

3. Mr. Marceca's Testimony That No Senior White House Official Was Involved in Requesting Background Reports was True.

Mr. Marceca testified that no one ever told him to look for derogatory information for any purpose other than to carry out his responsibilities at OPS. That testimony is consistent with other testimony and physical evidence that there was no involvement by senior White House staff or Mrs. Clinton to obtain such information for partisan political purposes. Although there is evidence that White House officials failed to appreciate sufficiently the importance of OPS and its role in handling sensitive material, there is no evidence of the involvement of any senior White House official or First Lady Hillary Rodham Clinton, in the request for the background reports of hundreds of former White House staff.

VIII. SUMMARY CONCLUSION

The FBI Files matter represented a failure of process at many levels. The Secret Service provided critical erroneous information that confused the issue and caused Congress and the public to leap to some understandable but ultimately unsupportable conclusions. Mr. Marceca maintained that he had blindly relied upon a list provided by the Secret Service that did not distinguish between active and inactive passholders and that he therefore assumed that everyone on the list was authorized for access to the White House. He was right. The

Secret Service, however, announced that it had not provided such a list. It was wrong.

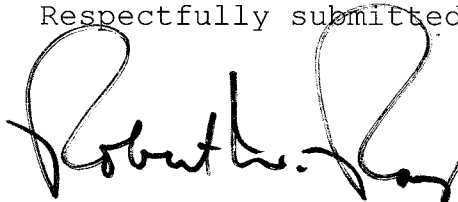
Compounding this error was the informal process used within the White House to request the reports on pre-printed forms on a routine basis by inexperienced, untrained, and unsupervised personnel with backgrounds as political operatives. These mistakes all fueled the suspicion that Mr. Marceca's requests for confidential FBI background reports of former Republican officials resulted from intentional criminal misconduct rather than bureaucratic ineptitude.

The suspicions proved to be unfounded. Had the Secret Service's contention that it could not have generated the list described by Mr. Marceca remained unchallenged, Mr. Marceca's conduct and testimony appropriately would have been judged in a different light. Fortunately, a portion of the list that Mr. Marceca used was preserved that allowed the OIC to reconstruct with near perfect accuracy the complete list that Mr. Marceca actually followed. The proof of the existence of the list and the OIC's analysis of Mr. Marceca's requests from that list demonstrated that he had not knowingly made false statements in his requests for background reports. This conclusion, in turn, confirmed not only that Mr. Marceca did not engage in criminal conduct himself, but also that there was not a larger scheme within the White House -- allegations of which had necessitated the appointment of an independent counsel in the first place.

Even Mr. Marceca's contradictory and misleading testimony was sufficiently transparent in these circumstances not to obscure the basic truth that suspicions to the contrary were unfounded.

Accordingly, the Independent Counsel has declined prosecution, and the matter is now closed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert W. Ray". The signature is fluid and cursive, with a large initial "R" and "W".

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March 16, 2000