore has been declined, and this report now closes the matter.

### **III. SUMMARY OF INVESTIGATIVE STEPS**

Following the expansion of this Office's jurisdiction by the Special Division to include the FBI Files matter, the OIC assembled a team of attorneys, agents, paralegals, and support staff to conduct the investigation. When the Special Division expanded the OIC's jurisdiction again to include the allegations regarding Mr. Nussbaum, much of the evidence relating to those allegations had already been developed in the investigation of the FBI Files matter. The OIC staff reviewed that evidence for

material directly related to Mr. Nussbaum's testimony and to determine the extent of necessary further investigation.

This report is the culmination of the investigative work of more than ten attorneys, including Assistant United States Attorneys on detail to this Office, several other career prosecutors, and senior OIC staff. The Independent Counsel also enlisted the services of experienced criminal investigators. Initially, FBI agents already detailed to the OIC assisted in the investigation of the FBI Files matter. However, due to the potential for an appearance of a conflict of interest with an investigation involving the conduct of the FBI, the Independent Counsel decided that, where possible, the OIC would avoid using FBI agents. The Independent Counsel requested and received the assignment of four agents with more than 80 years of combined investigative experience from the Internal Revenue Service ("IRS") to provide investigative assistance.

The OIC gathered and thoroughly reviewed the already voluminous record created by the two congressional inquiries and an FBI internal investigation of the FBI Files matter. Building on this record, the OIC proceeded to identify, interview, and take sworn testimony of more than 90 witnesses regarding their knowledge of matters within the scope of its investigation of the FBI Files matter and this matter.

In June 1996, a federal grand jury began hearing evidence related to the OIC's investigation of the FBI Files matter. Between June and December 1996, the grand jury issued fifteen subpoenas for testimony and twenty-nine document subpoenas related to the FBI Files matter and this matter. The document subpoenas resulted in the production of over 16,000 documents by the United States Secret Service, the White House, and the FBI as well as other government agencies and individuals. In addition, there were eleven voluntary productions totaling approximately 15,000 documents.

#### IV. FACTUAL SUMMARY

**A. Bernard Nussbaum's Involvement in the Hiring of Craig Livingstone Was Very Limited and Did Not Include Discussions with Mrs. Clinton Regarding Mr. Livingstone.**

There is no evidence that Mr. Nussbaum was substantially involved in hiring Craig Livingstone and that such involvement included discussions with Mrs. Clinton or anyone else indicating Mrs. Clinton's desire to hire Mr. Livingstone. Rather, Mr. Livingstone's employment as Director of OPS resulted from the combined efforts of then Deputy White House Counsel Vincent W. Foster Jr.,<sup>23</sup> then Associate White House Counsel Cheryl Mills,

---

<sup>23</sup> See Vincent Foster Hired Livingstone, Stephanopoulous Says, Los Angeles Times, July 1, 1996, A-13; White House Links Dead Aide to Hiring of Ex-Security Chief, New York Times, July 1, 1996, A-10.