

involvement of Mr. Nussbaum in the hiring of Mr. Livingstone, and the evidence strongly suggests that Mr. Foster was primarily responsible for hiring Mr. Livingstone. Furthermore, Mr. Livingstone's memoranda to individuals in the White House Counsel's Office, describing the operations and his role, suggest that he was already in place before Mr. Kennedy arrived and that he had been slated to run OPS.

Mr. Nussbaum's role was limited to a brief encounter with Mr. Livingstone at which time he introduced him to Ms. Mills who described OPS's responsibilities to him. Mr. Nussbaum relied on Mr. Kennedy and Mr. Foster regarding Mr. Livingstone's final appointment. The circumstances surrounding Mr. Livingstone's appointment do not suggest Mr. Nussbaum's or Mrs. Clinton's involvement in or knowledge of those circumstances.

B. Even Assuming That Mr. Livingstone and Mr. Kennedy Told Others of Mrs. Clinton's Involvement in the Hiring of Mr. Livingstone, There Is No Other Evidence, Except the Insert, of Such Involvement or Any Relationship Between Mrs. Clinton and Mrs. Livingstone.

Having concluded that there was no direct evidence of a discussion between Mrs. Clinton and Mr. Nussbaum regarding Mr. Livingstone or that Mr. Nussbaum "kn[ew] who brought Mr. Livingstone into the White House," the Independent Counsel also concluded that no personal relationship existed between Mrs. Clinton and Mrs. Livingstone that might have formed a basis for Mrs. Clinton's involvement in hiring Mr. Livingstone. Even assuming that Mr. Kennedy and Mr. Livingstone both told Agent

Aldrich and Agent Sculimbrene of such a relationship, there is no evidence, other than the insert, that Mrs. Clinton was, in fact, involved in the hiring of Mr. Livingstone, or that she actually had a relationship with Mrs. Livingstone, as suggested by the insert and Mr. Kennedy's and Mr. Livingstone's statements to the agents. The absence of a relationship between Mrs. Clinton and Mrs. Livingstone is established by their outright denials, in sworn testimony (in the case of Mrs. Clinton), and an OIC interview (in the case of Mrs. Livingstone), of any personal relationship and the utter lack of evidence to contradict them. Mr. Nussbaum himself also testified that he knew of no such relationship. Even crediting the testimony of the agents about Mr. Kennedy's and Mr. Livingstone's statements, there was simply no evidence of an underlying relationship. Without such evidence, there was no basis on which to infer any reason that Mr. Nussbaum discussed Mr. Livingstone with Mrs. Clinton or that he "kn[ew] who brought [him] into the White House."

C. The Insert's Probative Value is Limited Because of the Absence of Corroboration of the Circumstances of Its Preparation.

The Independent Counsel determined that the insert was not a reliable source of evidence because the circumstances surrounding its preparation were uncorroborated. First, there were only two witnesses to the statement -- Mr. Nussbaum and Agent Sculimbrene. There were no notes of the interview or any other contemporaneous document that reflects the substance of the interview.